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The Code of Federal Regulations is sold by the Superintendent of Documents.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

[No. 2017–N–04]

Orders: Reporting by Regulated Entities of Stress Testing Results as of December 31, 2016; Summary Instructions and Guidance

AGENCY: Federal Housing Finance Agency.

ACTION: Orders.

SUMMARY: In this document, the Federal Housing Finance Agency (FHFA) provides notice that it issued Orders, dated March 3, 2017, with respect to stress test reporting as of December 31, 2016, under section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Summary Instructions and Guidance accompanied the Orders to provide testing scenarios.

DATES: Effective April 14, 2017. Each Order is applicable March 3, 2017.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Division of Housing Mission & Goals, (202) 649–3140, *NaaAwaa.Tagoe@fhfa.gov;* Stefan Szilagyi, Examination Manager, FHLBank Modeling, FHLBank Office of Risk Modeling (202) 649–3515, *Stefan.Szilagyi@fhfa.gov;* Karen Heidel, Assistant General Counsel, Office of General Counsel, (202) 649–3073, *Karen.Heidel@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054, *Mark.Laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is responsible for ensuring that the regulated entities operate in a safe and sound manner, including the maintenance of adequate capital and internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* 12 U.S.C. 4513. These Orders are being issued under 12 U.S.C. 4516(a), which authorizes the Director of FHFA to require by Order that the regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by Order. The Orders, through the accompanying Summary Instructions and Guidance, prescribe for the regulated entities the scenarios to be used for stress testing. The Summary Instructions and Guidance also provides to the regulated entities advice concerning the content and format of reports required by the Orders and the rule.

II. Orders, Summary Instructions and Guidance

For the convenience of the affected parties and the public, the text of the Orders follows below in its entirety. The Orders and Summary Instructions and Guidance are also available for public inspection and copying at the Federal Housing Finance Agency's Freedom of Information Act (FOIA) Reading Room at *https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/Reading-Room.aspx* by clicking on ''Click here to view Orders'' under the Final Opinions and Orders heading. You may also access these documents at *http://www.fhfa.gov/SupervisionRegulation/DoddFrankActStressTests.*

The text of the Orders is as follows:

Federal Housing Finance Agency

Order Nos. 2017–OR–B–01, 2017–OR–FNMA–01, and 2017–OR–FHLMC–01

Reporting by Regulated Entities of Stress Testing Results as of December 31, 2016

Whereas, section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') requires certain financial companies with total consolidated assets of more than $10 billion, and which are regulated by a primary Federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions;

Whereas, FHFA's rule implementing section 165(i)(2) of the Dodd-Frank Act is codified as 12 CFR 1238 and requires that ''[e]ach regulated entity must file a report in the manner and form established by FHFA.'' 12 CFR 1238.5(b);

Whereas, The Board of Governors of the Federal Reserve System issued stress testing scenarios on February 3, 2017; and

Whereas, section 1314 of the Safety and Soundness Act, 12 U.S.C. 4514(a) authorizes the Director of FHFA to require regulated entities, by general or specific order, to submit such reports on their management, activities, and operation as the Director considers appropriate.

Now therefore, it is hereby Ordered as follows:

Each regulated entity shall report to FHFA and to the Board of Governors of the Federal Reserve System the results of the stress testing as required by 12 CFR 1238, in the form and with the content described therein and in the Summary Instructions and Guidance, with Appendices 1 through 12 thereto, accompanying this Order and dated March 3, 2017.

It is so ordered, this the 3rd day of March, 2017.

This Order is effective immediately.

Signed at Washington, DC, this 3rd day of March, 2017.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

Dated: April 6, 2017.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2017–07519 Filed 4–13–17; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7491; Directorate Identifier 2015–NE–39–AD; Amendment 39–18854; AD 2017–08–05]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–13–05 for all General Electric Company (GE) GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines. AD 2016–13–05 required eddy current inspection (ECI) of the high-pressure compressor (HPC) stage 8–10 spool at each shop visit for all affected engines and ECI or ultrasonic inspection (USI) for certain affected engines. This new AD requires initial and repetitive on-wing USIs of the HPC stage 8–10 spool for certain engines prior to shop visit and ECI of all affected engines at each shop visit. This AD was prompted by analysis that the risk of the failure of an HPC stage 8–10 spool was excessive without repetitive USI prior to shop visit. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective May 19, 2017.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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–2015–7491; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John Frost, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7756; fax: 781–238–7199; email: *john.frost@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–13–05, Amendment 39–18569 (81 FR 41208, June 24, 2016; corrected 81 FR 42475, June 30, 2016), (''AD 2016–13–05''). AD 2016–13–05 applied to all GE GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines. The NPRM published in the **Federal Register** on December 19, 2016 (81 FR 91880). The NPRM was prompted by an uncontained failure of the HPC stage 8–10 spool, leading to an airplane fire. The NPRM proposed to require an ECI or USI of the HPC stage 8–10 spool and removing from service those parts that fail inspection. We are issuing this AD to prevent failure of the HPC stage 8–10 spool, uncontained rotor release, damage to the engine, and damage to the airplane.

Comments

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

Request To Revise Compliance

The Boeing Company (Boeing) and GE requested paragraph (f)(1)(i) be changed to apply to ECIs performed between January 2016 and July 29, 2016. Boeing and GE stated that operators who performed an ECI between January 2016 and July 29, 2016 are in accordance with GE GE90 Service Bulletin (SB) 72–1151, Initial issue or Revision 1.

We agree. Credit should be given for ECIs performed in accordance with GE GE90 SB 72–1151, Initial issue or Revision 1. We added paragraph (f)(2)(iii) to the Compliance section.

Request To Revise Compliance Time

Boeing and GE requested paragraph (f)(1)(ii) be changed to state that if it has been more than 400 cycles since the qualified initial USI inspection, then, inspect within 100 cycles from the effective date of this AD. Boeing and GE stated that this provides the operators with a reasonable amount of time to perform the USI.

We disagree. The date for the initial inspection was based on the effective date of AD 2016–13–05. The USI requirement is unchanged, so the 500 cycle allowance mandated in AD 2016–13–05 is also mandated by this AD. We did not change this AD.

Request To Revise Service Information

Boeing, GE, and Japan Air Lines (JAL) requested updating the Related Information section to reflect the latest version of the GE SB. GE SB 72–1151 was revised to Revision 01 on September 13, 2016 and includes the most recent details and aligns with this AD.

We agree. GE GE90 SB 72–1151, Revision 01, dated September 13, 2016, includes the most recent details, aligns with this AD, and also meets the risk analysis performed. We added GE GE90 SB 72–1151, Revision 01, dated September 13, 2016 and GE GE90 SB 72–1151, Revision 0, dated June 10, 2016 to paragraph (i)(2) of this AD.

Request To Revise Service Information

JAL requested updating paragraph (i)(2) Related Information, to perform an ECI in accordance with future revisions of the service information. JAL also requested updating paragraph (i)(2) Related Information, to add ''and later'' to the revision number relating to Chapter 72–31–08; Special Procedure 003 and 72–00–31 Special Procedure 006 in GE GE90 Engine Manual, GEK100700, Revision 68, dated September 1, 2016.

We disagree. We are only authorized to mandate use of service information that we have reviewed and which are published. Since future revisions of service information are not yet published, we are not authorized to mandate their use. We did not change this AD.

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. 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

We reviewed GE GE90 SB 72–1151, Revision 01, dated September 13, 2016. The SB describes procedures for an on-wing USI of the stage 8 web of the stage 8–10 spool. 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.

We also reviewed Chapter 72–31–08, Special Procedures 003; and Chapter 72–00–31, Special Procedures 006, in the GE GE90 Engine Manual, GEK100700, Revision 68, dated

September 1, 2016. These procedures describe how to perform ECI of the stage 8 aft web of the stage 8–10 spool.

Interim Action

We consider this AD interim action. GE is determining the root cause for the unsafe condition identified in this AD. Once a root cause is determined, we will consider additional rulemaking.

Costs of Compliance

We estimate that this AD affects 54 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	7 work-hours × $85 per hour = $595 per inspection cycle.	$0	$595 per inspection cycle	$32,130 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of engines that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of spool	0 work-hours × $85 per hour = $0	$780,000	$780,000

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 to the extent that it justifies making a regulatory distinction, 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) 2016–13–05, Amendment 39–18569 (81 FR 41208, June 24, 2016; corrected 81 FR 42475, June 30, 2016), and adding the following new AD:

2017–08–05 General Electric Company: Amendment 39–18854; Docket No. FAA–2015–7491; Directorate Identifier 2015–NE–39–AD

(a) Effective Date

This AD is effective May 19, 2017.

(b) Affected ADs

This AD replaces AD 2016–13–05, Amendment 39–18569 (81 FR 41208, June 24, 2016; corrected June 30, 2016, 81 FR 42475).

(c) Applicability

This AD applies to General Electric Company (GE) GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines with a high-pressure compressor (HPC) stage 8–10 spool, part numbers (P/Ns) 1694M80G04, 1844M90G01, or 1844M90G02, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by an uncontained failure of the HPC stage 8–10 spool. We are issuing this AD to prevent failure of the HPC stage 8–10 spool, uncontained rotor release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(1) For HPC stage 8–10 spool, P/N 1694M80G04, all serial numbers (S/Ns), or HPC stage 8–10 spool, P/N 1844M90G01 or 1844M90G02, with a S/N listed in Figure 1 to paragraph (f) of this AD; perform an on-wing ultrasonic inspection (USI) of the stage 8 aft web upper face as follows:

(i) Perform an initial USI after reaching 8,000 cycles since new (CSN), but, before exceeding 9,000 CSN, or within 500 cycles in service after July 29, 2016, whichever occurs later.

(ii) Thereafter, perform a USI of the stage 8 aft web upper face every 500 cycles since last inspection.

(iii) Compliance with paragraph (f)(2)(i) or (f)(2)(iii) of this AD is terminating action for the initial and repetitive USIs specified by paragraphs (f)(1)(i) and (ii) of this AD.

FIGURE 1 TO PARAGRAPH (f)—HPC STAGE 8–10 SPOOL S/NS

Part Nos.	Serial Nos.				
1844M90G01	GWN005MF	GWNBK753	GWNBS077	GWNBS497	GWNBS724
	GWN005MG	GWNBK754	GWNBS078	GWNBS499	GWNBS794
	GWN0087M	GWNBK841	GWNBS079	GWNBS500	GWNBS810
	GWN0087N	GWNBK842	GWNBS080	GWNBS501	GWNBS811
	GWN00DGK	GWNBK843	GWNBS081	GWNBS502	GWNBS812
	GWN00DGL	GWNBK844	GWNBS157	GWNBS609	GWNBS813
	GWNBJ992	GWNBK952	GWNBS158	GWNBS610	GWNBS814
	GWNBK667	GWNBK953	GWNBS159	GWNBS611	GWNBS910
	GWNBK674	GWNBK954	GWNBS160	GWNBS612	GWNBS911
	GWNBK675	GWNBK955	GWNBS266	GWNBS613	GWNBS912
	GWNBK743	GWNBK956	GWNBS267	GWNBS614	GWNBS914
	GWNBK744	GWNBK957	GWNBS268	GWNBS721	GWNBS915
	GWNBK751	GWNBK958	GWNBS269	GWNBS722	GWNBS982
	GWNBK752	GWNBK959	GWNBS270	GWNBS723	GWNBS983
1844M90G02	GWN00C2T	GWN01C5N	GWN02N8D	GWN03RTM	GWN04E21
	GWN00C2V	GWN01GE2	GWN02T3R	GWN03RTP	GWN04GHT
	GWN00G2N	GWN01GE3	GWN02WGM	GWN040RL	GWN04GHW
	GWN00G2P	GWN01GE4	GWN0311K	GWN040RM	GWN04GJ0
	GWN00PFP	GWN01GE6	GWN035PP	GWN040RN	GWN04JW6
	GWN00PFR	GWN01WH1	GWN038TD	GWN040RP	GWN04JW7
	GWN00T2N	GWN02688	GWN039TG	GWN04202	GWN04JW8
	GWN00YHV	GWN02689	GWN03G2R	GWN0435W	GWN04L7K
	GWN0125G	GWN0268A	GWN03G2W	GWN04360	GWN04L7L
	GWN0125H	GWN02DP2	GWN03G30	GWN04361	GWN04MT7
	GWN0166K	GWN02DP3	GWN03JPC	GWN04362	GWN04MT8
	GWN01C5K	GWN02F9F	GWN03JPD	GWN04ATG	GWNBS984
	GWN01C5L	GWN02F9G	GWN03N8P	GWN04ATH	
	GWN01C5M	GWN02L9T	GWN03N8R	GWN04E20	

(2) For all HPC stage 8–10 spools, P/N 1694M80G04, 1844M90G01, or 1844M90G02, perform an eddy current inspection (ECI) of the stage 8 aft upper face as follows:

(i) Perform an initial ECI of the stage 8 aft web upper face at the next shop visit after the effective date of this AD.

(ii) Thereafter, perform an ECI of the stage 8 aft web upper face at each subsequent shop visit.

(iii) If you performed an ECI of the stage 8 aft web upper surface before the effective date of the AD, you met the requirements of paragraph (f)(2)(i) of this AD.

(3) Remove from service any HPC stage 8–10 spool that fails the inspection required by paragraphs (f)(1) or (2) of this AD, and replace with a spool eligible for installation.

(g) Definition

For the purpose of this AD, an engine shop visit is the induction of an engine into the shop for maintenance during which the compressor discharge pressure seal face is exposed.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(i) Related Information

(1) For more information about this AD, contact John Frost, Aerospace Engineer, Engine Certification Office, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7756; fax: 781–238–7199; email: *john.frost@faa.gov.*

(2) GE GE90 Service Bulletin (SB) 72–1151, Revision 01, dated September 13, 2016; GE GE90 SB 72–1151, Revision 0, dated June 10, 2016; Chapter 72–31–08, Special Procedures 003; and Chapter 72–00–31, Special Procedures 006, in GE GE90 Engine Manual, GEK100700, Revision 68, dated September 1, 2016, can be obtained from GE using the contact information in paragraph (i)(3) of this AD. These SBs describe procedures for an on-wing USI of the stage 8 web of the stage 8–10 spool. These engine manual procedures describe how to perform ECI of the stage 8 aft web of the stage 8–10 spool.

(3) For service information identified in this AD, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(j) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on April 5, 2017.

Carlos A. Pestana,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017–07476 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Docket No. FAA–2015–2193; Airspace Docket No. 15–AWP–8]

Establishment of Restricted Area R–2507W; Chocolate Mountains, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes restricted area R–2507W, Chocolate Mountains, CA, to support training activities that involve the use of advanced weapons systems. This action ensures realistic United States Marine Corps (USMC) training on live fire and non-live fire aviation activities such as Basic Ordinance Delivery, Close Air Support, Air-to-Air Gunnery, Laser Ranging and Designating, and Air Strikes. Restricted area R–2507W will allow the USMC to enhance training and safety requirements in order to maintain, train, and equip combat-ready military forces.

DATES: Effective date 0901 UTC, June 22, 2017.

FOR FURTHER INFORMATION CONTACT: Kenneth Ready, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes the restricted area airspace at Chocolate Mountains, CA, to accommodate essential USMC training requirements and ensure the safety of aircraft otherwise permitted to overfly the location established for USMC training.

History

The FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (80 FR 42761, July 20, 2015), Docket No. FAA–2015–2193, to establish restricted area R–2507W to support hazardous training activities conducted within the Chocolate Mountain Aerial Gunnery Range (CMAGR), special use airspace (SUA) complex.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment from the Aircraft Owners and Pilots Association (AOPA) was received.

Discussion of Comments

In their response to the NPRM, AOPA raised several substantive issues. AOPA contended the proposed airspace design would have a negative impact on general aviation aircraft highlighting three main areas of concern: Proximity to Salton Sea National Wildlife Refuge; impact on instrument approach into Brawley Municipal Airport (BWC); and impact on instrument approach into Jacqueline Cochran Regional Airport (TRM).

Having considered the issues provided by AOPA, the FAA offers the following responses.

Proximity to Salton Sea National Wildlife Refuge

AOPA indicated that pilots would prefer additional buffer space between aircraft and the refuge, but R–2057W reduces that margin on the northern coast of the Salton Sea National Wildlife Refuge.

The FAA acknowledges the Salton Sea National Wildlife Refuge is located in close proximity to R–2507W and that pilots are encouraged to avoid the refuge, if practical, as Advisory Circular 91–36D states under the paragraph 'Voluntary Practices.' As alluded to by AOPA's comment, navigating along the northern shoreline of the Salton Sea is a common occurrence when operating in the area. The closest point between the proposed airspace and the refuge is approximately 3.7 nautical miles. This distance provides ample maneuver space in a VFR environment for general aviation pilots to avoid both the proposed R–2507W and the wildlife refuge. Additionally, it is important to note that the recognizable geographic boundary of the range from the air is the canal that borders the range. In order to ensure safety, the airspace utilizes that geographic border to visually assist general aviation in identifying the outer edge of the restricted area. Moreover, the R–2507W airspace overlays Controlled Fire Areas which are established over the Chocolate Mountain Aerial Gunner Range. There are no records at Marine Corps Air Station, Yuma, of having to take any actions to put the Controlled Fire Areas in cease-fire status due to general aviation activity in/around the underlying ranges. For these reasons, the FAA disagrees that additional clearance is necessary.

Impact on Instrument Approach Into Brawley Municipal Airport (BWC)

AOPA also expressed concern that an aircraft inbound to BWC via the VOR/DME B approach originating from the Thermal VORTAC must fly 35 miles to SECAN intersection which is found by cross referencing with the Imperial VORTAC. AOPA suggested that pilot solely utilizing VOR guidance could stray north near the restricted area.

The FAA acknowledges that a pilot flying the VOR/DME B approach procedure into BWC and navigating solely off of one VOR has cockpit workload to consider. However, the FAA considers the cockpit workload a factor at the intersection due to switching from VOR to VOR for guidance on when to make the turn does not present any safety concern associated with the establishment of R–2507W. The pilot's potential to stray beyond the intersection or missing the turn would take the pilot away from the restricted area rather than closer to it. The FAA recognizes ample maneuverability room to complete the initial inbound radial of the approach to the SECAN intersection without being in jeopardy of straying into the new R–2507W.

Impact on Instrument Approach Into Jacqueline Cochran Regional Airport (TRM)

AOPA is concerned the RNAV GPS runway 35 approach will lose safe distance off of the SHADI intersection from the restricted airspace. The FAA concurs with the comment that the feeder route of SHADI intersection to the COSUK intersection (which is an initial approach fix) would be reduced to an unacceptable distance. Therefore, the FAA has reduced the boundary of the northwest corner of R–2507W to provide sufficient protected airspace from the RNAV (GPS) runway 35 approach.

Differences From the NPRM

Subsequent to publication of the NPRM, in response to a comment from AOPA, the FAA identified a geographic lat./long. coordinate which was adjusted into two geographic lat./long. coordinates to ensure ample separation from the TRM RNAV GPS runway 35 approach feeder route off of SHADI intersection, which is an established approach procedure. The following restricted area updates are incorporated in this action.

The geographical lat./long. coordinate for the point located in the northwest corner of R–2507W has been removed and two new points were established.

The Rule

The FAA is amending title 14 Code of Federal Regulations (14 CFR) part 73 to establish a new restricted area R–2507W at the Chocolate Mountain Aerial Gunnery Range, CA. The FAA is also incorporating the restricted area updates noted in the Differences from the NPRM section. The FAA is taking this action to ensure realistic USMC training on live fire and non-live fire aviation activities such as Basic Ordinance Delivery, Close Air Support, Air-to-Air Gunnery, Laser Ranging and Designating, and Air Strikes. The changes from what was proposed in the NPRM are as follows:

R–2507W: The geographic coordinate proposed as ''lat. 33°29′25″ N., long. 115°46′08″ W.'' in the boundaries description is deleted and replaced by two points identified as ''lat. 33°29′11″ N., long. 115°45′49″ W.'' and ''lat.

33°29′36″ N., long. 115°45′36″ W.'' The rest of the legal description of R–2507W is unchanged from the proposal.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of establishing restricted area R–2507W, Chocolate Mountain, CA, to support USMC training activities that involve the use of advanced weapons systems, qualified for FAA's environmental impact review and FAA's adoption of the airspace use portion of the USMC's Final Environmental Assessment (FEA). In accordance with the National Environmental Policy Act (NEPA), its implementing regulations at 40 CFR parts 1500 through 1508, FAA Orders 1050.1F Environmental Impacts: Policies and Procedures, and 7400.2K Procedures for Handling Airspace Matters, FAA, as a cooperating agency for this SUA action, conducted an independent environmental impact review of the airspace use portion of the USMC's Air Station Yuma FEA for the Establishment of Special Use Airspace Restricted Area R–2507W, Chocolate Mountain Aerial Gunnery Range, Imperial and Riverside Counties, California (June 2014). Based on its review, the FAA has determined that the action that is the subject of this rule does not present any potential for significant impacts to the human environment. The FAA's Adoption EA and FONSI–ROD are included in the docket for this rulemaking.

List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.25 California [Amended]

■ 2. Section 73.25 is amended as follows:

* * * * *

R–2507W West Chocolate Mountains, CA [New]

Boundaries—Beginning at lat. 33°14′00″ N., long. 115°22′33″ W.; to lat. 33°13′14″ N., long. 115°23′17″ W.; to lat. 33°13′58″ N., long. 115°24′26″ W.; to lat. 33°14′22″ N., long. 115°25′29″ W.; to lat. 33°15′40″ N., long. 115°27′36″ W.; to lat. 33°17′28″ N., long. 115°29′42″ W.; to lat. 33°19′17″ N., long. 115°32′13″ W.; to lat. 33°21′11″ N., long. 115°34′39″ W.; to lat. 33°22′58″ N., long. 115°38′19″ W.; to lat. 33°27′26″ N., long. 115°43′30″ W.; to lat. 33°29′11″ N., long. 115°45′49″ W.; to lat. 33°29′36″ N., long. 115°45′36″ W.; to lat. 33°31′09″ N., long. 115°41′12″ W.; to lat. 33°32′50″ N., long. 115°37′37″ W.; to lat. 33°32′40″ N., long. 115°33′53″ W.; to lat. 33°28′30″ N., long. 115°42′13″ W.; to lat. 33°23′40″ N., long. 115°33′23″ W.; to lat. 33°21′30″ N., long. 115°32′58″ W.; thence to the point of beginning.

Designated altitudes. Surface to FL 230.

Time of designation. Continuous.

Controlling agency. FAA, Los Angeles Air Route Traffic Control Center (ARTCC).

Using agency. USMC, Commanding Officer, Marine Corps Air Station (MCAS) Yuma, AZ.

* * * * *

Issued in Washington, DC, on April 10, 2017.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017–07573 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in May 2017. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective May 1, 2017.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy (*Murphy.Deborah@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202–326–4400 ext. 3451. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400 ext. 3451.)

SUPPLEMENTARY INFORMATION: PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

PBGC uses the interest assumptions in Appendix B to part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for May 2017.[1]

The May 2017 interest assumptions under the benefit payments regulation will be 1.00 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

status. In comparison with the interest assumptions in effect for April 2017, these interest assumptions are unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during May 2017, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, add Rate Set 283 to the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
283	5–1–17	6–1–17	1.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, add Rate Set 283 to the table to read as follows:

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
283	5–1–17	6–1–17	1.00	4.00	4.00	4.00	7	8

Issued in Washington, DC by

Deborah Chase Murphy,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–07270 Filed 4–13–17; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0204]

Drawbridge Operation Regulation; Chincoteague Channel, Chincoteague Island, VA

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 SR 175 Bridge across the Chincoteague Channel, mile 3.5 (physically situated at mile 3.9), at Chincoteague Island, VA. The deviation is necessary to facilitate bridge maintenance. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 7 a.m. on Monday, April 24, 2017, through 7 p.m. on Friday, April 28, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0204] 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. Michael Thorogood, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6557, email *Michael.R.Thorogood@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Virginia Department of Transportation, owner and operator of the SR 175 Bridge that carries SR 175 across the Chincoteague Channel, mile 3.5 (physically situated at mile 3.9), at Chincoteague Island, VA, has requested a temporary deviation from the current operating schedule to facilitate the replacement of the hydraulic fluids of the bascule span for the drawbridge. The bridge has vertical clearance of 15 feet above mean high water (MHW) in the closed position and unlimited vertical clearance in the open position. The current operating schedule is set out in 33 CFR 117.1005. Under this temporary deviation, the bridge will be maintained in the closed-to-navigation position from 7 a.m. on Monday, April 24, 2017, through 7 p.m. on Friday,

April 28, 2017, Monday through Friday, 24 hours a day.

The Chincoteague Channel is used by a variety of vessels including public vessels, small commercial vessels, tug and barge traffic, and recreational 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-to-navigation position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternative 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 Notice and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact 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: April 11, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–07599 Filed 4–13–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0174]

RIN 1625–AA00

Safety Zone; Ohio River Miles 803.5 to 804.5, Henderson, KY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River, surface to bottom, extending from miles 803.5 to 804.5. This temporary safety zone is necessary to provide for the safety of life on these navigable waters near Henderson, KY, during the Henderson Breakfast Lions Club Tri-Fest fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Ohio Valley or a designated representative.

DATES: This rule is effective from 9 p.m. on April 21, 2017, through 9:30 p.m. on April 22, 2017. This rule will be enforced from 9 p.m. to 9:30 p.m. on April 21, 2017, unless the fireworks display is postponed because of adverse weather, in which case this rule will be enforced from 9 p.m. to 9:30 p.m. on April 22, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0174 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Petty Officer James Robinson, Sector Ohio Valley, U.S. Coast Guard; telephone 502–779–5347, email *James.C.Robinson@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Ohio Valley
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary 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)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule. The NPRM process would delay the immediate action needed to protect personnel, vessels, and the marine environment from potential safety hazards associated with the fireworks event. In addition, the fireworks event is being held only one weekend later than the currently published date, which had to be rescheduled due to a holiday scheduling conflict. Upon receiving full details of this event, the Coast Guard determined that a safety zone was necessary to protect life and property during a fireworks display on or over this navigable waterway.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to public interest of ensuring the safety of spectators and vessels during the event. An immediate action is necessary to prevent the loss of life and property during the hazards created by a fireworks display on or over the waterway. Broadcast Notices to Mariners (BNM) and information sharing with the waterway users will update mariners of the restrictions, requirements and enforcement times during this temporary situation.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Ohio Valley (COTP) has determined that potential hazards associated with the fireworks display on April 21, 2017 will be a safety concern for all waters of the Ohio River, surface to bottom, extending from miles 803.5 to 804.5. The purpose of this rule is to ensure safety of life on the navigable waters within the temporary zone before, during, and after the Henderson Breakfast Lions Club Tri-Fest fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone on April 21, 2017, or in the case of a rain delay, on April 22, 2017. The safety zone will cover all waters of the Ohio River, surface to bottom, extending from miles 803.5 to 804.5. Transit into and through this restricted area is prohibited from 9 p.m. to 9:30 p.m. on April 21, 2017, and, in case of a delay because of rain, during the same hours on April 22, 2017. The duration of the safety zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled fireworks displays. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The COTP may be contacted by telephone at 1–800–253–7475 or can be reached by VHF–FM channel 16. Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners (LNM), and BNMs.

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 protestors.

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 size, location, duration, and time-of-year of the safety zone. The temporary safety zone will only be in effect for approximately 30 minutes. The Coast Guard expects minimum adverse impact to mariners from the safety zone's activation as the event has been extensively advertised to the public. Also, mariners may request authorization from the COTP or the designated representatives to transit the safety zones.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard 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.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

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 $165,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than one hour that will prohibit entry on all waters of the Ohio River, surface to bottom, extending from mile 803.5 to 804.5. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and Recordkeeping Requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08–0174 to read as follows:

§ 165.T08–0174 Safety zone; Ohio River Miles 803.5 to 804.5, Henderson, KY.

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Ohio River between mile 803.5 and mile 804.5, Henderson, KY, extending the entire width of the Ohio River.

(b) *Enforcement period.* This section will be enforced from 9 p.m. to 9:30 p.m. on April 21, 2017. In case of a delay because of rain, the section will be enforced from 9 p.m. to 9:30 p.m. on April 22, 2017.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into the zone described in paragraph (a) of this section is prohibited unless specifically authorized by the Captain of the Port Ohio Valley (COTP) or designated personnel. Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF–FM radio channel 16 or phone at 1–800–253–7465.

(2) Persons and vessels permitted to enter this safety zone, must transit at the slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: April 10, 2017.

M.B. Zamperini,

Captain, U.S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2017–07518 Filed 4–13–17; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 82, No. 71
Friday, April 14, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2017–0290; Notice No. 23–17–01–SC]

Special Conditions: Pilatus Aircraft Limited Models PC–12, PC–12/45, PC–12/47; Autothrust System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes a special condition for the Pilatus Aircraft Limited PC–12, PC–12/45, and PC–12/47 airplanes. These airplanes, as modified by Innovative Solutions & Support, Inc., will have a novel or unusual design feature associated with the use of an autothrust system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. This proposed special condition contains the additional safety standards the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comment on or before May 15, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0290 using any of the following methods:

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

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

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

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–3239; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On April 4, 2016, Innovative Solutions & Support applied for a supplemental type certificate for installation of an autothrust system in the PC–12, PC–12/45, and PC–12/47 airplanes. The autothrust system is capable of setting forward thrust based on operation in either a pilot selectable torque or airspeed mode. Operation is limited to use only when above 400 feet AGL after takeoff, and requires disengagement at decision height (DH) or minimum decision altitude (MDA) on approach. The PC–12, PC–12/45, and PC–12/47 airplanes are nine-passenger two-crew, single-engine turbo-propeller airplanes with a 30,000-foot service ceiling and a maximum takeoff weight of 9,039 to 10,450 pounds—depending on airplane model. These airplanes are powered by a single Pratt & Whitney PT6A–67 engine.

The Innovative Solutions & Support, Inc., modification installs an autothrust system in the PC–12, PC–12/45, and PC–12/47 airplanes to reduce pilot workload. The autothrust system is useable in all phases of flight from 400 feet AGL after takeoff down to the decision height on approach. The system includes a torque and airspeed mode along with monitors to prevent the system from exceeding critical engine or airspeed limits. A stepper motor provides throttle movement by acting through a linear actuator, which acts as a link between the stepper motor and throttle. The pilot can override the linear actuator by moving the throttle, which automatically disengages the autothrust system upon disagreement in the expected throttle position versus the actual position.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Innovative Solutions & Support must show that the PC–12, PC–12/45, and PC–12/47 airplanes, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A78EU. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in A78EU are as follows: 14 CFR part 23, amendments 23–1 through 23–42.[2]

If the Administrator finds the applicable airworthiness regulations

[2] *See* Type Certification Data Sheet A78EU, revision 25, ''Certification Basis'' section for the PC–12, PC–12/45, and PC–12/47 full certification basis (*http://rgl.faa.gov/*).

(*i.e.,* 14 CFR part 23) do not contain adequate or appropriate safety standards for the PC–12, PC–12/45, and PC–12/47 airplanes because of a novel or unusual design feature(s), special conditions are prescribed under the provisions of § 21.16.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38 and they become part of the type certification basis under § 21.101. Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the FAA would apply these special conditions to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the PC–12, PC–12/45, and PC–12/47 airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Novel or Unusual Design Features

The PC–12, PC–12/45, and PC–12/47 airplanes will incorporate the following novel or unusual design features: Autothrust system.

Discussion

As discussed in the summary section, this modification makes use of an autothrust system, which is a novel design for this type of airplane. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. Mandating additional requirements—developed in part—by adapting relevant portions of 14 CFR 25.1329, *Flight guidance systems*—applicable to autothrust systems—along with FAA experience with similar autothrust systems, mitigates the concerns associated with installation of the proposed autothrust system.

The FAA has previously issued this proposed special condition to part 23 turbojet airplanes, but not for turbo-propeller airplanes. The PC–12, PC–12/45, and PC–12/47 airplanes are unique with respect to other turbo-propeller designs in that the basic design does not include a separate propeller control lever. Future use of these special conditions on other turbo-propeller designs will require evaluation of the engine and propeller control system to determine their appropriateness.

Applicability

As discussed above, these special conditions are applicable to the PC–12, PC–12/45, and PC–12/47 airplanes. Should Innovative Solutions & Support, Ltd. apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A78EU to incorporate the same novel or unusual design feature, the FAA would apply these special conditions to that model as well.

Conclusion

This action affects only certain novel or unusual design features on PC–12, PC–12/45, and PC–12/47 airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

Citation

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special condition as part of the type certification basis for Pilatus Aircraft Ltd., PC–12, PC–12/45, and PC–12/47 airplane models modified by Innovative Solutions & Support, Inc.

1. Autothrust System

In addition to the requirements of §§ 23.143, 23.1309, and 23.1329, the following apply:

(a) Quick disengagement controls for the autothrust function must be provided for each pilot. The autothrust quick disengagement controls must be located on the thrust control levers. Quick disengagement controls must be readily accessible to each pilot while operating the thrust control levers.

(b) The effects of a failure of the system to disengage the autothrust function when manually commanded by the pilot must be assessed in accordance with the requirements of § 23.1309.

(c) Engagement or switching of the flight guidance system, a mode, or a sensor may not cause the autothrust system to affect a transient response that alters the airplane's flight path any greater than a minor transient, as defined in paragraph (l)(1) of this special condition.

(d) Under normal conditions, the disengagement of any automatic control function of a flight guidance system may not cause a transient response of the airplane's flight path any greater than a minor transient.

(e) Under rare normal and non-normal conditions, disengagement of any automatic control function of a flight guidance system may not result in a transient any greater than a significant transient, as defined in paragraph (l)(2) of this special condition.

(f) The function and direction of motion of each command reference control, such as heading select or vertical speed, must be plainly indicated on—or adjacent to—each control if necessary to prevent inappropriate use or confusion.

(g) Under any condition of flight appropriate to its use, the flight guidance system may not produce hazardous loads on the airplane, nor create hazardous deviations in the flight path. This applies to both fault-free operation and in the event of a malfunction, and assumes that the pilot begins corrective action within a reasonable time.

(h) When the flight guidance system is in use, a means must be provided to avoid excursions beyond an acceptable margin from the speed range of the normal flight envelope. If the airplane experiences an excursion outside this range, a means must be provided to prevent the flight guidance system from providing guidance or control to an unsafe speed.

(i) The flight guidance system functions, controls, indications, and alerts must be designed to minimize flightcrew errors and confusion concerning the behavior and operation of the flight guidance system. A means must be provided to indicate the current mode of operation, including any armed modes, transitions, and reversions. Selector switch position is not an acceptable means of indication. The controls and indications must be grouped and presented in a logical and consistent manner. The indications must be visible to each pilot under all expected lighting conditions.

(j) Following disengagement of the autothrust function, a caution (visual and auditory) must be provided to each pilot.

(k) During autothrust operation, it must be possible for the flightcrew to move the thrust levers without requiring excessive force. The autothrust may not create a potential hazard when the flightcrew applies an override force to the thrust levers.

(l) For purposes of this section, a transient is a disturbance in the control or flight path of the airplane that is not consistent with response to flightcrew inputs or environmental conditions.

(1) A minor transient would not significantly reduce safety margins and would involve flightcrew actions that are well within their capabilities. A minor transient may involve a slight increase in flightcrew workload or some physical discomfort to passengers or cabin crew.

(2) A significant transient may lead to a significant reduction in safety margins, an increase in flightcrew workload, discomfort to the flightcrew, or physical distress to the passengers or cabin crew, possibly including non-fatal injuries. Significant transients do not require—in order to remain within or recover to the normal flight envelope—any of the following:

(i) Exceptional piloting skill, alertness, or strength.

(ii) Forces applied by the pilot which are greater than those specified in § 23.143(c).

(iii) Accelerations or attitudes in the airplane that might result in further hazard to secured or non-secured occupants.

Issued in Kansas City, Missouri on April 4, 2017.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–07382 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0164; Directorate Identifier 2017–NE–06–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) CF34–8 model turbofan engines. This proposed AD was prompted by analysis that resulted in the reduction of the life of the affected fan blades. This proposed AD would require inspections of the affected fan blades until their removal. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 30, 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 General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0164; 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 Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Martin Adler, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this NPRM. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0164; Directorate Identifier 2017–NE–06–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We learned that GE has determined, based on analysis, that the stresses in the pinholes in the affected fan blade could result in crack initiation at pinhole surfaces beyond 19,000, 19,500, or 25,000 cyles-since-new (CSN), depending on the engine model on which the blade is installed. GE, therefore, has initiated a program of initial and repetitive eddy current inspections (ECIs) and removal of this fan blade before it reaches 41,000 CSN. GE also provided an option to repair the blade which allows for an additional 28,000 cycles before it must be removed. This condition, if not corrected, could result in failure of the fan blade, uncontained blade release, damage to the engine, and damage to the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed GE Alert Service Bulletins (ASBs) CF34–8C SB 72–A0137 R05, dated June 15, 2016; and CF34–8E SB 72–A0060 R05, dated June 15, 2016. These ASBs provide the procedures necessary for calculating the adjusted CSN for the initial inspection. 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.

Other Related Service Information

We reviewed GE ASB CF34–8E SB 72–A0115 R03, issued on December 9, 2016, and GE ASB CF34–8C SB 72–A0225 R03, issued on December 9, 2016. The ASB's describe procedures for repairing fan blade, part number (P/N) 4114T15P02, to P/N 4114T31G01 with the installation of a bushing in the pinholes.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require initial and repetitive ECIs of the affected fan blade. This proposed AD would also require removal or repair of the affected fan blade at a reduced life. A fan blade

that has been repaired is eligible for an additional 28,000 cycles in service before it must be removed.

Differences Between This Proposed AD and the Service Information

The determination in this proposed AD of CSN, when CSN is not known, is simpler and clearer than the method indicated in the service information. The service information has several options that may lead to confusion among operators in making this determination.

Costs of Compliance

We estimate that this proposed AD affects 1,986 engines installed on 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
Initial ECI Inspection	4 work-hours × $85 per hour = $340	$0	$340	$675,240
Replacement of fan blade (prorated annual cost).	0 work-hours × $85 per hour = $0	5,460	5,460	10,843,560

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 to the extent that it justifies making a regulatory distinction, 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):

General Electric Company: Docket No. FAA–2017–0164; Directorate Identifier 2017–NE–06–AD.

(a) Comments Due Date

We must receive comments by May 30, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) CF34–8C1, CF34–8C5, CF34–8C5A1, CF34–8C5B1, CF34–8C5A2, CF34–8C5A3, CF34–8E2, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E5A2, CF34–8E6 and CF34–8E6A1 engines, including engines marked on the engine data plate as CF34–8C5B1/B, CF34–8C5/B, CF34–8C5A1/B, CF34–8C5A2/B, CF34–8C5/M, CF34–8C5A1/M, CF34–8C5A2/M, CF34–8C5A3/B, or CF34–8C5B1/M, with a fan blade, part number (P/N) 4114T15P02 or P/N 4114T31G01, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by analysis that resulted in the reduction of the life of the affected fan blades. We are issuing this AD to prevent failure of the fan blade, uncontained blade release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Eddy Current Inspections (ECIs)

(1) For CF34–8C1, CF34–8C5B1, CF34–8C5B1/B and CF34–8E2 engines with fan blade, P/N 4114T15P02, installed:

(i) Perform an initial ECI of the fan blade pinhole prior to the fan blade accumulating 25,000 cycles-since-new (CSN); and

(ii) Repeat this inspection within every 3,000 cycles thereafter.

(2) For CF34–8C5, CF34–8C5/B, CF34–8C5A1, CF34–8C5A1/B, CF34–8C5A2, CF34–8C5A2/B, CF34–8E2A1, CF34–8E5, CF34–8E5A1, CF34–8E6 and CF34–8E6A1 engines with fan blade, P/N 4114T15P02, installed:

(i) Perform an initial ECI of the fan blade pinhole prior to the fan blade accumulating 19,500 CSN; and

(ii) Repeat this inspection within every 3,000 cycles thereafter, until the fan blade has accumulated 25,000 CSN, then repeat the inspection every 1,500 cycles thereafter.

(3) For CF34–8C5/M, CF34–8C5A1/M, CF34–8C5A2/M, CF34–8C5A3, CF34–8C5A3/B, CF34–8C5B1/M, and CF34–8E5A2 engines with fan blade, P/N 4114T15P02, installed:

(i) Perform an initial ECI of the fan blade pinhole prior to the fan blade accumulating 19,000 CSN; and

(ii) Repeat this inspection within every 3,000 cycles thereafter, until the fan blade has accumulated 25,000 CSN, then repeat the inspection every 1,500 cycles thereafter.

(4) For any affected engine with a fan blade, P/N 4114T15P02, installed where the CSN of the fan blade is unknown on the effective date of this AD:

(i) Assume the blade has accumulated 25,000 CSN on the effective date of this AD; and

(ii) Inspect the blade prior to installation or within 500 cycles after the effective date of this AD, whichever is earlier.

(5) If a fan blade is moved from one affected engine model to another affected model after the initial ECI:

(i) Perform an additional ECI of the blade prior to installation in the new model; and

(ii) Repeat this inspection based on the intervals of the new engine installation, as specified in paragraph (g) of this AD.

(6) If a fan blade, P/N 4114T15P02, has been used on more than one engine model prior to the initial ECI, use Appendix A of GE Alert Service Bulletin (ASB) CF34–8C SB 72–A0137 R05, dated June 15, 2016, or Appendix A of GE ASB CF34–8E SB 72–A0060 R05, dated June 15, 2016, to calculate the new cycle limit for the initial inspection of that fan blade.

(h) Fan Blade Removal

(1) For any affected engine with a fan blade, P/N 4114T15P02, installed, remove the blade from service or repair to P/N 4114T31G01 prior to the blade accumulating 41,000 CSN.

(2) For any affected engine with a fan blade, P/N 4114T31G01, installed, remove the blade from service prior to the blade accumulating 28,000 cycles since installation of the pinhole bushing.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(j) Related Information

(1) For more information about this AD, contact Martin Adler, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7157; fax: 781–238–7199; email: *martin.adler@faa.gov.*

(2) GE ASBs: CF34–8C SB 72–A0137 R05, dated June 15, 2016; CF34–8E SB 72–A0060 R05, dated June 15, 2016; CF34–8E SB 72A0115 R03, issued December 9, 2016; and CF34–8C ASB 72–A0225 R03, issued December 9, 2016; can be obtained from GE using the contact information in paragraph (j)(3) of this AD.

(3) For service information identified in this proposed AD, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513–552–3272; fax: 513–552–3329; email: *geae.aoc@ge.com.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on April 5, 2017.

Carlos A. Pestana,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017–07477 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1500 and 1507

[Docket No. CPSC–2006–0034]

Amendments to Fireworks Regulations; Notice of Extension of Comment Period

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of comment period.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) published a notice of proposed rulemaking (NPR) regarding fireworks in the **Federal Register** on February 2, 2017. The NPR invited the public to submit written comments during a 75-day comment period beginning on the NPR publication date. In response to a request for an extension of the comment period, the Commission is extending the comment period by 90 days.

DATES: Submit comments by July 17, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2006–0034, electronically or in writing:

Electronic Submissions: You may submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov,* by following the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.*

Written Submissions: You may submit written comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions must include the agency name and docket number for this notice. All comments may be posted to *http://www.regulations.gov* without change, including any personal identifiers, contact information, or other personal information. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you submit such information, the Commission recommends that you do so by mail, hand delivery, or courier.

Docket: To read background documents or comments regarding this rulemaking, go to: *http://www.regulations.gov,* insert docket number CPSC–2006–0034 in the ''Search'' box, and follow the prompts.

SUPPLEMENTARY INFORMATION: On February 2, 2017, the Commission published an NPR in the **Federal Register**, proposing amendments to the fireworks regulations in 16 CFR parts 1500 and 1507, under the authority of the Federal Hazardous Substances Act (15 U.S.C. 1261–1278). 82 FR 9012. The NPR provided a 75-day comment period, which will close on April 18, 2017. The National Fireworks Association has requested that the Commission extend the comment period an additional 90 days, in light of the broad scope of the amendments proposed in the NPR, the complex and highly-technical nature of the proposed amendments, and the potential impact on industry members.

The Commission grants this request, extending the comment period for an additional 90 days, until July 17, 2017.[1]

Dated: April 11, 2017.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2017–07556 Filed 4–13–17; 8:45 am]

BILLING CODE 6355–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50 and 58

[EPA–HQ–OAR–2013–0146; FRL–9961–20–OAR]

Release of the Policy Assessment for the Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of the final document titled *Policy Assessment for the Review of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen* (NO_2

[1] The Commission voted 4–1 to approve the comment period extension request. Acting Chairman Ann Marie Buerkle, Commissioner Robert S. Adler, Commissioner Marietta S. Robinson and Commissioner Joseph P. Mohorovic voted to approve the extension notice. Commissioner Elliot F. Kaye voted against the extension notice.

PA). Nitrogen dioxide (NO_2) is the component of oxides of nitrogen (NO_X) for which we have the greatest concern for public health. Accordingly, the current primary (health-based) National Ambient Air Quality Standards (NAAQS) for NO_X are in terms of NO_2. The NO_2 PA presents considerations and conclusions relevant for the EPA's review of the primary NO_2 NAAQS. The primary NO_2 NAAQS are set to protect the public health from exposures to NO_2 in ambient air.

DATES: The NO_2 PA will be available on or about April 12, 2017.

ADDRESSES: The NO_2 PA will be available primarily via the Internet at: *https://www.epa.gov/naaqs/nitrogen-dioxide-no2-primary-standards-policy-assessments-current-review.*

FOR FURTHER INFORMATION CONTACT: Ms. Breanna Alman, Office of Air Quality Planning and Standards (Mail Code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–2351; email: *alman.breanna@epa.gov.*

SUPPLEMENTARY INFORMATION: Two sections of the Clean Air Act (CAA) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;'' ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;'' and ''for which . . . [the Administrator] plans to issue air quality criteria . . .'' Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .'' 42 U.S.C. 7408(b). Under section 109 (42 U.S.C. 7409), the EPA establishes primary (health-based) and secondary (welfare-based) NAAQS for pollutants for which air quality criteria are issued. Section 109(d) requires periodic review and, if appropriate, revision of existing air quality criteria. Revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and, if appropriate, revise the NAAQS based on the revised criteria. Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of the existing criteria and standards as may be appropriate . . .'' Since the early 1980s, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).

Presently, the EPA is reviewing the criteria and the primary NAAQS for NO_X. The EPA released the final Integrated Science Assessment for Oxides of Nitrogen—Health Criteria (the ISA) in January 2016. Drawing from the ISA, a draft NO_2 PA was prepared by the EPA's Office of Air Quality Planning and Standards, within the Office of Air and Radiation. The draft NO_2 PA presented preliminary staff conclusions on the adequacy of the current standards and addressed key policy-relevant science issues that guided the review. The draft NO_2 PA was reviewed by the CASAC at a public meeting on November 9–10, 2016, and a teleconference on January 24, 2017. The CASAC's advice on the draft NO_2 PA was conveyed in a letter to the Administrator dated March 7, 2017.[1] The final NO_2 PA being released at this time reflects consideration of the CASAC's advice and public comments received on the draft NO_2 PA.

Dated: April 10, 2017.

Stephen Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2017–07558 Filed 4–13–17; 8:45 am]

BILLING CODE 6560–50–P

[1] Available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentCASAC/7C2807D0D9BB4CC8852580DD004EBC32/$File/EPA-CASAC-17-001.pdf.*

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0062; FRL–9960–20–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Regional Haze Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing revisions pursuant to section 110 of the Clean Air Act (CAA) to the Federal Implementation Plan (FIP) addressing regional haze in the State of Montana. The EPA promulgated a FIP on September 18, 2012, in response to the State's decision in 2006 to not submit a regional haze State Implementation Plan (SIP); we are proposing revisions to that FIP. The EPA is proposing revisions to the FIP's requirement for best available retrofit technology (BART) for the Trident cement kiln owned and operated by Oldcastle Materials Cement Holdings, Inc., (Oldcastle), located in Three Forks, Montana. In response to a request from Oldcastle, and in light of new information that was not available at the time we originally promulgated the FIP, we are proposing to revise the nitrogen oxides (NO_X) emission limit for the Trident cement kiln. We are also proposing to correct errors we made in our FIP regarding the reasonable progress determination for the Blaine County #1 Compressor Station and the instructions for compliance determinations for particulate matter (PM) BART emission limits at electrical generating units (EGUs) and cement kilns. This action does not address the U.S. Court of Appeals for the Ninth Circuit's June 9, 2015 vacatur and remand of portions of the FIP regarding the Colstrip and Corette power plants; we will address the court's remand in a separate action.

DATES: *Comments:* Written comments must be received on or before May 30, 2017.

Public Hearing: If anyone contacts us requesting a public hearing on or before May 1, 2017, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document. Contact Jaslyn Dobrahner at (303) 312–6252 or at *dobrahner.jaslyn@epa.gov* to request a hearing or to determine if a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0062, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include

discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT:

Jaslyn Dobrahner, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6252, *dobrahner.jaslyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to the EPA through *https://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns, and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

II. What action is the EPA taking?

On September 18, 2012, the EPA promulgated a FIP that included a NO_X BART emission limit for the Holcim (US), Inc., Trident cement kiln located in Three Forks, Montana.[1] [2] The EPA is proposing to revise the 2012 FIP with respect to the BART emission limit for the Trident cement kiln. Specifically, the EPA is proposing to revise the NO_X emission limit from 6.5 lb/ton clinker to 7.6 lb/ton clinker (both as 30-day rolling averages). The EPA is also proposing to correct errors we made in our FIP regarding the reasonable progress determination for the Blaine County #1 Compressor Station and in the instructions for compliance determinations for particulate matter (PM) BART emission limits at EGUs and cement kilns. Our proposed correction to our erroneous reasonable progress determination for the Blaine County #1 Compressor Station will result in the source no longer being subject to a NO_X emission limit of 21.8 lbs NO_X/hr (average of three stack test runs). The EPA is proposing to revise the specific portions of Montana's regional haze FIP described in this Notice of Proposed Rulemaking under our general rulemaking and CAA-specific authority. *See* 5 U.S.C. 551(5); 42 U.S.C. 7601(a)(1), 7410(c)(1), 7410(k)(6). We are not addressing the Ninth Circuit's June 9, 2015 vacatur and remand of unrelated portions of the FIP in this action and will address the court's remand in a separate action.

III. Background

A. Requirements of the Clean Air Act and the EPA's Regional Haze Rule

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes ''as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution.'' [3] On December 2, 1980, the EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e.,* reasonably attributable visibility

[1] Oldcastle Materials Cement Holdings, Inc., (Oldcastle) is the current owner and operator of the Trident cement kiln.

[2] 77 FR 57864.

[3] 42 U.S.C. 7491(a). Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this section, we mean a ''mandatory Class I Federal area.''

impairment.[4] These regulations represented the first phase in addressing visibility impairment. The EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. The EPA promulgated a rule to address regional haze on July 1, 1999.[5] The Regional Haze Rule (RHR) revised the existing visibility regulations to integrate provisions addressing regional haze and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in the EPA's visibility protection regulations at 40 CFR 51.300–309. The EPA revised the RHR on January 10, 2017.[6]

The CAA requires each state to develop a SIP to meet various air quality requirements, including protection of visibility.[7] Regional haze SIPs must assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. A state must submit its SIP and SIP revisions to the EPA for approval. Once approved, a SIP is enforceable by the EPA and citizens under the CAA; that is, the SIP is federally enforceable. If a state elects not to make a required SIP submittal, fails to make a required SIP submittal or if we find that a state's required submittal is incomplete or not approvable, then we must promulgate a FIP to fill this regulatory gap.[8] Montana is on the path towards a SIP and working closely with the Region to make that happen as soon as practicable.

B. Best Available Retrofit Technology (BART)

Section 169A of the CAA directs states, or the EPA if developing a FIP, to evaluate the use of retrofit controls at certain larger, often uncontrolled, older stationary sources in order to address visibility impacts from these sources. Specifically, section 169A(b)(2)(A) of the CAA requires states' implementation plans to contain such measures as may be necessary to make reasonable progress toward the natural visibility goal, including a requirement that certain categories of existing major stationary sources built between 1962 and 1977 procure, install, and operate the ''Best Available Retrofit Technology'' as determined by the states, or in the case of a FIP, the EPA. Under the RHR, states or the EPA are directed to conduct BART determinations for such ''BART-eligible'' sources that may reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area.

On July 6, 2005, the EPA published the Guidelines for BART Determinations under the RHR at appendix Y to 40 CFR part 51 (hereinafter referred to as the ''BART Guidelines'') to assist states and the EPA in determining which sources should be subject to the BART requirements and the appropriate emission limits for each applicable source.[9] The process of establishing BART emission limitations follows three steps: First, identify the sources that meet the definition of ''BART-eligible source'' set forth in 40 CFR 51.301;[10] second, determine which of these sources ''emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area'' (a source which fits this description is ''subject to BART''); and third, for each source subject to BART, identify the best available type and level of control for reducing emissions. Section 169A(g)(7) of the CAA requires that states, or the EPA if developing a FIP, must consider the following 5 factors in making BART determinations: (1) The costs of compliance; (2) the energy and non-air quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. States or the EPA must address all visibility-impairing pollutants emitted by a source in the BART determination process. The most significant visibility impairing pollutants are sulfur dioxide (SO_2), NO_X, and PM.

A SIP or FIP addressing regional haze must include source-specific BART emission limits and compliance schedules for each source subject to BART. Once a state or the EPA has made a BART determination, the BART controls must be installed and operated as expeditiously as practicable, but no later than 5 years after the date of the EPA's approval of the final SIP or the date of the EPA's promulgation of the FIP.[11] In addition to what is required by the RHR, general SIP requirements mandate that the SIP or FIP include all regulatory requirements related to monitoring, recordkeeping, and reporting for the BART emission limitations. See CAA section 110(a); 40 CFR part 51, subpart K.

C. Reasonable Progress Requirements

In addition to BART requirements, as mentioned previously each regional haze SIP or FIP must contain measures as necessary to make reasonable progress towards the national visibility goals. As part of determining what measures are necessary to make reasonable progress, the SIP or FIP must first identify anthropogenic sources of visibility impairment that are to be considered in developing the long-term strategy for addressing visibility impairment.[12] States or the EPA must then consider the four statutory reasonable progress factors in selecting control measures for inclusion in the long-term strategy—the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of potentially affected sources. See CAA section 169A(g)(1) (defining the reasonable progress factors); 40 CFR 51.308(d)(1)(i)(A). Finally, the SIP or FIP must establish reasonable progress goals (RPGs) for each Class I area within the State for the plan implementation period (or ''planning period''), based on the measures included in the long-term strategy.[13] If an RPG provides for a slower rate of improvement in visibility than the rate needed to attain the national goal by 2064, the SIP or FIP must demonstrate, based on the four reasonable progress factors, why the rate to attain the national goal by 2064 is not reasonable and the RPG is reasonable.[14]

D. Consultation With Federal Land Managers (FLMs)

The RHR requires that a state, or the EPA if promulgating a FIP that fills a gap in the SIP with respect to this requirement, consult with FLMs before adopting and submitting a required SIP or SIP revision, or a required FIP or FIP revision.[15] Further, the EPA must include in its proposed FIP a

[4] 45 FR 80084, 80084 (December 2, 1980).

[5] 64 FR 35714, 35714 (July 1, 1999) (codified at 40 CFR part 51, subpart P).

[6] 82 FR 3078 (January 10, 2017).

[7] 42 U.S.C. 7410(a), 7491, and 7492(a), CAA sections 110(a), 169A, and 169B.

[8] 42 U.S.C. 7410(c)(1).

[9] 70 FR 39104.

[10] BART-eligible sources are those sources that have the potential to emit 250 tons or more of a visibility-impairing air pollutant, were not in operation prior to August 7, 1962, but were in existence on August 7, 1977, and whose operations fall within one or more of 26 specifically listed source categories. 40 CFR 51.301.

[11] CAA section 169A(g)(4); 40 CFR 51.308(e)(1)(iv).

[12] 40 CFR 51.308(d)(3)(iv).

[13] 40 CFR 51.308(d), (f).

[14] 40 CFR 51.308(d)(1)(ii).

[15] 40 CFR 51.308(i).

description of how it addressed any comments provided by the FLMs. Finally, a FIP must provide procedures for continuing consultation between the EPA and FLMs regarding the EPA's FIP, visibility protection program, including development and review of FIP revisions, 5-year progress reports, and the implementation of other programs having the potential to contribute to impairment of visibility in Class I areas.

E. Regulatory and Legal History of the 2012 Montana FIP

On September 18, 2012, the EPA promulgated a FIP that included BART emission limits for two power plants and two cement kilns, and an emission limit for a natural gas compressor station based on reasonable progress requirements.[16] The EPA took this action because Montana decided not to submit a regional haze SIP, knowing that as a result the EPA would be required to promulgate a FIP.[17] The BART emission limits for the two cement kilns and the reasonable progress requirements for the compressor station were not at issue in the petitions filed with the Ninth Circuit Court of Appeals.[18] The EPA plans to address the court's remand in a separate action.

IV. Trident Cement Kiln

Among other things, the 2012 FIP for Montana established a BART NO_X emission limit for the kiln at the Trident cement plant (owned by Holcim, Inc., at the time of our 2012 final action). The Trident kiln is a ''long kiln,'' meaning that all of the pyroprocessing is accomplished in the rotary kiln. By contrast, with more recent designs, such as preheater and precalciner (PH/PC) kilns, much of the pyroprocessing occurs in stationary vessels placed upstream of the rotary kiln. The PH/PC kilns are also generally shorter in length, more thermally efficient, and generate less NO_X. The EPA promulgated a BART emission limit for the Trident kiln of 6.5 lb NO_X/ton clinker (as a 30-day rolling average), which reflected installation of selective non-catalytic reduction (SNCR). Based on information available at the time, the emission limit was derived using a 50% reduction in the baseline NO_X emissions.[19]

In May 2016, Oldcastle representatives contacted the EPA and updated us of the change in ownership of the Trident facility, and requested a meeting with the EPA to discuss challenges with meeting the BART emission limit, which Oldcastle became aware of from its contractors assisting with the design and installation of the SNCR control system to meet the BART requirement.[20] The EPA and Oldcastle met on July 25, 2016, to discuss these issues.[21] In September 2016, Oldcastle requested that the EPA revise the emission limit due to its concerns that it cannot achieve the 50% emission reduction the EPA assumed was possible with SNCR on a continuous basis without unacceptable levels of ammonia slip, which may in turn negatively impact operations, unduly increase reagent costs, and create a localized visible detached plume.[22] Accordingly, we have reevaluated the NO_X control effectiveness (percent reduction), and thereby the emission limit, that can be achieved with SNCR when applied to long kilns. In particular, we have considered new information concerning SNCR performance that was not available at the time the 2012 FIP was promulgated.

As an initial matter, the EPA recognizes that it is challenging to predict the control effectiveness of SNCR for long cement kilns for a few reasons. First, whereas SNCR has been applied to many industrial sources, and in particular to coal-fired utility and industrial boilers, the number of long cement kilns that have been retrofitted with SNCR is relatively small. In fact, until recently SNCR was not considered technically feasible for long kilns because the appropriate temperature window is in the middle of the kiln, requiring that the reagent be injected into the rotating kiln.[23] Second, there is inherent variability in the operation of long kilns, particularly in comparison to PH/PC kilns, that makes injection of reagent at the optimal temperature window difficult. Third, the available SNCR performance data for long kilns does not reflect a contemporaneous measurement of uncontrolled and controlled NO_X emission rates because it is not possible to measure the uncontrolled NO_X emission rate inside the kiln. Instead, the uncontrolled NO_X emission rate (measured at the kiln exhaust), is taken from a baseline period prior to the installation of SNCR. Thus, it is difficult to prospectively estimate the control effectiveness of one long kiln from the operation of another long kiln already equipped with SNCR. Collectively, these factors introduce uncertainty when predicting the control effectiveness of SNCR when applied to long kilns, which is a necessary step in setting the NO_X emission limit. This uncertainty has been the impetus for the use of post-installation control technology demonstrations to set NO_X emission limits in association with consent decree enforcement actions for long kilns (as discussed later in this preamble).

As stated in its submittals to the EPA, Oldcastle is committed to installing and operating the SNCR system on its Trident kiln.[24] The construction of the SNCR system is underway and will likely be integrated into plant operations beginning during a shutdown scheduled for April 2017.[25] As such, the EPA's consideration of Oldcastle's concerns and the resulting proposed FIP revision for the Trident kiln address only the appropriate emission limit associated with the operation of SNCR. Because the EPA is not revisiting the question of what control technology represents BART, this proposed rule does not include an updated 5-factor BART analysis.

To assess whether the new information supports revising the emission limits for the Trident kiln, we first reviewed the EPA's evaluation of SNCR control effectiveness for long kilns in the 2012 FIP. There, the EPA determined that a 50% control effectiveness was an appropriate estimate for SNCR at long kilns, such as the Trident kiln. This was largely based on the SNCR performance observed on the three Ash Grove Cement long wet kilns located in Midlothian, Texas. Emissions data submitted by Ash Grove to the Texas Commission on Environmental Quality (TCEQ) showed that the Midlothian kilns achieved emission rates in the range of 1.6 to 2.9 lb NO_X/ton of clinker from June through

[16] 77 FR 57864.

[17] Letter from Richard H. Opper, Director Montana Department of Environmental Quality to Laurel Dygowski, EPA Region 8 Air Program, June 19, 2006.

[18] Several parties petitioned the Ninth Circuit Court of Appeals to review EPA's NO_X and SO_2 BART determinations at the power plants, Colstrip and Corette (PPL Montana, LLC, the National Parks Conservation Association, Montana Environmental Information Center, and the Sierra Club). The court vacated the NO_X and SO_2 BART emission limits at Colstrip Units 1 and 2 and Corette and remanded those portions of the FIP back to EPA for further proceedings. *National Parks Conservation Association* v. *EPA,* 788 F.3d 1134 (9th Cir. 2015).

[19] 77 FR 24003–24004, 24014.

[20] Oldcastle acquired the facility on August 1, 2015. Oldcastle July 25, 2016, PowerPoint Presentation at 3.

[21] Oldcastle presentation to EPA, July 25, 2016.

[22] See submittals from Bison Engineering, Inc., to EPA on behalf of Oldcastle dated September 30, 2016, January 27, 2017, and February 13, 2017.

[23] NO_X Control Technologies for the Cement Industry: Final Report, p. 70, EPA–457/R–00–002, September 2000.

[24] Oldcastle submittal to the EPA, p. 23, January 27, 2017.

[25] See photographs of SNCR construction attached to email from Bison Engineering, Inc., dated November 11, 2016.

August 2008 when using SNCR. The EPA compared this to baseline emissions data for the same 3-month period in 2006. Table 1 summarizes the 2006 and 2008 emissions rates, and associated percent reductions, that the EPA used in support of the 2012 FIP.[26]

TABLE 1—ASH GROVE MIDLOTHIAN MONTHLY NO_X EMISSIONS, JUNE THROUGH AUGUST, 2006–2008

	June through August 2006 emission rate (lb/ton clinker)				June through August 2008 emission rate (lb/ton clinker)				Percentage reduction (%)
	June	July	August	Average	June	July	August	Average	
Kiln 1	5.2	5.0	4.5	4.9	1.7	1.6	2.2	1.8	62.5
Kiln 2	5.0	4.1	3.9	4.4	2.7	2.6	2.8	2.7	37.7
Kiln 3	5.0	4.4	4.2	4.5	2.9	2.6	2.5	2.7	40.5

When the control effectiveness values for all three kilns were averaged together, the EPA found that SNCR achieved a 47.5% reduction in NO_X.

During the public comment period for the 2012 FIP, commenters questioned the usefulness of the Midlothian data in setting emission limits for other long kilns. Oldcastle has repeated some of those concerns in its recent submittals to the EPA that request a less stringent emission limit. In particular, the previous commenters, and now Oldcastle, pointed to the fact the Midlothian NO_X emission rates (in lb/ton clinker) in subsequent years (2009 and 2010) were much higher than in 2008. In response to comments on the 2012 FIP, we suggested that these higher NO_X emission rates indicated that SNCR was not utilized to the fullest extent in 2009 and 2010 and thus were not representative of the potential control efficiency of SNCR. Based on information recently obtained from Ash Grove Cement, we have been able to confirm that SNCR was underutilized in those two years.[27] In 2008, while the Midlothian kilns were not yet subject to a NO_X emission limit associated with the operation of SNCR, Ash Grove operated SNCR on the three kilns in order to understand how the control technology would work in preparation for upcoming emission requirements. Then, beginning in 2009, the Midlothian facility was required to comply with a facility-wide SIP emission limit of 4.41 tons NO_X/day during the ozone season.[28] Also, demand for cement was low during 2009 and 2010. As a result, Ash Grove was often able to meet the facility-wide emission limit with limited use of SNCR because one or more of the kilns was idle. For example, in 2009, SNCR was only operated for 131, 1,051, and 142 hours, respectively on kilns 1, 2, and 3.[29] Subsequently, starting in March 2011, in accordance with a settlement agreement, the Midlothian kilns were individually required to comply with a 30-day rolling average emission limit of 3.6 lb/ton clinker at all times throughout the year.[30] Consequently, and despite higher demand for cement, NO_X emissions (in lb/ton clinker) dropped significantly when compared to 2009 and 2010. Therefore, the SNCR performance data for Midlothian considered by the EPA during the 2012 FIP development (2006–2008 data) was reliable and remains informative in setting a BART emission limit for the Trident kiln. Regardless, as noted further in this preamble, the EPA is now in possession of additional SNCR performance data for long kilns obtained through consent decree control technology demonstrations. This more recent SNCR performance data, along with earlier data from the Midlothian kilns, has been used to inform the SNCR performance expectations for the Trident kiln.

Since promulgation of our 2012 FIP, SNCR has been installed on a number of wet or dry long kilns in association with consent decree enforcement actions. SNCR has been installed on 6 long kilns (2 wet, 4 dry) owned by LaFarge North America Inc., and on an additional long wet kiln owned by the Ash Grove Cement Company.[31] The Ash Grove kiln is the Montana City kiln for which the EPA had earlier established a BART emission limit of 8.0 lb NO_X/ton clinker (30-day rolling average) in our 2012 FIP.

Each of the kilns subject to a consent decree was required to establish an SNCR-based emission limit through a control technology demonstration. The demonstrations were designed to establish the optimal performance of SNCR, and were carried out through a number of steps, including design report, baseline period, optimization period, and demonstration period.[32] The control effectiveness data for these kilns, along with the data from the 2012 FIP for the three Midlothian kilns, is summarized in the associated Technical Support Document (TSD) prepared by the EPA.[33] The control effectiveness shown for the kilns subject to consent decrees is highly variable and ranges from 29% to 47%, with a mean of 40%. This control effectiveness reflects the percent reduction in the NO_X emissions between the baseline and demonstration periods. As noted earlier, it does not reflect contemporaneous NO_X measurements. These values compare favorably to the range of reductions (3-month average) observed for three Midlothian kilns of 37.7% to 62.5%, although the latter are somewhat higher.

The kiln that is most comparable to the Oldcastle Trident kiln is the Ash Grove Montana City kiln because both are long wet kilns and operate in similar environments in Montana. As such, it is reasonable to conclude that the Montana City kiln and the Oldcastle Trident kiln should be able to achieve comparable levels of NO_X reduction per mole of uncontrolled NO_X to injected reagent, *i.e.,* at a given molar ratio (NO_X:NH_3). During the baseline period of the control technology demonstration for Ash Grove Montana City, lasting approximately six months between March and August 2014, the kiln emitted NO_X at a rate of 11.6 lb/ton clinker.[34] Following optimization of the SNCR system, the kiln emitted NO_X at a rate of 7.0 lb/ton clinker over a period of approximately 10 months between July 2015 and April

[26] Ash Grove Midlothian Plant Actual Emissions Data, 2005–2010, obtained from TCEQ.

[27] Email (with attachments) from Ash Grove Cement Company to EPA of December 6, 2016.

[28] NO_X Emissions Control Plan for Ash Grove Texas, L. P., Midlothian Texas—Ellis County. Submitted to TCEQ and dated March 3, 2009.

[29] Kiln operating hours taken from spreadsheet attached to Ash Grove email to EPA of December 6, 2016.

[30] March 2011 settlement agreement between Ash Grove Texas, L. P, City of Dallas, Texas, and City of Arlington, Texas.

[31] Ash Grove consent decree, August 14, 2013. LaFarge consent decree, July 21, 2014.

[32] Refer to respective consent decree for details.

[33] Technical Support Document—Oldcastle Trident Federal Implementation Plan Revision, March 8, 2017. In particular, See Attachment 1 to the TSD, Summary of SNCR Performance Data for Long Cement Kilns.

[34] See spreadsheet ''Summary of Ash Grove Montana City Control Technology Demonstration Data.xlsx'', March 8, 2017, prepared by the EPA.

2016.[35] Again, this reflects an emission reduction between the two periods of roughly 40% based on the use of SNCR. Subsequently, as required by the consent decree, Ash Grove proposed, and the EPA approved, a 30-day rolling average emission limit of 7.5 lb NO_X/ton clinker, which is lower than the BART emission limit of 8.0 lb NO_X/ton clinker.[36] The 7.5 lb NO_X/ton clinker emission limit was approved by the EPA on December 29, 2016.[37]

It is of particular importance that the SNCR installed at the Montana City kiln was ultimately optimized around ammonia slip. The ammonia slip is the concentration of unreacted ammonia as measured at the kiln exhaust that is above the background concentration established during the baseline period. Initially, the optimization of the kiln proceeded ''by injecting [increasing] set amounts of ammonia based on the estimated molar ratio of ammonia to the NO_X emission rate identified during the baseline period.'' [38] However, this approach at times resulted in high levels of ammonia slip and an objectionable detached plume that was visible in the immediate vicinity of the facility.[39] In response, the optimization was then conducted based on an ammonia slip of 10 ppm. This too, at times, resulted in a detached plume. Therefore, Ash Grove ultimately optimized the operation of SNCR around an ammonia slip of 5 ppm. Ash Grove observed that ''[r]educing ammonia slip from 10 ppm to 5 ppm did not significantly reduce the effectiveness of the SNCR system, as the average daily NO_X emission rate during the 14-day period of 5 ppm ammonia slip was 6.4 lb/ton clinker and the maximum daily NO_X emission rate was 7.3 lb/ton clinker.'' [40] The ammonia slip during the demonstration period that followed was then set to a target of 5 ppm, and Ash Grove demonstrated the ability to meet an emission limit of 7.5 lb/ton clinker (30-day rolling average) with this amount of ammonia slip. This approach to optimization established that a control effectiveness of 40% can be reached while addressing the same concerns about excess ammonia that Oldcastle raised in relation to the Trident kiln.

In consideration of the entirety of the SNCR performance results for long kilns now available to the EPA, and in particular that for the similar Ash Grove Montana City kiln, it is appropriate that the emission limit for the Trident kiln reflect a control effectiveness of 40%.

In order to propose a revised BART emission limit based on the updated control effectiveness of SNCR, we next considered the baseline emission rate for the Trident kiln. In the 2012 FIP, EPA used the 99th percentile 30-day rolling average NO_X emission rate of 12.6 lb/ton clinker for the period 2008–2011 as the baseline rate for calculating the BART emission limit. Applying a 50% reduction to the 99th percentile figure yielded 6.3 lb NO_X/ton clinker. To allow for a sufficient margin of compliance for a 30-day rolling average emission limit that would apply at all times, including startup, shutdown and malfunction, we set the BART emission limit at 6.5 lb/ton clinker.[41]

At the EPA's request, Oldcastle submitted updated 30-day rolling average emissions data for the period of 2008 through 2016.[42] The EPA evaluated this data in order to determine whether the baseline value of 12.6 lb NO_X/ton clinker used in the 2012 FIP remains a reasonable baseline for the purpose of setting the BART emission limit. The 99th percentile 30-day rolling average from the 9-year period is 13.9 lb NO_X/ton clinker. In its February 13, 2017 submittal to the EPA, Oldcastle (through Bison Engineering, Inc.,) proposed that the updated baseline value be used to calculate the BART emission limit. However, this baseline value is the result of a short period of unusually high daily NO_X emissions that occurred on various days between September and November 2012. Oldcastle stated that one likely cause of the high NO_X emissions during this time period was the result of ash ring buildup inside the kiln. Oldcastle also noted that ''ash ring build-up is a well-known problem that can develop in cement and lime kilns,'' and it can ''disrupt normal kiln mixing and heat transfer and can degrade fuel efficiency, effects that would tend to increase NO_X emissions on a per-ton of production basis.'' [43] Oldcastle also advocated that the high NO_X emissions in late 2012 should be included when calculating the 99th percentile 30-day rolling average baseline emission rate used to calculate the BART emission limit because, though the emissions are atypical, they nonetheless represent operating conditions that may be anticipated to occur in the future. However, when compared to the emissions for the 9-year period as a whole, the emissions during late 2012 appear to reflect exceptional circumstances.[44] Indeed, in the 4-year period that followed, 2013 through 2016, the 99th percentile 30-day rolling average was identical to that used in the 2012 FIP (*i.e.,* 12.6 lb NO_X/ton clinker).[45] In essence, the emissions in late 2012 represent an upset condition that should not be considered when calculating the BART emission limit. Moreover, the original emissions from 2008–2011, together with the emissions for 2013 through 2016, yield 8 years of data; this is more than sufficient for establishing the amount of NO_X entering the SNCR treatment zone when the kiln is properly operated and maintained. Thus, the EPA concludes that an emission rate of 13.9 lb NO_X/ton clinker is not an appropriate emissions baseline for purposes of setting the BART emission limit.

Moreover, immediately after the ash ring buildup, the daily emissions data shows that Oldcastle did not operate the kiln between November 27 and December 1, 2012. Presumably, during this 5-day shutdown period, Oldcastle took corrective measures to remove the ash rings from the kiln and perform any other necessary repairs, thereby returning the kiln to normal operation. Emissions levels returned to typical levels immediately following the shutdown. Also, background information shared by Oldcastle indicates that proper kiln design, operation and maintenance can help to prevent ash ring formation.[46] Thus, it is within Oldcastle's control to prevent ash ring formation, or at the very least, to promptly take corrective action when it does occur. The BART emission limit should be set such that an unreasonable delay in correcting an ash ring constitutes a violation of the limit. Given that compliance with the BART

[35] Department of Justice (DOJ) No. 90–5–2–1–08221, Ash Grove Cement Co., Montana City MT NO_X Demonstration Report, and Data, August 25, 2016. Also, see spreadsheet titled ''Summary of Ash Grove Montana City Control Technology Demonstration Data.xlsx'', March 8, 2017, prepared by the EPA.

[36] Paragraph 28, Ash Grove consent decree.

[37] EPA letter to Ash Grove Cement Co., December 29, 2016.

[38] Department of Justice (DOJ) No. 90–5–2–1–08221, Ash Grove Cement Co., Montana City MT NO_X Optimization Report, and associated data, June 16, 2015, p. 5. Also, see spreadsheet titled ''Summary of Ash Grove Montana City Control Technology Demonstration Data.xlsx'', March 8, 2017, prepared by the EPA.

[39] Ibid, see photographs in Appendix A and B.

[40] Ibid, 4.

[41] 77 FR 57881.

[42] Email from Bison Engineering, Inc. to the EPA of February 7, 2017, with attached spreadsheet.

[43] Bison Engineering, Inc., letter to the EPA (February 13, 2017) at 2.

[44] This is depicted graphically in the chart included in Attachment 2 to the TSD, showing that the emissions in late 2012 were far higher than any other period.

[45] See spreadsheet titled ''Oldcastle Trident NO_X emissions 2008 through 2016 with additions by EPA.xlsx,'' March 8, 2017, prepared by the EPA.

[46] Ring and Snowball Formation in the Kiln, presentation by Pradeep Kumar, undated. Available in the docket.

emission limit is assessed over a 30-day rolling period, Oldcastle would be able to anticipate whether high short-term NO_X emissions that occur due to ash ring deposits may lead to non-compliance with the BART emission limit. In such case, Oldcastle would be able to take timely and appropriate operation and maintenance measures, and if necessary, shut down the kiln to remove the ash deposits—an action that they presumably would eventually take in any case to return the kiln to efficient operation.

Finally, we note that the Oldcastle Trident and Ash Grove Montana City kilns have very similar NO_X baseline emissions (pre-SNCR) when viewed as the 99th percentile 30-day rolling average. Baseline data collected for the Montana City kiln between March and August 2014 in association with the control technology demonstration shows that the 99th percentile 30-day rolling average emission rate was 12.8 lb NO_X/ton clinker.[47] Though this baseline data was collected over a much shorter time than that for the Trident kiln, it is nearly equal to the value for Trident of 12.6 lb NO_X/ton clinker. This is another indication that the two kilns should be able to achieve similar levels of controlled NO_X emissions with SNCR.

Again, in view of the SNCR performance results for long kilns now available to the EPA, it is appropriate that the emission limit for the Trident kiln reflect a control effectiveness of 40%. In addition, in consideration of the 9 years of baseline data from 2008 through 2016, it is appropriate to retain the original baseline used in the 2012 FIP of 12.6 lb NO_X/ton clinker (99th percentile 30-day rolling average). Applying the 40% control effectiveness to this baseline emission rate yields a value of 7.6 lb NO_X/ton clinker. This compares very favorably with the emission limit of 7.5 lb NO_X/ton clinker set through a control technology demonstration for the Ash Grove Montana City kiln, particularly given that the two kilns have very similar baseline emissions (as 99th percentile 30-day rolling averages). Accordingly, we propose to revise the emission limit for the Trident kiln from the current value of 6.5 lb NO_X/ton clinker to 7.6 lb NO_X/ton clinker (30-day rolling average).[48] We believe this is consistent with the new information available to the EPA, and will also address the concerns expressed by Oldcastle regarding unacceptable levels of ammonia slip, reagent costs, and creation of a localized detached plume.

Although we find that the recent test data from multiple kilns, and particularly that for the Ash Grove Montana City kiln, is a very strong indicator of what can be expected for the Trident kiln, we again acknowledge that it is challenging to predict the performance of SNCR when applied to long kilns. Accordingly, we invite comment on whether, in place of the BART emission limit of 7.6 lb NO_X/ton clinker proposed here, the emission limit for the Trident kiln should be established through a control technology demonstration in a manner similar to that in the consent decrees for the Ash Grove and LaFarge kilns discussed earlier. If so, we would most likely establish an interim emission limit that would be in place until a final emission limit is demonstrated. If we were to require a control technology demonstration, those requirements would also likely be similar to those for two cement kilns in Arizona subject to controls under the reasonable progress provisions of the RHR (though the demonstration requirements were ultimately removed in a revised action).[49] [50] The Agency is also asking if interested parties have additional information or comments on a control technology demonstration approach. The Agency will take the comments into consideration in a final promulgation. Supplemental information and comments received on this approach may lead the Agency to adopt final FIP regulations that reflect a different option, or impact other proposed regulatory provisions, which differ from the proposal.

In the 2012 FIP, we promulgated a compliance deadline for the Trident kiln of five years from the date the final FIP became effective. The effective date for the FIP was October 18, 2012; therefore, the compliance date is October 18, 2017. We are not proposing to change that date here; that is, we are retaining the compliance date for the Trident kiln of October 18, 2017. We also do not propose to alter the monitoring, record keeping, and reporting requirements established in the 2012 FIP that relate to compliance with the BART emission limit for NO_X.

V. Blaine County #1 Compressor Station Reasonable Progress Error Correction

The Blaine County #1 Compressor Station, located near Havre, Montana, serves as a natural gas gathering, transmission, and compressor station with two 5,500-hp Ingersoll-Rand KVR 616 natural gas compressor engines (Engine #1 and Engine #2). The PM and SO_2 emissions from these two engines are relatively low (0.32 tons per year (tpy) of PM and 0.02 tpy of SO_2 per engine), and NO_X emissions are the only potential contributor to regional haze.[51]

As described in our April 20, 2012 proposal, our reasonable progress analysis identified point sources in Montana that potentially affect visibility in Class I areas by starting with the list of sources included in the 2002 National Emissions Inventory (NEI).[52] We divided the sum of actual SO_2 and NO_X emissions (Q) in tons per year (tpy) from each source in the inventory by its distance (D) in kilometers to the nearest Class I Federal Area. The Q/D analysis for the Blaine County #1 Compressor Station is shown in Table 2 below:

TABLE 2–Q/D ANALYSIS FOR THE BLAINE COUNTY #1 COMPRESSOR STATION

Source	SO_2 + NO_X emissions (tons)	Distance to nearest Class I area (km)	Q/D (tons/km)
Devon Energy Production Company, L.P., Blaine County #1 Compressor Station	1,155	107	11

[47] See spreadsheet titled ''Summary of Ash Grove Montana City Control Technology Demonstration Data.xlsx,'' March 8, 2017, prepared by the EPA.

[48] The performance level being achieved by Ash Grove is representative of the achievable level for Oldcastle. 40 CFR part 51, Appendix Y, section IV.D.3.

[49] See for example 79 FR 52420 (September 3, 2014), 52486 (control technology demonstration requirements for the Clarkdale Cement Plant and Rillito Cement Plant at 40 CFR 52.145(k)(6)), 52494–52496 (Appendix A to 52.145, Cement Kiln Control Technology Demonstration Requirements) (FR notice in the docket for this action).

[50] 81 FR 83144 (November 21, 2016, final rule revising portions of the FIP applicable to the Clarkdale and Rillito cement plants) (FR notice in the docket for this action).

[51] 77 FR 24068.

[52] An exception to the use of the 2002 NEI was that for Colstrip Units 3 and 4 we used NEI data from 2010.

We used a Q/D value of 10 as our threshold for further evaluation for reasonable progress controls based on the Federal Land Manager's (FLM) Air Quality Related Values Work Group guidance amendments [53] for initial screening criteria, as well as statements in EPA's BART Guidelines.[54] Based on the Blaine County #1 Compressor Station's Q/D value of 11, this source was evaluated for further controls using the four reasonable progress factors.

Our evaluation only considered NO_X emissions as PM and SO_2 emissions were relatively small and thus not significant contributors to regional haze. Based on the 4 reasonable progress factors, we proposed to find non-selective catalytic reduction (NSCR) a reasonable control to address reasonable progress for the initial planning period, with an emission limit of 21.8 lb NO_X/hr (30-day rolling average).[55] Our final rule included the emission limit of 21.8 lb NO_X/hr (average of three stack test runs) with a compliance date as expeditiously as possible, but not later than July 31, 2018.[56]

The EPA received a letter from Devon Energy Production Company, L.P. (Devon) [57] dated August 14, 2012, which was after the public comment period for our proposal had closed on June 19, 2012, and was the day before our final action was signed on August 15, 2012. In this letter, Devon asserted, among other things, that the Q/D calculation is in error. Specifically, Devon claimed that the distance, or ''D'' in the Q/D calculation, for Blaine County #1 Compressor Station should be 133 kilometers to the closest Class I area, the UL Bend Wilderness Area, instead of 107 kilometers as stated in our April 2012 proposal. Adjusting for this alleged error, the new Q/D calculation becomes 8.7, which falls below the threshold of 10 for further evaluation for reasonable progress controls. Based on this error, Devon concluded that Blaine County #1 Compressor Station should be removed from any further consideration of emission reductions.

The EPA agrees with Devon's claim in its August 14, 2012 letter that our Q/D calculation for the Blaine County #1 Compressor Station is in error. Specifically, we find that the distance (D) between the Blaine County #1 Compressor Station and the nearest Class I area, UL Bend Wilderness Area, to be 133 kilometers and not 107 kilometers as stated in our proposed rule.[58] The corrected Q/D analysis for the Blaine County #1 Compressor Station is shown in Table 3 below:

TABLE 3–CORRECTED Q/D ANALYSIS FOR THE BLAINE COUNTY #1 COMPRESSOR STATION

Source	SO_2 + NO_X emissions (tons)	Distance to nearest Class I area (km)	Q/D (tons/km)
Blaine County #1 Compressor Station	1,155	133	8.7

Under CAA section 110(k)(6), whenever EPA determines that our action in promulgating a plan was in error, we may in the same manner revise the action. The EPA promulgated the reasonable progress requirements for Blaine County #1 Compressor Station pursuant to notice-and-comment rulemaking under CAA section 307(d), and is now proposing to revise those requirements using the same rulemaking procedures. In this case, it is appropriate to exercise our discretion to correct the error in order to maintain consistency in applying the same screening threshold Q/D value across all Montana sources identified in the 2002 NEI. We are proposing to correct the Q/D analysis for the Blaine County #1 Compressor Station so that the revised Q/D value would be 8.7, which is below the threshold value of 10. This would remove the source from further evaluation for reasonable progress controls. Therefore, as part of the error correction we are also proposing to remove the reasonable progress NO_X emission limit of 21.8 lb/hr (average of three stack test runs) for the Blaine County #1 Compressor Station, Engine #1 and Engine #2 from the FIP. In addition, we propose to remove the corresponding compliance date, test method, and monitoring, recordkeeping, and reporting requirements from the FIP.

VI. Regulatory Text Error Corrections for Compliance Determinations for Particulate Matter

Finally, we are proposing to also use our authority under CAA section 110(k)(6) to correct errors in the regulatory text in our September 18, 2012 final action related to compliance determinations for particulate matter for EGUs and cement kilns. In response to a verbal communication [59] received on our proposed rule in June 2012, we stated our intent [60] in section *V. Changes From Proposed Rule and Reasons for the Changes* of our final rule to finalize the compliance determinations for PM BART emission limits at EGUs and cement kilns, found at 40 CFR 52.1396(f)(1) and (f)(2), differently than had been proposed, in order to allow sources to retain the PM stack testing schedule already established under state permits. This intended revision was to allow sources to use the results from a stack test meeting the requirements of 40 CFR 52.1396(f)(1) and (f)(2) that was completed within 12 months prior to the compliance deadline in lieu of the first stack test required per 40 CFR 52.1396(f)(1) and (f)(2) within 60 days of the compliance deadline. Our intention was that if this option were selected, then the next annual stack test would be due no more than 12 months after the stack test that was used. However, in the regulatory text of our final action, we inadvertently omitted a portion of this intended revision from 40 CFR 52.1396(f)(1) and the entire intended revision from 40 CFR 52.1396(f)(2). In

[53] Federal Land Managers' Air Quality Related Values Work Group (FLAG); Phase I Report—Revised 2010. Natural Resource Report NPS/NRPC/NRR—2010/232.

[54] The relevant language in our BART Guidelines reads, ''Based on our analyses, we believe that a State that has established 0.5 deciviews as a contribution threshold could reasonably exempt from the BART review process sources that emit less than 500 tpy of NO_X or SO_2 (or combined NO_X and SO_2), as long as these sources are located more than 50 kilometers from any Class I area; and sources that emit less than 1000 tpy of NO_X or SO_2 (or combined NO_X and SO_2) that are located more than 100 kilometers from any Class I area.'' (See 40 CFR part 51, appendix Y, section III, How to Identify Sources ''Subject to BART.'') The values described equate to a Q/D of 10.

[55] 77 FR 24069 (April 20, 2012).

[56] 77 FR 57916 (September 18, 2012) and 77 FR 24069 (April 20, 2012).

[57] Devon Energy Production Company, L.P. was the owner of the Blaine County #1 Compressor Station.

[58] Latitude-Longitude location for the Blaine County #1 Compressor Station is N48.422443, W109.420960.

[59] Meeting between Holcim and EPA Region 8. June 5, 2012, memorandum.

[60] 77 FR 57912 (September 18, 2012).

addition, we inadvertently stated in the regulatory text found at 40 CFR 52.1396(f)(1) that ''results from a stack test meeting the requirements of 40 CFR 52.1396(f)(1) that were completed within 120 days prior to the compliance date can be used by the owner/operator in lieu of the first stack test required'' instead of ''results from a stack test meeting the requirements of 40 CFR 52.1396(f)(1) that were completed within 12 months prior to the compliance date can be used by the owner/operator in lieu of the first stack test required.''

Thus, we are proposing to correct these errors by amending the regulatory text found at 40 CFR 52.1396(f)(1) and (f)(2) so that both of these sections contain the following sentences after the sentence in section 40 CFR 52.1396(f)(1) and (f)(2) that requires the first annual PM performance stack test for PM within 60 days after the PM compliance deadline:

> ''The results from a stack test meeting the requirements of this paragraph that was completed within 12 months prior to the compliance deadline can be used in lieu of the first stack test required. If this option is chosen, then the next annual stack test shall be due no more than 12 months after the stack test that was used.''

VII. Coordination With FLMs

The Forest Service manages Anaconda-Pintler Wilderness Area, Bob Marshall Wilderness Area, Cabinet Mountains Wilderness Area, Gates of the Mountains Wilderness Area, Mission Mountains Wilderness Area, Scapegoat Wilderness Area, and Selway-Bitteroot Wilderness Area. The Fish and Wildlife Service manages the Medicine Lake Wilderness Area, Red Rocks Lake Wilderness Area, and UL Bend Wilderness Area. The National Park Service manages Glacier National Park and Yellowstone National Park. These are the Class I Federal areas affected by sources in Montana. The RHR grants the FLMs a special role in the review of regional haze FIPs, summarized in section III.D in this preamble.

As this proposed action is not a required plan revision, the detailed consultation provisions of 40 CFR 51.308(i)(2) do not apply. However, there are obligations to consult on other plan revisions under 40 CFR 51.308(i)(3) and (i)(4). Because this plan revision changes the substance of the FIP, we have consulted with the Forest Service, Fish and Wildlife Service, and the National Park Service. We described the proposed revisions to the regional haze FIP with the Forest Service, the Fish and Wildlife Service, and the National Park Service on Thursday, March 2, 2017 and sent a draft of our proposed regional haze FIP revisions to the Forest Service, the Fish and Wildlife Service, and the National Park Service on March 9, 2017.[61] Based on these actions, we are proposing that we have satisfied the applicable requirements for consultation.

VIII. Clean Air Act Section 110(l)

Under CAA section 110(l), the EPA cannot approve a plan revision that interferes with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement. We propose to find that this revision satisfies section 110(l). The previous sections of the notice explain how the FIP revision will comply with applicable regional haze requirements and general SIP requirements such as enforceability. With respect to requirements concerning attainment and reasonable further progress, the Montana Regional Haze FIP, as revised by this action, will result in a significant reduction in emissions compared to current levels. Although this revision will allow an increase in emissions after October 2017 as compared to the prior FIP, the FIP as a whole will still result in overall NO_X and SO_2 reductions compared to those currently allowed. In addition, the areas where the Trident cement kiln and the Blaine County #1 Compressor Station are located have not been designated nonattainment for any National Ambient Air Quality Standards (NAAQS). Thus, the revised FIP will ensure a significant reduction in NO_X and SO_2 emissions compared to current levels in an area that has not been designated nonattainment for the relevant NAAQS at those current levels.

IX. EPA's Proposed Revisions to the 2012 FIP

In this action, the EPA is proposing to revise the BART NO_X emission limit in the second line of the table in 40 CFR 52.1396(c)(2) for the Oldcastle Trident kiln from 6.5 lb NO_X/ton clinker to 7.6 lb NO_X/ton clinker (30-day rolling averages).[62] We are also proposing to delete the reasonable progress emission limit at 40 CFR 52.1396(c)(3) in our 2012 FIP for the Blaine County #1 Compressor Station as well as the associated compliance date found at 40 CFR 52.1396(d), the compliance determination test method found at 40 CFR 52.1396(e)(5), testing requirements at 40 CFR 52.1396(j), and monitoring, recordkeeping, and reporting requirements found at 40 CFR 52.1396(k) in order to correct the error we made in applying the reasonable progress screening metric, Q/D. In addition, we are proposing to correct errors in the regulatory text of the 2012 FIP for PM determinations for EGUs and cement kilns found at 40 CFR 52.1396(f)(1) and (f)(2) and change references to ''Holcim'' to ''Oldcastle'' and ''Trident'' at 40 CFR 52.1396(a), (c)(2), and (f)(2)(ii). Finally, we are proposing to replace compliance date timeframes in 40 CFR 52.1396(d) with the actual compliance dates based on the effective date of the 2012 FIP. We are not proposing to change any other regulatory text in 40 CFR 52.1396. Montana is on the path towards a SIP and working closely with the Region to make that happen as soon as practicable.

X. Statutory and Executive Order Reviews

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

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866[63] and was therefore not submitted to the Office of Management and Budget (OMB) for review. This proposed rule applies to only 5 facilities in the State of Montana. It is therefore not a rule of general applicability.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA).[64] A ''collection of information'' under the PRA means ''the obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, *ten or more persons,* whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.''[65] Because this proposed rule revises the reporting requirements for 4 facilities and removes all requirements for an additional facility, the PRA does not apply.

[61] We did not receive any formal comments from the FLM agencies.

[62] The table in 40 CFR 52.1396(c)(2) currently refers to ''Holcim (US) Inc. As described later on, the EPA is also proposing to update this table to reflect the Trident kiln's new ownership.

[63] 58 FR 51735, 51738 (October 4, 1993).

[64] 44 U.S.C. 3501 *et seq.*

[65] 5 CFR 1320.3(c) (emphasis added).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This rule does not impose any requirements or create impacts on small entities as no small entities are subject to the requirements of this rule.

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more (adjusted for inflation) in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, section 205 of UMRA allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory actions with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Under Title II of UMRA, the EPA has determined that this proposed rule does not contain a federal mandate that may result in expenditures that exceed the inflation-adjusted UMRA threshold of $100 million [66] by State, local, or Tribal governments or the private sector in any one year. The proposed revisions to the FIP would reduce private sector expenditures. Additionally, we do not foresee significant costs (if any) for state and local governments. Thus, because the proposed revisions to the FIP reduce annual expenditures, this proposed rule is not subject to the requirements of sections 202 or 205 of UMRA. This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

Executive Order 13132, *Federalism,*[67] revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires the EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' [68] ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' [69] Under Executive Order 13132, the EPA may not issue a regulation ''that has federalism implications, that imposes substantial direct compliance costs, . . . and that is not required by statute, unless [the federal government provides the] funds necessary to pay the direct [compliance] costs incurred by the State and local governments,'' or the EPA consults with state and local officials early in the process of developing the final regulation.[70] The EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the final regulation.

This action does not have federalism implications. The proposed FIP revisions will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'', requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' [71] This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. However, the EPA did send letters to each of the Montana tribes explaining our regional haze FIP revision action and offering consultation.

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

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per

[66] Adjusted to 2014 dollars, the UMRA threshold becomes $152 million.

[67] 64 FR 43255, 43255–43257 (August 10, 1999).

[68] 64 FR 43255, 43257.

[69] *Id.*

[70] *Id.*

[71] 65 FR 67249, 67250 (November 9, 2000).

the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. Section 12(d) of NTTAA, Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs the EPA to consider and use ''voluntary consensus standards'' in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898, establishes federal executive policy on environmental justice.[72] Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

I certify that the approaches under this proposed rule will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous/tribal populations. As explained previously, the Montana Regional Haze FIP, as revised by this action, will result in a significant reduction in emissions compared to current levels. Although this revision will allow an increase in emissions after October 2017 as compared to the prior FIP, the FIP as a whole will still result in overall NO_X and SO_2 reductions compared to those currently allowed. In addition, the areas where the Trident cement kiln and the Blaine County #1 Compressor Station are located have not been designated nonattainment for any NAAQS. Thus, the revised FIP will ensure a significant reduction in NO_X and SO_2 emissions compared to current levels and will not create a disproportionately high and adverse human health or environmental effect on minority, low-income, or indigenous/tribal populations. The EPA, however, will consider any input received during the public comment period regarding environmental justice considerations.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: March 31, 2017.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR part 52 is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart BB—Montana

■ 2. Section 52.1396 is amended by:
■ a. Revising paragraph (a);
■ b. Adding a note to paragraph (a);
■ c. Revising paragraph (c)(2);
■ d. Removing and reserving paragraph (c)(3);
■ e. Revising paragraph (d);
■ f. Adding a note to paragraph (d);
■ g. Removing paragraph (e)(5);
■ h. Revising paragraphs (f)(1), (f)(2) introductory text, and (f)(2)(ii); and
■ i. Removing and reserving paragraphs (j) and (k).

The revisions and additions read as follows:

§ 52.1396 Federal implementation plan for regional haze.

(a) *Applicability.* This section applies to each owner and operator of the following coal-fired electric generating units (EGUs) in the State of Montana: PPL Montana, LLC, Colstrip Power Plant, Units 1, 2; and PPL Montana, LLC, JE Corette Steam Electric Station. This section also applies to each owner and operator of cement kilns at the following cement production plants: Ash Grove Cement, Montana City Plant; and Oldcastle Materials Cement Holdings, Inc., Trident Plant. This section also applies to each owner and operator of CFAC and M2 Green Redevelopment LLC, Missoula site.

Note to Paragraph (a): On June 9, 2015, the NO_X and SO_2 emission limits for Colstrip Units 1 and 2 and Corette were vacated by court order.

* * * * *

(c) * * *

(2) The owners/operators of cement kilns subject to this section shall not emit or cause to be emitted PM, SO_2 or NO_X in excess of the following limitations, in pounds per ton of clinker produced, averaged over a rolling 30-day period for SO_2 and NO_X:

[72] 59 FR 7629 (February 16, 1994).

Source name	PM emission limit	SO_2 emission limit (lb/ton clinker)	NO_X emission limit (lb/ton clinker)
Ash Grove, Montana City	If the process weight rate of the kiln is less than or equal to 30 tons per hour, then the emission limit shall be calculated using $E = 4.10p^{0.67}$ where E = rate of emission in pounds per hour and p = process weight rate in tons per hour; however, if the process weight rate of the kiln is greater than 30 tons per hour, then the emission limit shall be calculated using $E = 55.0p^{0.11} - 40$, where E = rate of emission in pounds per hour and P = process weight rate in tons per hour.	11.5	8.0
Oldcastle, Trident	0.77 lb/ton clinker	1.3	7.6

* * * * *

(d) *Compliance date.* The owners and operators of the BART sources subject to this section shall comply with the emission limitations and other requirements of this section as follows, unless otherwise indicated in specific paragraphs: Compliance with PM emission limits is required by November 17, 2012. Compliance with SO_2 and NO_X emission limits is required by April 16, 2013, unless installation of additional emission controls is necessary to comply with emission limitations under this rule, in which case compliance is required by October 18, 2017.

NOTE TO PARAGRAPH (d): On June 9, 2015, the NO_X and SO_2 emission limits, and thereby compliance dates, for Colstrip Units 1 and 2 and Corette were vacated by court order.

* * * * *

(f) * * *

(1) *EGU particulate matter BART emission limits.* Compliance with the particulate matter BART emission limits for each EGU BART unit shall be determined by the owner/operator from annual performance stack tests. Within 60 days of the compliance deadline specified in this paragraph (d) of this section, and on at least an annual basis thereafter, the owner/operator of each unit shall conduct a stack test on each unit to measure the particulate emissions using EPA Method 5, 5B, 5D, or 17, as appropriate, in 40 CFR part 60, Appendix A. A test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet. Results shall be reported by the owner/operator in lb/MMBtu. The results from a stack test meeting the requirements of this paragraph that was completed within 12 months prior to the compliance deadline can be used in lieu of the first stack test required. If this option is chosen, then the next annual stack test shall be due no more than 12 months after the stack test that was used. In addition to annual stack tests, owner/operator shall monitor particulate emissions for compliance with the BART emission limits in accordance with the applicable Compliance Assurance Monitoring (CAM) plan developed and approved in accordance with 40 CFR part 64.

(2) *Cement kiln particulate matter BART emission limits.* Compliance with the particulate matter BART emission limits for each cement kiln shall be determined by the owner/operator from annual performance stack tests. Within 60 days of the compliance deadline specified in paragraph (d) of this section, and on at least an annual basis thereafter, the owner/operator of each unit shall conduct a stack test on each unit to measure particulate matter emissions using EPA Method 5, 5B, 5D, or 17, as appropriate, in 40 CFR part 60, Appendix A. A test shall consist of three runs, with each run at least 120 minutes in duration and each run collecting a minimum sample of 60 dry standard cubic feet. The average of the results of three test runs shall be used by the owner/operator for demonstrating compliance. The results from a stack test meeting the requirements of this paragraph that was completed within 12 months prior to the compliance deadline can be used in lieu of the first stack test required. If this option is chosen, then the next annual stack test shall be due no more than 12 months after the stack test that was used.

Clinker production shall be determined in accordance with the requirements found at 40 CFR 60.63(b). Results of each test shall be reported by the owner/operator as the average of three valid test runs. In addition to annual stack tests, owner/operator shall monitor particulate emissions for compliance with the BART emission limits in accordance with the applicable Compliance Assurance Monitoring (CAM) plan developed and approved in accordance with 40 CFR part 64.

* * * * *

(ii) For Trident, the emission rate (E) of particulate matter shall be computed by the owner/operator for each run in lb/ton clinker, using the following equation:

$$E = (C_sQ_s)/PK$$

Where:

E = emission rate of PM, lb/ton of clinker produced;

C_s = concentration of PM in grains per standard cubic foot (gr/scf);

Q_s = volumetric flow rate of effluent gas, where C_s and Q_s are on the same basis (either wet or dry), scf/hr;

P = total kiln clinker production, tons/hr; and

K = conversion factor, 7000 gr/lb,

* * * * *

[FR Doc. 2017–07597 Filed 4–13–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[WT Docket No. 12–40; FCC 17–27]

FCC Seeks Comment on Reform of Rules Governing the Cellular Service and Other Public Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes and seeks comment on reforms of its rules governing the 800 MHz Cellular (Cellular) Service and other Public Mobile Services. Specifically, the Commission proposes to eliminate four rules that impose requirements on licensees in these services concerning station inspections, records retention and production, operators at station control points, and the filing of certain employment reports. The Commission believes that the existing requirements may disadvantage the affected licensees, as compared to licensees of other wireless spectrum bands, or may no longer be necessary in today's digital age, or for which the benefits may no longer outweigh the costs and burdens of compliance. The Commission also

seeks comment on whether other measures could be taken to give Public Mobile Services licensees more flexibility and administrative relief, and on ways to consolidate and simplify its rules, not only for the Cellular Service, but also other geographically licensed wireless services. In this regard, the Commission considers a possible relocation of rules governing certain flexibly licensed wireless services.

DATES: Submit comments on or before May 15, 2017 and reply comments on or before June 13, 2017.

ADDRESSES: Interested parties may submit comments, identified by WT Docket No. 12–40, by any of the following methods:

• *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

• *Mail:* All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

• *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Nina Shafran, Mobility Division, Wireless Telecommunications Bureau, (202) 418–2781, TTY (202) 418–7233, or *nina.shafran@fcc.gov* .

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Second Further Notice of Proposed Rulemaking (*Second FNPRM*) in WT Docket No. 12–40, FCC 17–27, adopted March 23, 2017, and released March 24, 2017. The full text of the *Second FNPRM,* including Appendices, is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A157, Washington, DC 20554, or by downloading the text from the Commission's Web site at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-27A1.pdf.*

Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *FCC504@fcc.gov* or calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Comment Filing Instructions

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. All filings related to the *Second FNPRM* should refer to WT Docket No. 12–40. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Parties should only file in WT Docket No. 12–40. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

• All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis

I. Introduction and Background

1. In this Second Further Notice of Proposed Rulemaking in WT Docket No. 12–40 (*Second FNPRM*), the Commission proposes and seeks comment on reforms of its rules governing the 800 MHz Cellular (Cellular) Service and other public mobile services, as explained in detail in the sections below. These reforms would build on those that were adopted in the *Report and Order* in WT Docket No. 12–40, adopted November 7, 2014 and released November 10, 2014 (FCC 14–181) (*2014 Report and Order*), and on the reforms adopted in the *Second Report and Order* in WT Docket No. 12–40 and the companion *Report and Order* in WT Docket No. 10–112, adopted on March 23, 2017 and released on March 24, 2017 (FCC 17–27). In making its proposals in this *Second FNPRM,* the Commission draws in part on certain comments submitted in response to the *Further Notice of Proposed Rulemaking* in WT Docket No. 12–40 (*FNPRM*), adopted November 7, 2014 and released November 10, 2014 (FCC 14–181), and on certain comments submitted in response to a public notice inviting comment on the Commission's 2016 Biennial Review of Telecommunications Regulations, WT Docket Nos. 16–138 *et al.,* released November 3, 2016 (FCC 16–149) (*2016 Biennial Review Public Notice*).[1]

2. Specifically, commenters identify as ripe for elimination 47 CFR 22.301, 22.303, and 22.325, which provide for retention and inspection of certain paper records at each station's control point, and on-duty personnel at control points responsible for station operation. Verizon also highlights 47 CFR 22.321(c), requiring the filing of annual Equal Employment Opportunity (EEO) complaint reports with the Commission. Each of these rules was adopted more than twenty years ago, when the Commission revised Part 22 in its entirety with the goal of making the rules better organized and easier to understand and use. As discussed below, the Commission now proposes to eliminate these four rules and invites comment on the effects of doing so, including the potential impact of

[1] Although the Commission here considers comments that were submitted regarding the Part 22 rules in response to the *2016 Biennial Review Public Notice,* such consideration does not otherwise impact review of other comments filed in response to the *2016 Biennial Review Public Notice,* including those submitted by commenters regarding other rule provisions.

repealing these rules not just for Cellular licensees, but for all Part 22 licensees—*i.e.,* Paging, Air-Ground, Rural Radiotelephone, and Offshore Radiotelephone licensees.

3. More generally, in this *Second FNPRM,* the Commission seeks comment on any other measures that could help ensure flexibility and consistency in licensing across wireless spectrum bands, while taking into account the unique features of each service. In addition, the Commission seeks comment on possibly relocating certain of its rules, including the Part 22 Cellular Service and Part 24 broadband Personal Communications Services (PCS) rules, to Part 27. In addition to enhancing licensees' flexibility and promoting consistent treatment across wireless spectrum bands, the Commission's goals include eliminating unnecessary regulatory burdens on licensees, allowing them to use their resources more efficiently to provide services to consumers.

II. Proposed Rule Revisions and Other Possible Reforms

A. 47 CFR 22.301, 22.303—Station Inspection, Retention of Station Authorizations

4. Section 22.301 of the Commission's rules, 47 CFR 22.301, requires that, ''[u]pon reasonable request, the licensee of any station authorized in the Public Mobile Services must make the station and station records available for inspection by authorized representatives of the Commission at any reasonable hour.'' Section 22.303 of the Commission's rules (47 CFR 22.303) more broadly requires Part 22 licensees to retain, among other documentation, the authorization for each station as a permanent part of station records. Specifically, section 22.303 states that:

> ''The current authorization for each station, together with current administrative and technical information concerning modifications to facilities pursuant to § 1.929 of this chapter, and added facilities pursuant to § 22.165 must be retained as a permanent part of the station records. A clearly legible photocopy of the authorization must be available at each regularly attended control point of the station, or in lieu of this photocopy, licensees may instead make available at each regularly attended control point the address or location where the licensee's current authorization and other records may be found.''

No similar rules exist for commercial licensees governed by Part 24 of the Commission's rules, nor for licensees governed by the Part 27 rules. In its comments in response to the *FNPRM,* Verizon argues that Cellular licensees should not be required to retain and post information about license authorizations, calling this requirement ''burdensome, outdated and unnecessary.'' Verizon notes that, because the Commission does not send copies of licenses when minor modifications are granted, licensees ''have to periodically take inventory of their licenses and print copies of licenses once applications are granted to ensure they have the current license in the file.'' It argues that this administrative burden is unjustified given that the Commission's Wireless Telecommunications Bureau now maintains official authorizations in its Universal Licensing System (ULS). CTIA echoes these concerns, and more broadly supports elimination of rules that ''inhibit Cellular licensees from benefitting from the same level of flexibility as is available in other CMRS spectrum bands.'' In comments filed in response to the *2016 Biennial Review Public Notice,* CTIA and T-Mobile reiterate arguments for eliminating sections 22.301 and 22.303. CTIA again stresses that there is no justification for asymmetry across different wireless services, particularly when electronic licensing renders these requirements unnecessary.

5. Both sections 22.301 and 22.303, 47 CFR 22.301 and 22.303, collectively require hard copies of license authorizations and other records to be maintained for each station and made available for inspection upon request. The Commission proposes to eliminate each of these provisions in their entirety from the rules and seeks comment on this proposal. As mentioned above, no similar rules exist for Part 24 or Part 27 licensees, and the Commission questions whether the benefit of maintaining hard copies outweighs the costs and burdens to Part 22 licensees in the age of electronic licensing and recordkeeping. When these rules were adopted in 1994, maintaining hard copies in files for inspection at a station control point may have made sense. But today, the justification for continuing to require this paperwork burden seems to have significantly diminished if not disappeared entirely, particularly given that license authorizations are maintained in ULS. The Commission seeks comment on these assumptions. Is there any reason that warrants licensees continuing to maintain hard copies of records at each station's control point? Are there any other relevant records that are maintained at a station's control point but are not readily available electronically? In response to the *2016 Biennial Review Public Notice,* Public Knowledge has suggested that, even if sections 22.301 and 22.303 are eliminated, the Commission should nonetheless affirmatively require Part 22 licensees ''to have electronic copies [of licenses] easily accessible to personnel and FCC inspectors.'' The Commission seeks comment on Public Knowledge's suggestion and whether such a requirement would be necessary.

6. Section 22.301 requires that the station itself, not just the station's records, be available for inspection by the Commission. There is no corollary requirement in Parts 24 or 27. The Commission emphasizes that, regardless of whether it retains a rule in Part 22 explicitly requiring licensees to make their stations available for inspection, it retains general station inspection authority under section 303(n) of the Communications Act of 1934, as amended. Similarly, section 22.303 of the Commission's rules requires ''administrative and technical information concerning modifications to facilities . . . and added facilities'' to be retained in the stations' records. Is there a need to keep that portion of the rule? Or do sections 1.929 and 22.165 of the Commission's rules (47 CFR 1.929 and 22.165)—which are cross-referenced in 47 CFR 22.303—render the reference to such materials in 47 CFR 22.303 unnecessary and duplicative? The Commission also seeks comment on whether this type of administrative and technical information is maintained by stations electronically.

B. 47 CFR 22.325, Control Points

7. Section 22.325 of the Commission's rules (47 CFR 22.325) requires that ''[e]ach station in the Public Mobile Services [ ] have at least one control point and a person on duty who is responsible for station operation.'' It specifies that ''[t]his section does not require that the person on duty be at the control point or continuously monitor all transmissions of the station. However, the control point must have facilities that enable the person on duty to turn off the transmitters in the event of a malfunction.'' CTIA argues that the requirement to designate a person who is responsible for the station and who has the ability to shut down service at any time ''is unique to Part 22 and should be removed as another example of unnecessary, costly, and asymmetrical regulation.''

8. The Commission proposes to eliminate section 22.325 in its entirety from the Commission's rules and invites comment on this proposal. As with the rules discussed above, there is no similar rule in Part 24 or Part 27 of the Commission's rules related to station control points or requiring a person on

duty who is responsible for station operation. The Commission seeks comment on the costs and burdens of having such an employee on duty. Do automatic and remote monitoring render this rule unnecessary from a technological standpoint? Section 22.325 requires each Part 22 licensee's station to have at least one control point. Is it necessary to retain that part of the rule? Is the control point requirement duplicative of other Part 22 rules, or unnecessary given the way stations are operated and monitored today? The Commission seeks comment on any information relevant to the proposed elimination of this requirement from Part 22 of the rules.

C. Section 22.321(c), Equal Employment Opportunity Complaint Report

9. Section 22.321(c) of the Commission's rules (47 CFR 22.321(c)) requires all Part 22 licensees to submit an annual report to the Commission indicating whether any Equal Employment Opportunity (EEO) complaints have been filed at the federal, state, or local level against the licensee. For any such complaint, the report must state the parties involved, date of filing, court or agencies reviewing the complaint, appropriate file number, and disposition of the complaint. As with the other Part 22 rules discussed above in this *Second FNPRM,* there is no similar requirement for Part 24 and Part 27 licensees. However, all common carriers must comply with a similar requirement in section 1.815 of the Commission's rules (47 CFR 1.815). That section requires that ''[e]ach common carrier licensee or permittee with 16 or more full time employees [ ] file with the Commission . . . an annual employment report'' on FCC Form 395. Form 395 requires carriers to check a box if EEO complaints have been filed, and to attach to Form 395 the same information about the complaints that is required under section 22.321(c). In comments filed in response to the *2016 Biennial Review Public Notice,* Verizon asks the Commission to repeal section 22.321(c), arguing that other regulated entities required to file Form 395 do not have to file a separate ''charge report'' akin to that required under section 22.321(c).

10. The Commission proposes to eliminate section 22.321(c) from the Commission's rules. For all practical purposes, this rule appears duplicative of the requirement to complete FCC Form 395 under section 1.815—a rule that applies broadly to all common carriers, including licensees subject to Part 22 of the rules. The Commission seeks comment on this proposal, and on whether there is any need to retain a separate requirement related to reporting of EEO complaints for Part 22 licensees in addition to what is already required of common carriers on FCC Form 395 pursuant to section 1.815.

D. Other Measures To Increase Flexibility for Cellular Licensees

11. In addition to the proposed rule eliminations discussed above, the Commission invites comment more broadly on other steps or measures it could take to ensure that Cellular licensees benefit from the same level of flexibility available to other commercial wireless licensees. Are there other rules that commenters deem unnecessary that apply to Part 22 licensees but not to the flexibly licensed services under Part 24 or Part 27? Are there other Part 22 rules ripe for removal in light of changed technology, electronic licensing and recordkeeping, or other modernizations that have occurred over the past two decades? The Commission invites comment on anything else that could aid its efforts to bring Cellular licensing more in line with the flexible licensing approach used for other CMRS.

E. Possible Relocation of Rules to Part 27

12. The Commission seeks comment on whether its goal of providing, to the extent possible, the same flexibility in licensing across competing commercial wireless bands would be furthered by migrating the Part 22 Cellular Service and Part 24 PCS rules to Part 27. The Commission sought comment on this issue in a *Notice of Proposed Rulemaking* in WT Docket No. 12–40, adopted and released on February 15, 2012 (FCC 12–20) (*2012 NPRM*). The Commission now seeks to revisit the issue and refresh the record on the potential benefits and costs of such relocation in light of the rule changes made thus far in this proceeding.

13. In the *2012 NPRM,* the Commission's proposal to bring the Cellular licensing rules more in line with the flexible rules that govern competing wireless services entailed issuing geographic-area (CMA-based) ''overlay licenses'' through competitive bidding in two stages. In connection with the overlay licensing proposal, the Commission invited comment regarding placement of the revised Cellular rules that might ultimately be adopted. Specifically, the Commission queried whether, in the event that it were to adopt a geographic-based regime that would include overlay licenses, the new Cellular rules should be incorporated into Part 27, which contains the rules for certain other flexibly licensed wireless services. The Commission also suggested that, if those Cellular Service rules were to be moved into Part 27, then the rules for PCS, which is also a flexibly licensed wireless service, should be moved from Part 24 into Part 27. It asked as well whether the Commission should initiate a separate rulemaking to revise the Part 27 rules and reserve the possible relocation of Cellular and PCS rules to that separate proceeding.

14. In response to the *2012 NPRM,* the Rural Wireless Association, Inc. (RWA) objected to relocating any Part 22 rules to Part 27 at that time; it also contended that any consideration of relocating the Part 24 PCS rules was beyond the scope of that proceeding and should be addressed, if at all, in a separate rulemaking proceeding. No other commenter addressed this issue in response to the *2012 NPRM.*

15. As noted in the *2014 Report and Order,* commenters generally opposed the Commission's overlay licensing proposal. Based on the record, which included a subsequent proposal by an industry coalition to retain key elements of the site-based Cellular licensing model, the Commission adopted a geographic-based transition approach that preserves direct site-based access to Unserved Area while dramatically reducing licensees' regulatory burdens. In that context, and given the absence of express support in the record, the Commission decided not to relocate the Part 22, Subpart H Cellular Service rules to Part 27. Moreover, as the Commission's suggestion to relocate the Part 24 PCS rules was contingent on relocating the Part 22 Cellular rules, the Commission declined to pursue relocation of the PCS rules.

16. With adoption of revised and modernized Cellular rules thus far in WT Docket Nos. 12–40 and 10–112, greatly enhancing licensees' flexibility within their licensed geographic boundaries and eliminating numerous regulatory restrictions, the Commission believes it is timely to revisit the issue of relocating the Cellular-specific rules of Part 22, Subpart H, to Part 27. In addition, the Commission considers it timely to ask anew whether a new rulemaking should be initiated to revise the Part 27 rules and reserve the possible relocation of Cellular rules to that separate proceeding. The Commission's queries are explained further below.

17. The rules in Part 22 applicable to the Cellular Service include general rules on definitions, licensing, and technical matters that are applicable to all Part 22 services (Subparts A, B, and C), as well as the Cellular-specific rules

in Subpart H. Some of the applicable rules correspond to similar rules in Part 27, while others reflect unique characteristics of Part 22 (including Cellular) licensees and have no corresponding rules in Part 27. For example, the revised Cellular licensing scheme is now largely geographically based but nonetheless includes site-based rules allowing carriers to continue to expand into Unserved Area, which exists primarily in rural areas in the western United States and Alaska. The particular rules governing the Cellular Service, including the revised licensing scheme addressed in Part 22's Subpart H, would need to be retained as separate provisions if all the Part 22 rules were migrated to Part 27. Would such relocation promote similar regulatory treatment for geographically licensed services and improve clarity for licensees? Or would such relocations—*e.g.,* moving the Cellular build-out requirements into section 27.14, and the Cellular radiated power rules (as revised today) into section 27.50—result in less clarity for licensees? Further, if those Cellular Service rules are to be moved into Part 27, should the Commission also consider moving the rules for PCS from Part 24 into Part 27?

18. Commenters should also address whether the Commission should reorganize Part 27 in order to accommodate these additional Part 22 and Part 24 rules more efficiently. There are other geographically-licensed, auctioned services that are not included in Part 27, including Public Coast (Part 80), Specialized Mobile Radio (SMR), Location and Monitoring, and 220 MHz (Part 90), and 218–219 MHz (Part 95). Of these, only SMR is used today by wireless carriers to provide services directly to consumers nationwide. Should the Commission move the Part 22 Cellular and Part 24 PCS rules to Part 27 in conjunction with moving those other service rules to Part 27 as well?

19. The Commission seeks comment on all aspects of these possible approaches to relocation of the rules, including the optimal timing for them, and invites alternative ideas. It also seeks comment on the potential economic costs and benefits of the various possible approaches to rule placement.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

20. The *Second FNPRM* seeks comment on potential revised information collection requirements. If the Commission adopts revised information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Initial Regulatory Flexibility Analysis

21. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the *Second FNPRM.* The analysis is found in Appendix E in the full text of the *Second FNPRM.* The Commission requests written public comment on the analysis. Comments must be filed in accordance with the same deadlines as comments filed in response to the *Second FNPRM,* and must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Second FNPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Ex Parte Presentations

22. *Permit-But-Disclose.* The Commission will continue to treat this proceeding as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with 47 CFR 1.1206(b). In proceedings governed by 47 CFR 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the Commission's Electronic Comment Filing System (''ECFS'') available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

23. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publically available online via ECFS. Documents will generally be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. These documents will also be available for public inspection during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW., Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m.

D. Statutory Authority

24. This *Second FNPRM* is adopted pursuant to sections 1, 2, 4(i), 4(j), 7, 301, 303, 307, 308, 309, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 157, 301, 303, 307, 308, 309, and 332.

List of Subjects in 47 CFR Part 22

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 22 as follows:

PART 22—PUBLIC MOBILE SERVICES

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309 and 332.

§ 22.301 [Removed and Reserved].

■ 2. Remove and reserve § 22.301.

§ 22.303 [Removed and Reserved].

■ 3. Remove and reserve § 22.303.

■ 4. Section 22.321 is amended by removing paragraph (c), redesignating paragraphs (d) through (f) as paragraphs (c) through (e), and by revising the subject headings of newly redesignated paragraphs (c) through (e) to read as follows:

§ 22.321 Equal Employment Opportunities

* * * * *

(c) *Complaints of violations of Equal Employment Programs.* * * *

(d) *FCC records.* * * *

(e) *Licensee records.* * * *

§ 22.325 [Removed and Reserved].

■ 5. Remove and reserve § 22.325.

[FR Doc. 2017–07549 Filed 4–13–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 170316276–7276–01]

RIN 0648–XF300

Fisheries of the Northeastern United States; Black Sea Bass Fishery; 2017 and Projected 2018 Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes revised black sea bass specifications for the 2017 fishing year and projected specifications for 2018. In addition, this rule proposes to remove an accountability measure implemented at the start of the fishing year designed to account for commercial sector overages in 2015. Updated scientific information regarding the black sea bass stock indicates that higher catch limits should be implemented to obtain optimum yield, and that the accountability measure is no longer necessary or appropriate. This action is intended to inform the public of the proposed specifications for the 2017 fishing year and projected specifications for 2018.

DATES: Comments must be received by 5 p.m. local time, on May 1, 2017.

ADDRESSES: An environmental assessment (EA) was prepared for this action and describes the proposed measures and other considered alternatives, and provides an analysis of the impacts of the proposed measures and alternatives. Copies of the Specifications Document, including the EA and the Regulatory Flexibility Act Analysis, are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the Internet at *http://www.mafmc.org.*

You may submit comments on this document, identified by NOAA–NMFS–2017–0023, by either of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0023,*

2. Click the ''Comment Now!'' icon, complete the required fields,

3. Enter or attach your comments.

—OR—

Mail: Submit written comments to John Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA, 01930. Mark the outside of the envelope, ''Comments on the Proposed Rule for Revised Black Sea Bass Specifications.''

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 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 the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION:

General Background

The Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations outline the Council's process for establishing specifications. Specifications in these fisheries include various catch and landing subdivisions, such as the commercial and recreational sector annual catch limits (ACLs), annual catch targets (ACTs), and sector-specific landing limits (*i.e.,* the commercial fishery quota and recreational harvest limit). Annual specifications may be proposed for three-year periods, with the Council reviewing the specifications each year to ensure that previously established multi-year specifications remain appropriate. Following review, NMFS publishes the final annual specifications in the **Federal Register**. The FMP also contains formulas to divide the specification catch limits into commercial and recreational fishery allocations, state-by-state quotas, and quota periods, depending on the species in question. Rulemaking for measures used to manage the recreational fisheries (minimum fish sizes, open seasons, and bag limits) for these three species occurs separately, and typically takes place in the spring of each year.

On December 28, 2015, NMFS published a final rule implementing the Council's recommended specifications for the black sea bass fishery (80 FR 80689). The Council intended to reconsider the specifications set for fishing year 2017 following completion of the next black sea bass benchmark assessment.

The assessment was completed in late 2016 and was peer reviewed by the Stock Assessment Workshop/Stock Assessment Review Committee (SAW/SARC 62) in December 2016. The benchmark assessment was effective in determining stock status, biological reference points and proxies, and in projecting probable short-term trends. The assessment successfully cleared the SAW/SARC 62 peer review process, addressing many of the significant concerns raised during peer reviews of earlier assessments. The assessment indicates that the black sea bass stock north of Cape Hatteras is not overfished and overfishing is not occurring. The spawning stock biomass in 2015 was estimated to be 2.3 times higher than the target and the fishing mortality rate (F) was 25 percent below the F_{MSY} proxy. Table 1 outlines the updated biological reference points and 2015 stock information.

TABLE 1—UPDATED BLACK SEA BASS BIOLOGICAL REFERENCE POINTS (BRPS) AND 2015 STOCK INFORMATION

	Proxy	BRP (mil lb)	BRP (mt)	2015 (mil lb)	2015 (mt)
F_{MSY}	$F_{40\%}$	0.36	0.36	0.27	0.27
Stock Biomass Target	$SSB_{40\%}$	21.3	9,667	48.9	22,176
Stock Biomass Threshold	$1/2SSB_{40\%}$	10.7	4,834	N/A	N/A

Proposed Specifications

The Council's Scientific and Statistical Committee (SSC) met on January 25, 2017, to discuss the assessment results and identify an updated acceptable biological catch (ABC) level for 2017, and project ABCs for the 2018 and 2019 fishing years. Based on the new information provided by the assessment, the SSC accepted the overfishing limits (OFLs) estimated by the assessment and recommended using a coefficient of variation (CV) associated with the OFL of 60 percent. This marked a change from the default 100-percent values that had been used in the past, which had resulted in more precautionary specifications. Using the Council's risk policy with a CV of 60 percent around the OFL, the SSC recommended ABCs for the 2017 through 2019 fishing years (Table 2). The adjusted 2017 ABC is 57 percent higher than the currently established 2017 ABC; however, there is a pattern of declining ABCs over the next three years. This decline is in part due to the passage of the large 2011 year class out of the fishery. The SSC intends to review its ABC recommendation again next summer and determine if adjustments need to be made for 2018.

Following the SSC meeting, the Monitoring Committee met on January 26, 2017, to discuss ACLs, ACTs, commercial quotas, and recreational harvest limits for the 2017 through 2019 fishing years. The Monitoring Committee determined that no additional reductions were necessary to account for management uncertainty. Commercial landings have been very close to the quota over the last five years and recreational overages occurred when the stock was rapidly growing and availability to anglers was high, but the recreational harvest limits were set at levels not reflective of stock size. As a result, the Monitoring Committee recommended that ACTs for the commercial and recreational sectors should equal their respective ACLs. After removing the sector-specific estimated discards, the black sea bass commercial quotas and recreational harvest limits would be those shown in Table 2. The Monitoring Committee believed the calculation for projecting discards for 2017 is appropriate, but will reconsider discard projections and apportionments for 2018. The Monitoring Committee did not recommend any changes to the current commercial measures, including the 11-inch minimum fish size, mesh size requirements and seasonal possession limit thresholds, or pot/trap gear requirements. As previously mentioned, we are separately proposing an action to address 2017 black sea bass recreational management measures.

The Council and the Commission's Summer Flounder, Scup, and Black Sea Bass Management Board met jointly on February 15, 2017, to consider the SSC and Monitoring Committees' recommendations, receive public comments on those recommendations, and to formalize recommendations for catch limit specifications and commercial and recreational management measures. The Council and Board ultimately adopted the Monitoring Committee's recommendations for 2017 ACLs, ACTs, quotas, and harvest limits; as well as the projected specifications for 2018. Due to the Marine Recreational Information Program (MRIP) transition timeline that would incorporate re-estimated historical catch estimates into stock assessments, currently scheduled for completion in 2018, the Council did not want to project specifications past 2018. The Council's recommendations represent a 53-percent increase in the 2017 commercial quota established in 2015 and a 52-percent increase in the 2017 recreational harvest limit. The Council will revisit its decision on the projected 2018 specifications following the SSC's review next summer. By providing projected specifications for 2018, NMFS hopes to assist fishery participants in planning ahead. Final 2018 specifications will be published in the **Federal Register** before the start of the 2018 fishing year (January 1, 2018) based on the Council's review.

TABLE 2—COUNCIL-RECOMMENDED BLACK SEA BASS SPECIFICATIONS FOR 2017 AND PROJECTED FOR 2018

	Black sea bass specifications					
	2017 (current)		2017 (revised)		2018 (projected)	
	mil lb	mt	mil lb	mt	mil lb	mt
OFL	n/a	n/a	12.05	5,467	10.29	4,669
ABC	6.67	3,025	10.47	4,750	8.94	4,057
Commercial ACL	3.15	1,428	5.09	2,311	4.35	1,974
Commercial ACT	*3.15	*1,428	5.09	2,311	4.35	1,974
Commercial Discards	0.44	198	0.97	442	0.83	377
Commercial Quota	*2.71	*1,226	4.12	1,869	3.52	1,596
Recreational ACL	3.52	1,597	5.38	2,439	4.59	2,083
Recreational ACT	3.52	1,597	5.38	2,439	4.59	2,083
Recreational Discards	0.70	317	1.09	494	0.93	422
Recreational Harvest Limit	2.82	1,280	4.29	1,945	3.66	1,661

*At the start of the fishing year, the 2017 commercial ACT and commercial quota were further reduced to 2.3 million lb (1,043 mt) and 1.86 million lb (845 mt), respectively, as accountability measures due to a perceived 2015 overage.

Consistent with the black sea bass regulations, the sum of the recreational and commercial sector ACLs is equal to the ABC for each fishing year. To derive the ACLs, the sum of the sector-specific projected discards are removed from the ABCs to derive the landing allowances. For black sea bass, 49 percent of the landing allowance for each fishing year is allocated to the commercial fishery and 51 percent to the recreational fishery. Using this method ensures that each sector is accountable for its respective discards, rather than simply apportioning the ABCs by the allocation percentages to derive the sector ACLs. Although the derived ACLs are not split exactly according to the allocations specified in the FMP, the landing portions of the ACLs preserve the appropriate allocation split, consistent with the FMP. This process results in the commercial and recreational ACLs, commercial quotas, and recreational harvest limits shown in Table 2.

Reconsideration of the 2017 Accountability Measure for the Commercial Fishery

In our final rule announcing the revisions to the summer flounder specifications for 2017 and 2018, we also announced an accountability measure (AM) applicable to the black sea bass commercial fishery. This AM was an automatic pound-for-pound payback, as required by the regulations, which resulted from overages in 2015. During that fishing year, the commercial fishery caught slightly more (3.8 percent) than their commercial quota, which generally would have resulted in just a pound-for-pound payback from their 2017 commercial quota. However, 2015 discard estimates were much higher than originally projected, accounting for 44.4 percent of the total commercial catch in 2015. As a result, the regulations require that the total overage (*i.e.,* 849,000 lb (385 mt)) be taken from a future year's commercial ACL and the 2017 commercial quota was reduced by approximately 30 percent (*i.e.,* from 2.71 million lb (1,230 mt) to 1.86 million lb (845 mt)).

The new 2016 benchmark assessment has provided updated information on the condition of the stock, particularly for 2015, the year when the overages occurred. If the current assessment had been available to set 2015 specifications, analysis indicates the 2015 ABC would have been more than double what was implemented and the 2015 ACL would not have been exceeded. Higher 2015 commercial discards, above those projected for the implemented 2015 ACL, were estimated and used in the assessment and did not impact the stock status. Even accounting for the unexpectedly high discards, fishing mortality in 2015 was the lowest in the time series, 25 percent below the overfishing threshold. The new 2016 stock assessment provides a much more comprehensive and robust picture of the stock in 2015, and represents the best available science to guide management decisions. As a result, the Council has recommended pursuant to 50 CFR 648.142(b) that the specific AM be removed. We agree that it is not necessary, and we intend to remove the AM from the 2017 commercial fishery.

As for the 3.8-percent overage (*i.e.,* about 81,500 lb (37 mt)) of the commercial fishery's quota, which generally would have resulted in a pound-for-pound payback against the 2017 quota, preliminary 2016 catch data indicate that the fishery had approximately 209,400 lb (95 mt) of unharvested quota. Had we known of the 2015 commercial quota overage and implemented a pound-for-pound reduction in 2016, we would not have exceeded the 2016 quota. As is consistent with how we handle summer flounder catch accounting, that payback could have been accounted for in 2016 (*i.e.,* total 2016 landings plus the 2015 overage amount did not exceed the 2016 commercial quota). As a result, this overage does not need to be applied to the 2017 quota.

As for AMs in the recreational fishery, with the new benchmark stock assessment information, analysis indicates that recreational harvest limits during the last few years would have been significantly higher (*i.e.,* approximately double those implemented) if they had been set using the recent assessment model, and previous overages would likely not have occurred to the same degree, if at all. Based on this new information, the Monitoring Committee determined that no AMs are necessary for 2017 in the recreational fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Mid-Atlantic Fishery Management Council conducted an evaluation of the potential socioeconomic impacts of the proposed measures in conjunction with an EA. According to the commercial ownership database, 609 affiliate firms landed black sea bass during the 2013–2015 period, with 603 of those business affiliates categorized as small businesses and 6 categorized as large businesses. Black sea bass represented approximately 2.58 percent of the average receipts of the small entities considered and 0.51 percent of the average receipts of the large entities considered over this time period.

The ownership data for the for-hire fleet indicate that there were 411 for-hire affiliate firms generating revenues from fishing recreationally for various species during the 2013–2015 period, all of which are categorized as small businesses. Although it is not possible to derive what proportion of the overall revenues came from specific fishing activities, given the popularity of black sea bass as a recreational species it is likely that revenues generated from black sea bass is important for some if not all of these firms.

The proposed measure would increase both the commercial quota and the recreational harvest limit by over 50 percent, resulting in positive economic impacts on regulated entities. Because this rule will not have a significant economic impact on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

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

Dated: April 11, 2017.

Alan D. Risenhoover,

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

[FR Doc. 2017–07567 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 71
Friday, April 14, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 11, 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 required 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 May 15, 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.

Farm Service Agency

Title: Guaranteed Farm Loans.

OMB Control Number: 0560–0155.

Summary of Collection: The Consolidated Farm and Rural Development Act (CONACT), as amended, authorize the Secretary of Agriculture to make and service loans guaranteed by the Farm Service Agency (FSA) to eligible farmers and ranchers. The statutory authority for the guaranteed loan program is set out in the Code of Federal Regulations, title 7, chapter VII, part 762. The loans made and serviced under part 762 include farm operating, farm ownership loans. FSA also provides guarantees of loans made by private sellers of a farm or ranch on a land contract sales basis. The reporting requirements imposed on the public by the regulations at 7 CFR part 763 are necessary to administer the Land Contract guaranteed loan program in accordance with statutory requirements of the CONACT as specified in the 2008 Farm Bill. FSA uses Agency forms and written evidence to collect needed information. FSA is also establishing the EZ Guarantee Program that is providing a guarantee for operating loans (OLs) and Farm ownerships (FOs) up to $50,000, and implementing the Micro Lender Program (MLP) status for the nontraditional lenders to participate in the Guaranteed ML Program.

Need and Use of the Information: The basis objective of the guaranteed loan program is to provide credit to applicants who are unable to obtain credit from lending institutions without a guarantee. The information collected is used to determine lender and loan applicant eligibility for farm loan guarantees, and to ensure the lender protects the government's financial interest. The information FSA collects is needed to effectively administer the FSA guaranteed farm loan programs. The information is collected by the FSA loan official in consultation with participating lenders.

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

Number of Respondents: 14,393.

Frequency of Responses: Reporting: Other (when applying for loans).

Total Burden Hours: 220,838.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–07566 Filed 4–13–17; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission Briefing and Business Meeting.

DATES: Friday, April 21, 2017, at 10 a.m. EST.

ADDRESSES: *Place:* National Place Building, 1331 Pennsylvania Ave. NW., 11th Floor, Suite 1150, Washington, DC 20245 (Entrance on F Street NW.).

FOR FURTHER INFORMATION CONTACT: Brian Walch, Communications and Public Engagement Director. Telephone: (202) 376–8371; TTY: (202) 376–8116; Email: *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: This business meeting is open to the public. There will also be a call-in line for individuals who desire to listen to the presentations. The call-in information is: *1–877–857–6173; Call ID # 390–6891.*

Hearing-impaired persons who will attend the briefing and require the services of a sign language interpreter should contact Pamela Dunston at (202) 376–8105 or at *signlanguage@usccr.gov* at least three business days before the scheduled date of the meeting.

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
  A. State Advisory Committees
  - Vote on appointments to the Alaska State Advisory Committee
  - Vote on appointments to the Arizona State Advisory Committee
  - Vote on appointments to the Michigan State Advisory Committee
  - Presentation by Regional Programs Coordinator on Recent Accomplishments of SAC's

  B. Management and Operations
  - Staff Director's Report

  C. Presentation by Diane F. Afoumado, Ph.D. and Rebecca Erbelding, Ph.D. from U.S.

Holocaust Museum on Journey of the St. Louis: How Jewish Refugees Fleeing the Nazi Regime Were Denied Entry by the U.S.

III. Adjourn Meeting

Dated: April 10, 2017.

TinaLouise Martin,

Director, Office of Management.

[FR Doc. 2017–07682 Filed 4–12–17; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Proposed Information Collection; Comment Request; The Environmental Questionnaire and Checklist (EQC)

AGENCY: Office of the Chief Information Officer, Office of the Secretary, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The purpose of this notice is to allow for 60 days of public comment.

DATES: To ensure consideration, written comments must be submitted on or before June 13, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jennifer Jessup at *PRAcomments@doc.gov* or by telephone (202) 482–3306.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection. The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347) and the Council on Environmental Quality's (CEQ) Regulations for Implementing NEPA (40 CFR parts 1500–1508) require that federal agencies complete an environmental analysis for all major federal actions significantly affecting the environment. Those actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements, including infrastructure projects. In order to determine NEPA compliance requirements for a project receiving Department of Commerce (DOC) bureau-level funding, DOC must assess information which can only be provided by the applicant for federal financial assistance (grant).

The Environmental Questionnaire and Checklist (EQC) provides federal financial assistance applicants and DOC staff with a tool to ensure that the necessary project and environmental information is obtained. The EQC was developed to collect data concerning potential environmental impacts that the applicant for federal financial assistance possesses and to transmit that information to the Federal reviewer. The EQC will allow for a more rapid review of projects and facilitate DOC's evaluation of the potential environmental impacts of a project and level of NEPA documentation required. DOC staff will use the information provided in answers to the questionnaire to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. Information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as the National Historic Preservation Act.

II. Method of Collection

The primary method of collection will be the Internet (electronically). Some supporting documents may be emailed, or mailed.

III. Data

OMB Control Number: 0690–0028.

Form Number: CD–593.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; state, local, or tribal government; and Federal government.

Estimated Number of Respondents: 1,000.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost to Public: $1,000 in miscellaneous costs ($5 × approximately 200 respondents who would mail attachments rather than emailing them).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–07548 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–NW–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2017]

Foreign-Trade Zone (FTZ) 167—Brown County, Wisconsin, Notification of Proposed Production Activity, Polaris Industries, Inc., (Spark-Ignition Internal Combustion Engines), Osceola, Wisconsin

Polaris Industries, Inc. (Polaris), operator of Subzone 167B, submitted a notification of proposed production activity to the FTZ Board for its facility in Osceola, Wisconsin. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on April 4, 2017.

Polaris already has authority to produce spark-ignition internal combustion engines to equip snowmobiles, all-terrain vehicles, and motorcycles within Subzone 167B. The current request would add finished spark-ignition internal combustion engines for on-road vehicles and foreign status components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Polaris from customs duty payments on the foreign-status components used in export production.

On its domestic sales, Polaris would be able to choose the duty rates during customs entry procedures that apply to spark-ignition internal combustion engines for snowmobiles, all-terrain vehicles, motorcycles and on-road vehicles (duty rate 2.5%) for the foreign-status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components sourced from abroad include: Engine housings/covers; covers for crankcases; valve parts; oil sump covers; valve covers; oil pans; tensioners; oil inlets; pump shaft gears; shafts; pump covers; oil inlet screens; torque limiter gears; starter assembly components; rotary switches; motorcycle sprockets; cam chain guides; motorcycle assembly covers; rotors; sprockets; screws of steel; gaskets of steel; gears for engines; switches; seals of plastic; gaskets of rubber; chains; bolts of steel; nuts of steel; brackets/mountings/fittings; valves; adapter hubs; oil pump caps; rocker covers; cam drives; cam drive blades; cam drive covers; oil pumps; water pump covers; oil pump parts; water pump parts; air box assemblies; oil filter adapters; air box adapters; engine thermostats; thermostat housings; needle roller bearings; camshafts; engine shafts; rod bearings; gears; flywheels; stator assemblies; chain sprockets; crankshaft sleeves; seals; alternators; alternator parts; fixed guides; thermostat covers; cam drive kits; brand emblems; clutch spacers; and, actuators (duty rate ranges from free to 8.5%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is May 24, 2017.

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

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: April 10, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–07579 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments on the performance evaluation of the Wisconsin Coastal Management Program. Notice is also hereby given of the availability of the final evaluation findings for the American Samoa, Virginia, and Florida Coastal Management Programs and Weeks Bay, San Francisco Bay, and Guana Tolomato Matanzas National Estuarine Research Reserves.

DATES: *Wisconsin Coastal Management Program Evaluation:* The public meeting will be held on May 31, 2017, and written comments must be received on or before June 9, 2017.

For specific dates, times, and locations of the public meetings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may submit comments on the Wisconsin Coastal Management Program NOAA intends to evaluate by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Milwaukee, Wisconsin. For the specific location, see **SUPPLEMENTARY INFORMATION.**

Written Comments: Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or email comments *Carrie.Hall@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.* Copies of the most recent performance report, previous evaluation findings, and 2016–2020 Assessment and Strategy may be viewed and downloaded on the Internet at *http://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter may be obtained upon request by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved state and territorial coastal programs. The process includes one or more public meetings, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Specific information on the periodic evaluation of the state and territorial coastal program that is the subject of this notice is detailed below as follows:

Wisconsin Coastal Management Program Evaluation

You may participate or submit oral comments at the public meeting scheduled as follows:

Date: May 31, 2017.

Time: 6:00 p.m., local time.

Location: 2323 S Lincoln Memorial Dr., Milwaukee, WI 53207.

Written public comments must be received on or before June 9, 2017.

Availability of Final Evaluation Findings of Other State and Territorial Coastal Programs

The NOAA Office for Coastal Management has completed review of the Coastal Zone Management Program evaluations for the territory and states of American Samoa, Virginia, and Florida. Both states and territory were found to be implementing and enforcing their federally approved coastal management programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

The NOAA Office for Coastal Management has completed review of the National Estuarine Research Reserves evaluations for Weeks Bay, San Francisco Bay, and Guana Tolomato Matanzas and the reserves were found to be adhering to programmatic requirements of the National Estuarine

Research Reserve System. Copies of these final evaluation findings may be downloaded at *http://coast.noaa.gov/czm/evaluations/evaluation_findings/index.html* or by submitting a written request to the person identified under **FOR FURTHER INFORMATION CONTACT**.

Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration.

Dated: April 7, 2017.

Donna Rivelli,

Deputy Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–07561 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF327

General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission and Scientific Advisory Subcommittee to the General Advisory Committee; Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting of the General Advisory Committee (GAC) to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC) on June 1, 2017, and a public meeting of the Scientific Advisory Subcommittee (SAS) to the GAC on May 31, 2017. The meeting topics are described under the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The meeting of the SAS will be held on May 31, 2017, from 10:30 a.m. to 5 p.m. PDT (or until business is concluded). The meeting of the GAC will be held on June 1, 2017, from 8:30 a.m. to 5 p.m. PDT (or until business is concluded).

ADDRESSES: The GAC and SAS meetings will be held in the Pacific Conference Room (Room 300) at NMFS, Southwest Fisheries Science Center, 8901 La Jolla Shores Drive, La Jolla, California 92037–1508. Please notify Taylor Debevec (see **FOR FURTHER INFORMATION CONTACT**) by May 23, 2017, if you plan to attend either or both meetings in person or remotely. The meetings will be accessible by webinar—instructions will be emailed to meeting participants.

FOR FURTHER INFORMATION CONTACT: Taylor Debevec, West Coast Region, NMFS, at *Taylor.Debevec@noaa.gov,* or at (562) 980–4066.

SUPPLEMENTARY INFORMATION: In accordance with the Tuna Conventions Act (16 U.S.C. 951 *et seq.*), as amended, the U.S. Department of Commerce, in consultation with the Department of State (the State Department), appoints a GAC to the U.S. Section to the IATTC and a SAS that advises the GAC. The U.S. Section consists of the four U.S. Commissioners to the IATTC and representatives of the State Department, NOAA, Department of Commerce, other U.S. Government agencies, and stakeholders. The purpose of the GAC shall be to advise the U.S. Section with respect to U.S. participation in the work of the IATTC, with particular reference to development of U.S. policies, positions, and negotiating tactics. The purpose of the SAS is to advise the GAC on matters of science. NMFS West Coast Region staff provide administrative support for the GAC and SAS. The meetings of the GAC and SAS shall be open to the public, unless in executive session. The time and manner of public comment will be at the discretion of the chairs for the GAC and SAS.

The 92nd meeting of the IATTC, the 35th Meeting of the Parties to the Agreement on the International Dolphin Conservation Program (AIDCP), and working group meetings for both the IATTC and AIDCP will be held from July 17 to July 28, 2017 (location to be determined). For more information on these meetings, please visit the IATTC's Web site: *https://www.iattc.org/MeetingsENG.htm.*

GAC and SAS Meeting Topics

The SAS meeting topics will include, but are not limited to, the following:

(1) Outcomes of the 2017 meeting of the Scientific Advisory Committee (SAC) to the IATTC (*e.g.,* stock status updates for tuna, tuna-like species, and other species caught in association with those fisheries in the eastern Pacific Ocean);

(2) Evaluation of the IATTC staff's recommended conservation measures for 2017;

(3) Issues related to the impact of fishing on non-target species, such as shark, seabirds, sea turtles;

(4) Evaluation of U.S. proposals for the 92nd meeting of the IATTC and proposals from other IATTC members; and

(5) Other issues as they arise.

The GAC meeting topics will include, but are not limited to, the following:

(1) Outcomes of the 2017 meeting of the SAC to the IATTC (*e.g.,* stock status updates for tuna, tuna-like species, and other species caught in association with those fisheries in the eastern Pacific Ocean);

(2) Recommendations and evaluations by the SAS;

(3) Issues related to the impact of fishing on non-target species, such as shark, seabirds, sea turtles;

(4) Formulation of advice on issues that may arise at the 92nd meeting of the IATTC, including the IATTC staff's recommended conservation measures, U.S. proposals, and proposals from other IATTC members; and

(5) Other issues as they arise.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Taylor Debevec (see **FOR FURTHER INFORMATION CONTACT**) by May 16, 2017.

Authority: 16 U.S.C. 951 *et seq.*

Dated: April 11, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–07600 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF356

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a meeting of its Pelagics Plan Team (PPT) in Honolulu, HI to discuss fishery issues and develop recommendations for future management.

DATES: The meeting of the PPT will be held May 2–4 2017, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Council Office Conference Room, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: The PPT will meet at the Council Conference Room to discuss the following agenda items:

Tuesday, May 2, 2017 8.30 a.m.

1. Introduction
2. Review 2016 Annual Stock assessment and fishery evaluation (SAFE) Report Modules
   - A. Fishery Data Modules
     - i. Commonwealth of the Northern Marianas (CNMI)
     - ii. American Samoa
     - iii. Guam
     - iv. Hawaii
     - v. International
     - vi. Recreational Fisheries
   - B. Ecosystem Chapter
     - i. Environmental & climate variables
     - ii. Habitat section
     - iii. Marine planning section
     - iv. Human dimension section
     - v. Protected Species
     - vi. Discussions
   - C. Data Integration Chapter and Workshop
   - D. SAFE Report: Improvements and Recommendations
   - E. 2016 Annual Report Region Wide Improvements
3. Public Comment

Wednesday–Thursday, May 3–4, 2017, 8.30 a.m.

4. American Samoa
   - A. Evaluation of Large Vessel Prohibited Area (LVPA) Exemption
   - B. Litigation over the LVPA
   - C. LVPA Options
   - D. American Samoa Permit Modifications
   - E. Evaluation of Rose Atoll Marine National Monument (MNM) No-Take Regulations
5. Pelagic Longline Fisheries
   - A. Assessing Shark Bycatch Condition and Effects of Discard Practices
   - B. Deep-set Longline Programmatic Environmental Impact Statement (PEIS)
6. Hawaii
   - A. Options for Monument Expansion Area Regulations
   - B. Fish Flow Workshop
7. Omnibus Amendments
   - A. Options for Aquaculture Amendment
   - B. Review of Non-Fishing Impacts to Essential Fish Habitat (EFH) and Options for Refinement
8. Other Business
9. Public Comment
10. Pelagic Plan Team Recommendations

The order in which the agenda items are addressed may change. The PPT will meet as late as necessary to complete scheduled business. Although non-emergency issues not contained in this agenda may come before the PPT for discussion, those issues may not be the subject of formal action during these meetings. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: April 11, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–07582 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title:

OMB Control Number: 0648–0205.

Form Number(s): None.

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

Number of Respondents: 10,311.

Average Hours per Response: Response times range from 10 minutes for trip notifications to one hour for permit applications.

Burden Hours: 7,260.

Needs and Uses: This request is for a renewal with revisions to the existing reporting requirements approved under the Office of Management and Budget's (OMB) Control Number 0648–0205, Southeast Region Permit Family of Forms. The SERO Permits Office administers Federal fishing permits in the United States (U.S.) exclusive economic zone (EEZ) of the Caribbean Sea, Gulf of Mexico (Gulf), and South Atlantic under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801. The SERO Permits Office also proposes to revise parts of the current collection-of-information approved under OMB Control Number 0648–0205.

The National Marine Fisheries Service (NMFS) Southeast Region manages the U.S. Federal fisheries in the Caribbean, Gulf, and South Atlantic under the fishery management plans (FMPs) for each region. The regional fishery management councils prepared the FMPs pursuant to the Magnuson-Stevens Act. The regulations implementing the FMPs, including those that have reporting requirements, are at 50 CFR part 622.

The recordkeeping and reporting requirements at 50 CFR part 622 form the basis for this collection of information. The NMFS Southeast Region requests information from fishery participants. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of the Federal fisheries in the Caribbean, Gulf, and South Atlantic.

The SERO Permits Office proposes to make minor changes to several forms approved under OMB Control Number 0648–0205.

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

Frequency: Annually and on occasion.

Respondent's Obligation: Mandatory.

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

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

Dated: April 11, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–07550 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF348

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by The Nature Conservancy (TNC) contains all of the required information and warrants further consideration. This EFP would allow participants to use electronic monitoring systems in lieu of at-sea monitors in support of a study to develop electronic monitoring for the purposes of catch monitoring in the groundfish fishery. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before May 1, 2017.

ADDRESSES: You may submit written comments by either of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''TNC EM EFP RENEWAL.''
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''TNC EM EFP RENEWAL.''

FOR FURTHER INFORMATION CONTACT: Brett Alger, Groundfish Policy Analyst, 978–675–2153.

SUPPLEMENTARY INFORMATION: In 2010, NMFS implemented Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP), which revised and expanded the sector management system and established annual catch limits and accountability measures for each stock in the fishery. In order to reliably estimate sector catch and monitor sector operations, Amendment 16 included new requirements for groundfish sectors to implement and fund an at-sea monitoring (ASM) program. Amendment 16 also included a provision that allows electronic monitoring (EM) to be used to satisfy this monitoring requirement, provided NMFS deems the technology sufficient for the purposes of catch accounting. EM incorporates video cameras, gear sensors, and electronic reporting systems into a vessel's fishing operations. Depending on the program design, EM has the potential to reduce the expenses associated with monitoring groundfish sectors, and, at the same time, increase accountability and monitoring in the fishery.

For the groundfish fishery, the program designs currently being considered are the ''audit model'' and the ''maximized retention model.'' The audit model would use EM to verify discards reported by a captain on a vessel trip report. Under the maximized retention model, vessels would be required to retain most fish species (*e.g.,* allocated groundfish stocks), but be required to discard other species, such as those managed by trip limits (*e.g.,* dogfish) or protected species (*e.g.,* Atlantic salmon), and EM would be used to ensure compliance with discarding regulations. NMFS has not yet approved EM as a suitable alternative to ASM for the groundfish fishery; and there are a number of issues that must be resolved before EM could be implemented. To address these implementation issues, NMFS has been collaborating with TNC, the Gulf of Maine Research Institute, the Maine Coast Fishermen's Association, the Cape Cod Commercial Fishermen's Alliance, and Ecotrust Canada to implement an EM program that utilizes the audit model.

In May 2016, NMFS issued EFPs to vessels from the Georges Bank Cod Fixed Gear Sector, the Maine Coast Community Sector, the Sustainable Harvest Sector, and Northeast Fishery Sectors 5 and 11, which allowed them to use EM in lieu of ASMs on trips selected for ASM coverage. Under the EFP, 100 percent of the video from these trips was reviewed and used to identify and enumerate discards of groundfish species, we did not use discarded catch reported on the vessel trip report (VTR). With one month remaining in the 2016 fishing year, there have been approximately 20 successful EM trips, defined generally as having adequate video quality and ability to review catch handling; there were a few trips that were not usable. We had projected far more EM trips, but there was generally less fishing effort given low catch limits, and with an ASM coverage level of 14 percent, vessels were not selected very often to use EM. As a result, the 2016 EFP did not result in an appreciable amount of data collected to support EM development. However, vessels generally operated according to protocol, EM data was recorded and processed, and improvements to the program.

TNC has requested to renew the EFP for the 2017 fishing year to continue efforts to improve the functionality of EM, refine fish handling protocols, and support future implementation of the audit model. The 2017 EFP would be identical to the EFP issued for the 2016 fishing year, and would exempt participating vessels from adhering to their sector's monitoring plan, which requires the deployment of ASMs on sector trips selected for ASM coverage. While participating in the EM study, vessels would use EM to replace ASMs when selected for ASM coverage. EM would not replace Northeast Fishery Observer Program (NEFOP) observers. Under the EFP, vessels would declare sector trips in the Pre-Trip Notification System; however, if selected for ASM coverage, the vessel would be issued an ASM waiver and instead be required to turn on the EM system for the entire fishing trip. If selected for NEFOP coverage, the vessel would fish with a NEFOP observer and would also turn on the EM system for the entire trip. A third-party provider would review 100 percent of the video from each EM trip, and NMFS would audit the provider(s) to verify the accuracy of the EM data collected. For sector monitoring, NMFS uses a combination of the discard data collected from NEFOP observers and ASMs to estimate discards. For vessels participating in this EFP, NMFS would use the EM data collected in place of the ASM data. All other catch monitoring under the EFP would be consistent with standard sector monitoring, such as using dealer-reported landings and vessel trip reports.

Participation in this EFP would be heavily dependent on a separate EFP request that we have received, that would require vessels to run EM on every trip (*i.e.,* 100 percent monitoring). If approved, we would issue EFPs for the new request no later than July 1, 2017. Therefore, it is difficult to project trip counts and catch estimates for this EFP renewal, knowing that many of the participants could shift to the subsequent EFP. Assuming limited participation under this EFP from July 2017 through the end of the 2017 fishing year, and a 16-percent ASM coverage level in 2017, we do not many EM trips under this EFP.

All catch of groundfish stocks allocated to sectors by vessels would be deducted from the sector's annual catch

entitlement for each groundfish stock. Legal-sized regulated groundfish would be retained and landed, as required by the FMP. Undersized groundfish would be handled according to the EM project guidelines in view of cameras and returned to the sea as quickly as possible. All other species would be handled per normal commercial fishing operations. No legal-size regulated groundfish would be discarded, unless otherwise permitted through regulatory exemptions granted to the participating vessel's sector.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 11, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–07581 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF360

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting (webinar).

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species (CPS) Subcommittee of the Scientific and Statistical Committee (SSC) will hold a meeting via webinar to review the 2017 Pacific mackerel biomass projection estimate. The meeting is open to the public.

DATES: The webinar meeting will be held Monday, May 1, 2017, from 1 p.m. to 5 p.m., or until business for the day has been completed.

ADDRESSES: The meeting will be held via webinar. A public listening station is available at the Pacific Council office (address below). To attend the webinar, visit: *http://www.gotomeeting.com/online/webinar/join-webinar.* Enter the Webinar ID, which is 344–427–787, and your name and email address (required). After logging into the webinar, dial this TOLL number 1+ (562) 247–8422 (not a toll-free number), then enter the Attendee phone audio access code: 235–460–983, then enter your audio phone pin (shown after joining the webinar). NOTE: We have disabled Mic/Speakers on GoToMeeting as an option and require all participants to use a telephone or cell phone to participate. You may send an email to Mr. Kris Kleinschmidt at *kris.kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance.

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

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to conduct a technical review of the 2017 biomass projection estimate for Pacific mackerel. At its June 2017 meeting, the Pacific Council will use the biomass estimate for use in setting harvest specifications and management measures for two consecutive fishing years, July 1, 2017 through June 30, 2019.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (503) 820–2280 at least 10 days prior to the meeting date.

Dated: April 11, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–07584 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Approval for the Weeks Bay, Alabama National Estuarine Research Reserve Management Plan Revision

AGENCY: Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Public notice.

SUMMARY: Notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce approves the Revised Management Plan for the Weeks Bay National Estuarine Research Reserve (NERR) located in Alabama. Refer to **SUPPLEMENTARY INFORMATION** for additional information.

FOR FURTHER INFORMATION CONTACT: Matthew Chasse, Stewardship Division, Office for Coastal Management at 240–533–0808 or via email at *matt.chasse@noaa.gov.*

SUPPLEMENTARY INFORMATION: The National Estuarine Research Reserve System (NERRS) is a federal-state partnership administered by NOAA. The system protects more than 1.3 million acres of estuarine habitat for long-term research, monitoring, education and stewardship throughout the coastal United States. Established by the Coastal Zone Management Act of 1972, as amended, each reserve is managed by a lead state agency or university, with input from local partners. NOAA provides funding and national programmatic guidance.

The revised management plan outlines the administrative structure; the research/monitoring, stewardship, education, and training programs of the reserve; and the plans for future land acquisition and facility development to support reserve operations.

The Weeks Bay Reserve takes an integrated approach to management, linking research, education, coastal training, and stewardship functions. The Alabama Department of Conservation and Natural Resources has outlined how it will administer the Reserve and its core programs by providing detailed actions that will enable it to accomplish specific goals and objectives. Under the previous management plan, the Reserve built out its core programs and monitoring infrastructure; constructed several facilities including a Resource Center that supports education, training, and outreach events; participated in more than 35 research projects and conducted over 100 coastal training program events; convened a permanent Restoration Advisory Board; and built new partnerships with organizations within the Mobile Bay of Alabama.

With the approval of this management plan, the Weeks Bay Reserve will increase their total acreage from 6,594 acres to 9,317 acres. The change is attributable to acquisition of seven tracts acquired by the State of Alabama totaling 933 acres of land and 1,790

acres of water bottoms adjacent to the newly acquired land, totaling 2,723 acres. These parcels have high ecological value and provide increased opportunities for research, education, and restoration. The revised management plan will serve as the guiding document for the 9,317-acre Weeks Bay Reserve for the next five years.

On December 29, 2016, NOAA issued notice of a public meeting and a thirty-day public comment period for the Weeks Bay Reserve Management Plan revision (81 FR 94964). The Weeks Bay, Alabama Reserve Management Plan revision is available at: (*http://www.outdooralabama.com/weeks-bay-reserve*), and at *https://coast.noaa.gov/nerrs/reserves/weeks-bay.html*.

Federal Domestic Assistance Catalog 11.420, Coastal Zone Management Program Administration.

Dated: April 7, 2017.

Donna Rivelli,

Deputy Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–07560 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of public comment period for the South Slough, Oregon National Estuarine Research Reserve management plan revision.

SUMMARY: Notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce is announcing a thirty (30) day public comment period for the revised management plan for South Slough, Oregon National Estuarine Research Reserve management plan revision.

FOR FURTHER INFORMATION CONTACT: Bree Turner at (206) 526–4641 or Erica Seiden at (240) 533–0781 of NOAA's National Ocean Service, Stewardship Division, Office for Coastal Management, 1305 East-West Highway, N/ORM5, 10th floor, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), the revised plan will bring the reserve into compliance. The South Slough Reserve revised plan will replace the plan previously approved in 2006.

The revised management plan outlines a strategic plan; administrative structure; science, education, public involvement, and training programs of the reserve; resource protection and public access plans; strategies for future land acquisition; and facility development to support reserve operations.

The South Slough Reserve takes an integrated approach to management, linking research, education, coastal training, and resource management functions. The reserve has outlined how it will manage administration and its core programs, providing detailed actions that will enable it to accomplish specific goals and objectives. Since the last Management Plan, the reserve has built out its core programs and monitoring infrastructure; compiled a comprehensive report on environmental and socio-economic conditions of the Coos estuary; and conducted an educational market analysis and needs assessment to understand current needs of teachers and underserved audiences. Additionally, the reserve has developed a disaster response plan, restoration action plan, and improved public access to the reserve through construction of a new non-motorized boat launch areas and enhanced trails.

There will be no boundary change with the approval of the revised management plan. The management plan will serve as the guiding document for the 4,771-acre South Slough Reserve.

View the South Slough Reserve management plan revision on their Web site, at *http://www.oregon.gov/dsl/SS/Pages/About.aspx,* and provide comments to Hannah Schrager, *hannah.schrager@state.or.us*.

Dated: April 7, 2017.

Donna Rivelli,

Deputy Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–07565 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF357

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 public meeting of its Joint Scallop Plan Development Team and Scallop Advisory Panel Committee 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 Thursday, May 4, 2017 at 9 a.m.

ADDRESSES: The meeting will be held at the Hilton Garden Inn Boston Logan Airport, 100 Boardman Street, Boston, MA 02128; phone: (617) 571–5478.

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 Plan Development Team (PDT) and Advisory Panel (AP) will receive status updates and summary of preliminary findings from the recipients of recent Scallop Research Set-Aside (RSA) awards. Presentations will include RSA projects that have not yet been used directly in the scallop management process. This meeting is not a formal review of the methods or results of these projects. Instead, this meeting is only an overview to better inform the PDT and AP of current research status and help identify future research priority recommendations. The PDT and AP will also review current RSA research priorities and discuss potential recommended changes for the 2017/18 Scallop RSA funding announcement. The PDT and AP may discuss progress on 2017 work priorities. Other issues may be discussed, time permitting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

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

Special Accommodations

This meeting is physically accessible to people with disabilities. 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. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: April 11, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–07583 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE201

Notice of Availability of the Alabama Trustee Implementation Group Final Recreational Use Restoration Plan I and Final Environmental Impact Statement

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

ACTION: Notice of availability of the Alabama Trustee Implementation Group Final Recreational Use Restoration Plan I and Final Environmental Impact Statement.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Alabama Trustee Implementation Group (Alabama TIG) have prepared a Final Restoration Plan I and Environmental Impact Statement: Provide and Enhance Recreational Opportunities (Final RP/EIS). The Final RP/EIS describes the restoration project alternatives considered by the Alabama TIG to compensate for recreational shoreline use lost as a result of the *Deepwater Horizon* oil spill. The Alabama TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The purpose of this notice is to inform the public of the availability of the Final RP/EIS.

ADDRESSES: *Obtaining Documents:* You may download the Final RP/EIS at *http://www.gulfspillrestoration.noaa.gov.* Alternatively, you may request a CD of the Final RP/EIS (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

FOR FURTHER INFORMATION CONTACT:

- NOAA—Dan Van Nostrand, *ALTIG.RecUsePlanComments@noaa.gov*.
- AL—Amy Hunter, *amy.hunter@dcnr.alabama.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill.

The *Deepwater Horizon* State and Federal natural resource trustees (DWH Trustees) conducted NRDA for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service and U.S. Fish and Wildlife Service;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree [1] approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in Alabama are now chosen and managed by the Alabama TIG. The Alabama TIG is composed of the following Trustees:

- U.S. Department of the Interior, as represented by the National Park Service and U.S. Fish and Wildlife Service;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Alabama Department of Conservation and Natural Resources; and
- Geological Survey of Alabama.

This restoration planning activity is proceeding in accordance with the *Deepwater Horizon* Oil Spill: Final Programmatic Damage Assessment and Restoration Plan and Final

[1] *https://www.justice.gov/enrd/file/838066/download.*

Programmatic Environmental Impact Statement (PDARP/PEIS). Information on the Restoration Type: Provide and Enhance Recreational Opportunities, as well as the OPA criteria against which project ideas are being evaluated, can be found in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

This restoration planning activity is occurring, in part, in accordance with the February 16, 2016, decision in *Gulf Restoration Network* v. *Jewell,* Case 1:15-cv-00191–CB–C (S.D. Ala.), in which the court enjoined the use of *Deepwater Horizon* early restoration funds that had been allocated to partially fund construction of a lodge and conference center at Alabama's Gulf State Park as part of the Gulf State Park Enhancement Project, pending additional analysis under NEPA and OPA. This restoration planning activity fulfills the Federal and State natural resource trustees' responsibilities under this court order while looking more broadly at the potential to provide restoration for lost recreational shoreline use within Alabama.

Background

On July 6, 2016, the Alabama TIG initiated a 30-day formal scoping and public comment period for this Final RP/EIS (81 FR 44007–44008) through a Notice of Intent (NOI) to Prepare a RP/EIS, and to Conduct Scoping. The Alabama TIG conducted the scoping in accordance with OPA (15 CFR 990.14(d)), NEPA (40 CFR 1501.7), and State authorities. That NOI requested public input to identify restoration approaches and restoration projects that could be used to compensate the public for lost recreational use opportunities in Alabama caused by the *Deepwater Horizon* oil spill in the Gulf of Mexico.

Notice of availability of the Draft RP/EIS was published in the **Federal Register** on December 16, 2016 (81 FR 91138). The Draft RP/EIS provided the Alabama TIG's analysis of projects to address lost recreational shoreline use under both OPA and NEPA and identified the projects that were proposed as preferred for implementation. The Alabama TIG provided the public with 45 days to review and comment on the Draft RP/EIS. The Alabama TIG also held public meetings in Dauphin Island, AL, and Gulf Shores, AL, to facilitate public understanding of the document and provide opportunity for public comment. The Alabama TIG actively solicited public input through a variety of mechanisms, including convening public meetings, distributing electronic communications, and using the Trustee-wide public Web site and database to share information and receive public input. The Alabama TIG considered the public comments received, which informed the Alabama TIG's analysis of alternatives in the Final RP/EIS. A summary of the public comments received and the Alabama TIG's responses to those comments are addressed in Chapter 9 of the Final RP/EIS and all correspondence received are provided Appendix B.

Overview of the Final PDARP/PEIS

The Final RP/EIS is being released in accordance with the OPA, the NRDA regulations found at 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*).

In the Final RP/EIS, the Alabama TIG presents to the public their plan for providing for compensation for lost recreational shoreline use in Alabama. The Final RP/EIS presents ten individual restoration alternatives, including a no action alternative, evaluated in accordance with OPA and NEPA. The ten alternatives under the Final RP/EIS are as follows:

- Alternative 1 (Preferred Alternative): Gulf State Park Lodge and Associated Public Access Amenities
- Alternative 2 (Preferred Alternative): Fort Morgan Pier Rehabilitation
- Alternative 3: Fort Morgan Peninsula Public Access Improvements
- Alternative 4: Gulf Highlands Land Acquisition and Improvements
- Alternative 5 (Preferred Alternative): Laguna Cove Little Lagoon Natural Resource Protection
- Alternative 6 (Preferred Alternative): Bayfront Park Restoration and Improvements
- Alternative 7 (Preferred Alternative): Dauphin Island Eco-Tourism and Environmental Education Area
- Alternative 8: Mid-Island Parks and Public Beach Improvements (Parcels A, B, and C)
- Alternative 9: (Preferred Alternative): Mid-Island Parks and Public Beach Improvements (Parcels B and C)
- Alternative 10: No Action/Natural Recovery

The Alabama TIG has examined and assessed the extent of injury and the restoration alternatives. In the Final RP/EIS, the Alabama TIG presents to the public its plan for providing partial compensation to the public for lost recreational use in Alabama. In particular, it considers restoration approaches to help restore, replace, rehabilitate, or acquire the equivalent of the lost recreational shoreline uses in Alabama. The Alabama TIG believes that the preferred alternatives in this Final RP/EIS are most appropriate for addressing lost recreational shoreline use in Alabama at this time. Additional restoration planning for lost recreational use in Alabama will occur at a later time.

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). The Trustees will issue a ROD pursuant to the NEPA regulations at 40 CFR 1505.2 and OPA regulations at 15 CFR 990.23. The ROD for the Final RP/EIS will provide and explain the Alabama TIG's decisions regarding the selection of the alternatives for implementation. The Alabama TIG will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the **Federal Register** announcing the availability of the Final RP/EIS (40 CFR 1506.10).

Administrative Record

The documents included in the Administrative Record can be viewed electronically at the following location: *http://www.doi.gov/deepwaterhorizon/adminrecord*.

The DWH Trustees opened a publicly available Administrative Record for the NRDA for the *Deepwater Horizon* oil spill, including restoration planning activities, concurrently with publication of the 2011 Notice of Intent to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS (pursuant to 15 CFR 990.45). The Administrative Record includes the relevant administrative records since its date of inception. This Administrative Record is actively maintained and available for public review.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the implementing NRDA regulations found at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

Dated: April 6, 2017.

Carrie Selberg,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2017–07349 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Process on Internet of Things Security Upgradability and Patching

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene a meeting of a multistakeholder process on Internet of Things Security Upgradability and Patching on April 26, 2016.

DATES: The meeting will be held on April 26, 2017, from 10:00 a.m. to 4:00 p.m., Eastern Time. See **SUPPLEMENTARY INFORMATION** for details.

ADDRESSES: The meeting will be held at the American Institute of Architects, 1735 New York Ave. NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Allan Friedman, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone: (202) 482–4281; email: *afriedman@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs: (202) 482–7002; email: *press@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background: In March of 2015 the National Telecommunications and Information Administration issued a Request for Comment to ''identify substantive cybersecurity issues that affect the digital ecosystem and digital economic growth where broad consensus, coordinated action, and the development of best practices could substantially improve security for organizations and consumers.'' [1] We received comments from a range of stakeholders, including trade associations, large companies, cybersecurity startups, civil society organizations and independent computer security experts.[2] The comments recommended a diverse set of issues that might be addressed through the multistakeholder process, including cybersecurity policy and practice in the emerging area of Internet of Things (IoT).

In a separate but related matter in April 2016, NTIA, the Department's Internet Policy Task Force, and its Digital Economy Leadership Team sought comments on the benefits, challenges, and potential roles for the government in fostering the advancement of the IoT.[3] Over 130 stakeholders responded with comments addressing many substantive issues and opportunities related to IoT.[4] Security was one of the most common topics raised. Many commenters emphasized the need for a secure lifecycle approach to IoT devices that considers the development, maintenance, and end-of-life phases and decisions for a device.

On August 2, 2016, after reviewing these comments, NTIA announced that the next multistakeholder process on cybersecurity would be on IoT security upgradability and patching.[5] NTIA subsequently announced that the first meeting of a multistakeholder process on this topic would be held on October 19, 2016.[6] A second, virtual meeting of this process was held on January 31, 2017.[7]

The matter of patching vulnerable systems is now an accepted part of cybersecurity.[8] Unaddressed technical flaws in systems leave the users of software and systems at risk. The nature of these risks varies, and mitigating these risks requires various efforts from the developers and owners of these systems. One of the more common means of mitigation is for the developer or other maintaining party to issue a security patch to address the vulnerability. Patching has become more commonly accepted, even for consumers, as more operating systems and applications shift to visible reminders and automated updates. Yet as one security expert notes, this evolution of the software industry has yet to become the dominant model in IoT.[9]

To help realize the full innovative potential of IoT, users need reasonable assurance that connected devices, embedded systems, and their applications will be secure. A key part of that security is the mitigation of potential security vulnerabilities in IoT devices or applications through patching and security upgrades.

The ultimate objective of the multistakeholder process is to foster a market offering more devices and systems that support security upgrades through increased consumer awareness and understanding. Enabling a thriving market for patchable IoT requires common definitions so that manufacturers and solution providers have shared visions for security, and consumers know what they are purchasing. Currently, no such common, widely accepted definitions exist, so many manufacturers struggle to effectively communicate to consumers the security features of their devices. This is detrimental to the digital ecosystem as a whole, as it does not reward companies that invest in patching and it prevents consumers from making informed purchasing choices.

Stakeholders have identified four distinct work streams that could help foster better security across the ecosystem.[10] The main objectives of the April 26, 2017 meeting are to share progress from the working groups and hear feedback from the broader stakeholder community. Stakeholders will also discuss their vision of the timing and outputs of this initiative, and how the different work streams can complement each other.

More information about stakeholders' work is available at: *https://*

[1] U.S. Department of Commerce, Internet Policy Task Force, Request for Public Comment, Stakeholder Engagement on Cybersecurity in the Digital Ecosystem, 80 FR 14360, Docket No. 150312253–5253–01 (Mar. 19, 2015), *available at: https://www.ntia.doc.gov/files/ntia/publications/cybersecurity_rfc_03192015.pdf.*

[2] NTIA has posted the public comments received at *https://www.ntia.doc.gov/federal-register-notice/2015/comments-stakeholder-engagement-cybersecurity-digital-ecosystem.*

[3] U.S. Department of Commerce, Internet Policy Task Force, Request for Public Comment, Benefits, Challenges, and Potential Roles for the Government in Fostering the Advancement of the Internet of Things, 81 FR 19956, Docket No 160331306–6306–01 (Apr. 5, 2016), *available at: https://www.ntia.doc.gov/federal-register-notice/2016/rfc-potential-roles-government-fostering-advancement-internet-of-things.*

[4] NTIA has posted the public comments received at *https://www.ntia.doc.gov/federal-register-notice/2016/comments-potential-roles-government-fostering-advancement-internet-of-things.*

[5] NTIA, *Increasing the Potential of IoT through Security and Transparency* (Aug. 2, 2016), *available at: https://www.ntia.doc.gov/blog/2016/increasing-potential-iot-through-security-and-transparency.*

[6] NTIA, Notice of Multistakeholder Process on Internet of Things Security Upgradability and Patching Open Meeting (Sept. 15, 2016), *available at: https://www.ntia.doc.gov/federal-register-notice/2016/10192016-meeting-notice-msp-iot-security-upgradability-patching.*

[7] NTIA, Notice of 01/31/2017 Meeting of the Multistakeholder Process on Internet of Things Security Upgradability and Patching (Jan. 11, 2017), *available at: https://www.ntia.doc.gov/federal-register-notice/2017/notice-01312017-meeting-multistakeholder-process-internet-things.*

[8] *See, e.g.,* Murugiah Souppaya and Karen Scarfone, *Guide to Enterprise Patch Management Technologies, Special Publication 800–40 Revision 3,* National Institute of Standards and Technology, NIST SP 800–40 (2013), *available at: http://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-40r3.pdf.*

[9] Bruce Schneier, *The Internet of Things Is Wildly Insecure—And Often Unpatchable,* Wired (Jan. 6, 2014) *available at: https://www.schneier.com/blog/archives/2014/01/security_risks_9.html.*

[10] Documents shared by working group stakeholders are *available at: https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security.*

www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security.

Time and Date: NTIA will convene a meeting of the multistakeholder process on Internet of Things Security Upgradability and Patching on April 26, 2017, from 10:00 a.m. to 4:00 p.m., Eastern Time. The meeting date and time are subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

Place: The meeting will be held at the American Institute of Architects, 1735 New York Ave. NW., Washington, DC 20006. The location of the meeting is subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

Other Information: The meeting is open to the public and the press. The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. The meeting will also be webcast. Requests for real-time captioning of the webcast or other auxiliary aids should be directed to Allan Friedman at (202) 482–4281 or *afriedman@ntia.doc.gov* at least seven (7) business days prior to the meeting. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meeting through a moderated conference bridge, including polling functionality. Access details for the meeting are subject to change. Please refer to NTIA's Web site, *https://www.ntia.doc.gov/other-publication/2016/multistakeholder-process-iot-security,* for the most current information.

Dated: April 11, 2017.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2017–07607 Filed 4–13–17; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed addition

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

ACTION: Proposed Addition to the Procurement List.

SUMMARY: The Committee is proposing to add a product to the Procurement List that will be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: Comments must be received on or before May 14, 2017.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy Jensen, Telephone: (703) 603–2100, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

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

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the product listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following product is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Product

NSN(s)—Product Name(s): MR 10744—Container, Snack, Pigout, Includes Shipper 20744

Mandatory for: Military commissaries and exchanges in accordance with the 41 CFR 51–6.4.

Mandatory Source(s) of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC

Contracting Activity: Defense Commissary Agency, Fort Lee, VA

Distribution: C-List

Patricia Briscoe,

Deputy Director, Business Operations Pricing and Information Management.

[FR Doc. 2017–07576 Filed 4–13–17; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

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

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: Effective on May 14, 2017.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 1/13/2017 (82 FR 4315–4316), 1/23/2017 (82 FR 7802), 2/3/2017 (82 FR 9203–9204) and 2/10/2017 (82 FR 10337–10338), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and service and impact of the additions on the current or most recent contractors, the Committee has determined that the products and service listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and service to the Government.

2. The action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and service are added to the Procurement List:

Products

NSN(s)—Product Name(s):

MR 1172—Sweeper Set, Wet and Dry

MR 1173—Refill, Sweeper Set, Dry Cloths, 16 Count
MR 1174—Refill, Sweeper Set, Dry Cloths, 30 Count
MR 1175—Refill, Sweeper Set, Wet Cloths, 24 Count
Mandatory for: The requirements of military commissaries and exchanges in accordance with the Code of Federal Regulations, 41 CFR 51–6.4
Mandatory Source(s) of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
Distribution: C-List

NSN(s)—Product Name(s):
3920–00–NIB–0001—Hand Truck, 48″ H x 22″ W, 8″ Solid Rubber Wheels
3920–00–NIB–0002—Hand Truck, 45″ H x 18″ W, 10″ Solid Rubber Wheels
3920–00–NIB–0003—Hand Truck, Economy, 40″ H x 18″ W, 8″ Zero-Pressure Rubber Tires
3920–00–NIB–0004—Hand Truck, Double Handle, 48″ H x 22″ W, 10″ Pneumatic Tires
3920–00–NIB–0005—Hand Truck, Convertible, 48″ H x 22″ W, 10″ Pneumatic Tires with Wheel Guards
Mandatory for: Total Government Requirement
Mandatory Source(s) of Supply: Envision Industries Inc., Wichita, KS
Contracting Activity: Defense Logistics Agency Troop Support
Distribution: B-List

NSN(s)—Product Name(s):
8920–00–SAM–0169—Super Cereal Plus
Mandatory for: 30% (total) of the requirement of the U.S. Agency for International Development's World Food Program, as aggregated by the USDA Farm Service Agency, IPD Packaged, Kansas City, MO
Mandatory Source(s) of Supply: Transylvania Vocational Services, Inc., Brevard, NC
Contracting Activity: Farm Service Agency, IPD Packaged, Kansas City, MO
Distribution: C-List

Service

Service Type: Custodial Service
Mandatory for: Consumer Financial Protection Bureau, CFPB Headquarters Building, 1700 G Street and 1990 K Street (Floors 7, 8, 9 pantries only), Washington, DC.
Mandatory Source(s) of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: Consumer Financial Protection Bureau

Patricia Briscoe,

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

[FR Doc. 2017–07575 Filed 4–13–17; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 17–C0003]

The Middleby Corporation and Viking Range LLC, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of the Consumer Product Safety Commission's regulations. Published below is a provisionally-accepted Settlement Agreement with The Middleby Corporation and Viking Range LLC, containing a civil penalty in the amount of four million, six hundred and fifty thousand dollars ($4,650,000), within thirty (30) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by May 1, 2017.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 17–C0003, Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway, Room 820, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Leah Wade, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7225.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.[1]

Dated: April 11, 2017.

Todd A. Stevenson,

Secretary.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:
THE MIDDLEBY CORPORATION
and
VIKING RANGE, LLC
CPSC Docket No.: 17–C0003

SETTLEMENT AGREEMENT

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. 2051–2089 (''CPSA'') and 16 CFR 1118.20, The Middleby Corporation and Viking Range, LLC, and the United States Consumer Product Safety Commission (''Commission''), through its staff, hereby enter into this Settlement Agreement (''Agreement''). The Agreement and the incorporated attached Order resolve staff's charges set forth below.

THE PARTIES

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. 2051–2089. By executing the Agreement, staff is acting on behalf of the Commission, pursuant to 16 CFR 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. Viking Range, LLC is a company, organized and existing under the laws of the state of Delaware, with its principal place of business in Greenwood, MS.

4. Viking Range, LLC is a wholly owned subsidiary of The Middleby Corporation, a corporation, organized and existing under the laws of the state of Delaware, with its principal place of business in Elgin, IL. The Middleby Corporation acquired Viking from its former shareholders on December 31, 2012. With respect to all conduct occurring after December 31, 2012, as well as all ongoing commitments, the term ''Viking'' used herein refers both to The Middleby Corporation and Viking Range, LLC.

STAFF CHARGES

5. Between July 2007 and July 2014, Viking manufactured and offered for sale in the United States approximately 52,000 freestanding 30″, 36″, 48″ and 60″ Gas Ranges under the model families VGIC, VGCC, VGSC (''Ranges'').

6. The Ranges are a ''consumer product,'' ''distribut[ed] in commerce,'' as those terms are defined or used in sections 3(a)(5) and (8) of the CPSA, 15 U.S.C. 2052(a)(5) and (8). Viking is a ''manufacturer'' of the Ranges, as such term is defined in section 3(a)(11) of the CPSA, 15 U.S.C. 2052(a)(11).

7. The Ranges contain a defect which could create a substantial product hazard and create an unreasonable risk of serious injury because the Ranges can turn on spontaneously and cannot be

[1] The Commission voted (4–1) to provisionally accept the Settlement Agreement and Order regarding The Middleby Corporation and Viking Range, LLC. Commissioner Kaye, Commissioner Adler, Commissioner Robinson and Commissioner Mohorovic voted to provisionally accept the Settlement Agreement and Order. Acting Chairman Buerkle voted to take other action as follows: Provisionally accept the attached Settlement Agreement and Order with an amendment so as to reduce the penalty amount to $2.0 million.

turned off using the control knobs, resulting in extreme surface temperatures that pose a burn hazard to consumers.

8. Between June 2008 and July 2014, Viking received 170 incident reports of Ranges turning on spontaneously, including reports from two consumers who were unable to turn off one of the Ranges using the controls and were then burned while attempting to disconnect the power source. Viking also received five reports that the Ranges had spontaneously turned on and caused property damage to the surrounding areas, such as the backsplash. Several consumers called 911 for assistance when they discovered that the Ranges had spontaneously turned on and could not be turned off or disconnected.

9. After receiving a number of reports related to the Ranges, Viking collected and tested Ranges, and developed a repair for the Ranges. Viking also issued numerous engineering change orders and technical bulletins identifying the defect and providing instructions on how to conduct the repair.

10. Despite having information reasonably supporting the conclusion that the Ranges contained a defect which could create a substantial product hazard and created an unreasonable risk of serious injury or death, Viking did not notify the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. 2064(b)(3) and (4), in violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). Instead, Viking waited until July 2, 2014 to file a Full Report with the Commission under 15 U.S.C. 2064(b).

11. Viking and the Commission jointly announced a recall of the Ranges on May 21, 2015.

12. Because the information in Viking's possession constituted actual and presumed knowledge, Viking knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

13. Pursuant to Section 20 of the CPSA, 15 U.S.C. 2069, Viking is subject to civil penalties for its knowing violation of section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4).

RESPONSE OF VIKING

14. Viking's settlement of this matter does not constitute an admission of staff's charges set forth in paragraphs 5 through 13 above.

15. In July 2014, Viking notified the Commission pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b), concerning Viking's receipt of complaints and incident reports that the Ranges could self-start with the knobs in the off position if a significant amount of liquid from boil-overs, spills, or cleaning leaked inside the Ranges and pooled near the Ranges' electronic thermostats.

16. In May 2015, in conjunction with the CPSC, Viking voluntarily announced a recall of all models of the Ranges that contained the design defect, regardless of whether Viking had received any complaints or incident reports related to those models.

17. Viking recognizes that product safety is fundamental to sound and ethical business practice, to the integrity of the Viking brand, and to Viking's responsibility as a producer of quality consumer goods. Since The Middleby Corporation's acquisition of Viking Range, LLC, Viking has significantly increased its focus on consumer safety, including by implementing a robust Product Safety Compliance Program developed and overseen by The Middleby Corporation to establish, control and verify safe product design and prompt reporting of product safety defects to regulatory authorities.

AGREEMENT OF THE PARTIES

18. Under the CPSA, the Commission has jurisdiction over the matter involving the Ranges and over the parties.

19. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by Viking, or a determination by the Commission, that Viking violated the CPSA's reporting requirements.

20. In settlement of staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, Viking shall pay a civil penalty in the amount of four million, six hundred and fifty thousand dollars ($4,650,000) within thirty (30) calendar days after receiving service of the Commission's final Order accepting the Agreement. All payments to be made under the Agreement shall constitute debts owing to the United States and shall be made by electronic wire transfer to the United States via *http://www.pay.gov,* for allocation to, and credit against, the payment obligations of Viking under this Agreement. Failure to make such payment by the date specified in the Commission's final Order shall constitute Default.

21. All unpaid amounts, if any, due and owing under the Agreement, shall constitute a debt due and immediately owing by Viking to the United States; and interest shall accrue and be paid by Viking at the federal legal rate of interest set forth at 28 U.S.C. 1961(a) and (b), from the date of Default, until all amounts due have been paid in full (hereinafter ''Default Payment Amount'' and ''Default Interest Balance''). Viking shall consent to a Consent Judgment in the amount of the Default Payment Amount and Default Interest Balance; and the United States, at its sole option, may collect the entire Default Payment Amount and Default Interest Balance, or exercise any other rights granted by law or in equity, including, but not limited to, referring such matters for private collection; and Viking agrees not to contest, and hereby waives and discharges, any defenses to any collection action undertaken by the United States, or its agents or contractors, pursuant to this paragraph. Viking shall pay the United States all reasonable costs of collection and enforcement under this paragraph, respectively, including reasonable attorney's fees and expenses.

22. After staff receives this Agreement executed on behalf of Viking, staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register,* in accordance with the procedures set forth in 16 C.F.R. 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date the Agreement is published in the *Federal Register,* in accordance with 16 C.F.R. 1118.20(f).

23. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 C.F.R. 1118.20(h). Upon the later of: (i) Commission's final acceptance of this Agreement and service of the accepted Agreement upon Viking, and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect, and shall be binding upon the parties.

24. Effective upon the later of: (i) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon Viking, and (ii) and the date of issuance of the final Order, for good and valuable consideration, Viking hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in this Agreement: (i) an administrative or judicial hearing; (ii) judicial review or other challenge or contest of the Commission's actions; (iii) a

determination by the Commission of whether Viking failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

25. Viking shall maintain a compliance program designed to ensure compliance with the CPSA with respect to any consumer product imported, manufactured, distributed or sold by Viking, and which shall contain the following elements: (i) written standards, policies and procedures, including those designed to ensure that information that may relate to or impact CPSA compliance (including information obtained by quality control personnel) is conveyed effectively to personnel responsible for CPSA compliance, whether or not an injury is referenced; (ii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iii) effective communication of company compliance-related policies and procedures regarding the CPSA to all applicable employees through training programs or otherwise; (iv) Viking's senior management responsibility for, and general board oversight of, CPSA compliance; (v) retention of all CPSA compliance-related records for at least five (5) years, and availability of such records to staff upon request; and (vi) a written standard, policy or procedure designed to ensure that the Firm shall seek to include a provision in any private protective order or settlement that specifically allows for disclosure of relevant consumer product safety information to the Commission and other applicable authorities.

26. Viking shall maintain and enforce a system of internal controls and procedures designed to ensure that, with respect to all consumer products imported, manufactured, distributed or sold by Viking: (i) information required to be disclosed by Viking to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete, accurate and in accordance with applicable law; and (iii) prompt disclosure is made to Viking's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to affect adversely, in any material respect, Viking's ability to record, process and report to the Commission in accordance with applicable law.

27. Upon reasonable request of staff, Viking shall provide written documentation of its internal controls and procedures, including, but not limited to, the effective dates of the procedures and improvements thereto. Viking shall cooperate fully and truthfully with staff and shall make available all non-privileged information and materials, and personnel deemed necessary by staff to evaluate Viking's compliance with the terms of the Agreement.

28. The parties acknowledge and agree that the Commission may publicize the terms of the Agreement and the Order.

29. Viking represents that the Agreement: (i) is entered into freely and voluntarily, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of Viking, enforceable against Viking in accordance with its terms. Viking will not directly or indirectly receive any reimbursement, indemnification, insurance-related payment, or other payment for the civil penalty to be paid pursuant to the Agreement and Order, except as ordered in *Middleby Marshall Inc. v. Carl.,* No. N15C–10–249 (Del. Super. Ct.), or as memorialized in a written settlement agreement signed by the parties to that case. The individuals signing the Agreement on behalf of Viking represent and warrant that they are duly authorized by Viking to execute the Agreement.

30. The signatories represent that they are authorized to execute this Agreement.

31. The Agreement is governed by the laws of the United States.

32. The Agreement and the Order shall apply to, and be binding upon, Viking and each of its successors, transferees, and assigns; and a violation of the Agreement or Order may subject Viking, and each of its successors, transferees, and assigns, to appropriate legal action.

33. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained therein.

34. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party, for that reason, in any subsequent dispute.

35. The Agreement may not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 C.F.R. 1118.20(h). The Agreement may be executed in counterparts.

36. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and Viking agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

(continued on next page)

THE MIDDLEBY CORPORATION and VIKING RANGE, LLC

Dated: March 29, 2017

By: _____

The Middleby Corporation and Viking Range, LLC

Dated: March 29, 2017

By: _____

Counsel to The Middleby Corporation and Viking Range, LLC

U.S. CONSUMER PRODUCT SAFETY COMMISSION

Mary T. Boyle,
General Counsel.

Mary B. Murphy,
Assistant General Counsel.

Dated: March 29, 2017

By: _____

Leah Wade,
Trial Attorney, Division of Compliance, Office of the General Counsel.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of:

THE MIDDLEBY CORPORATION and
VIKING RANGE, LLC

CPSC Docket No.: 17–C0003

ORDER

Upon consideration of the Settlement Agreement entered into between The Middleby Corporation and Viking Range, LLC (collectively ''Viking''), and the U.S. Consumer Product Safety Commission (''Commission''), and the Commission having jurisdiction over the subject matter and over the parties, and it appearing that the Settlement Agreement and the Order are in the public interest, it is:

ORDERED that the Settlement Agreement be, and is, hereby, accepted; and it is

FURTHER ORDERED that Viking shall comply with the terms of the

Settlement Agreement and shall pay a civil penalty in the amount of four million, six hundred and fifty thousand dollars ($4,650,000), within thirty (30) days after service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made by electronic wire transfer to the Commission via: *http://www.pay.gov.* Upon the failure of Viking to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by Viking at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b). If Viking fails to make such payment or to comply in full with any other provision of the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

Provisionally accepted and provisional Order issued on the 11th day of April, 2017.

BY ORDER OF THE COMMISSION:

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission

[FR Doc. 2017–07557 Filed 4–13–17; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Closed Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of a closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 and the Code of Federal Regulations, the Department of the Army announces the following committee meeting: Army Science Board (ASB) Spring Voting Session.

FOR FURTHER INFORMATION CONTACT: Army Science Board, Designated Federal Officer, 2530 Crystal Drive, Suite 7098, Arlington, VA 22202; MAJ Sean M. Madden, the committee's Designated Federal Officer (DFO), at (703) 545–8652 or email: *sean.m.madden.mil@mail.mil,* or Mr. Paul Woodward at (703) 695–8344 or email: *paul.j.woodward2.civ@mail.mil.*

Public's Accessibility to the Meeting: The Department of the Army has determined that the closed meeting is properly closed in accordance with 5 U.S.C. 552b(c)(1), which permits Federal Advisory Committee meetings to be closed which are likely to ''disclose matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order.''

SUPPLEMENTARY INFORMATION: (Filing Written Statement) Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow the public to speak; however, interested persons may submit a written statement for consideration by the Subcommittees. Individuals submitting a written statement must submit their statement to the DFO at the address listed above. Written statements not received at least 10 calendar days prior to the meeting may not be considered by the Board prior to its scheduled meeting.

The DFO will review all timely submissions with the Board's executive committee and ensure they are provided to the specific study members as necessary before, during, or after the meeting. After reviewing written comments, the study chairs and the DFO may choose to invite the submitter of the comments to orally present their issue during a future open meeting.

The DFO, in consultation with the executive committee, may allot a specific amount of time for members of the public to present their issues for discussion.

Name of Committee: Army Science Board (ASB) Spring Voting Session.

Date: Tuesday, May 02, 2017.

Time: 0900–1100.

Location: Georgia Technology Research Institute Conference Center, 250 14th St. NW., Room 112, Atlanta, GA 30318.

Purpose of Meeting: The purpose of the meeting is for all members of the ASB and its subcommittees to meet and present one of six Fiscal Year 2016 (FY16) studies and present one of five Fiscal Year 2017 (FY17) studies to the voting members for their consideration, deliberation, and vote.

Agenda: The board will present findings and recommendations for deliberation and vote on the following FY16 and FY17 studies:

''Disruptive Innovative Concepts for the Future Army.'' This study offers innovative concepts and enabling technologies for the future Army. The concepts are consistent with the findings and recommendations of Unified Quest exercises, according with Army Warfighting challenges and address future threats. This is an ongoing FY16 study that incorporates the findings and recommendations from five other FY16 ASB studies.

''Nuclear Survivability in Future Warfare: How to Effectively Assess Requirements.'' The objective of this FY17 study is to analyze Nuclear Hardness and Survivability (NH&S) requirements and to assess the best methods to verify these requirements.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–07570 Filed 4–13–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Regents, Uniformed Services University of the Health Sciences; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense is publishing this notice to announce that the following Federal Advisory Committee meeting of the Board of Regents, Uniformed Services University of the Health Sciences will take place.

DATES: Open to the public, Friday, May 19, 2017 from 8:00 a.m. to 10:15 a.m. Closed to the public, Friday, May 19, 2017 from 10:25 a.m. to 10:55 a.m.

ADDRESSES: Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Everett Alvarez Jr. Board of Regents Room (D3001), Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: Jennifer Nuetzi James, 301–295–3066 (Voice), 301–295–1960 (Facsimile), *jennifer.nuetzi-james@usuhs.edu* (Email). Mailing address is 4301 Jones Bridge Road, A1020, Bethesda, Maryland 20814. Web site: *https://www.usuhs.edu/vpe/bor.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Pursuant to 5 U.S.C. 552b(c)(2, 5–7), the Department of Defense has determined that the portion of the meeting from 10:25 a.m. to 10:55 a.m. shall be closed to the public. The Under Secretary of Defense (Personnel and Readiness), in consultation with the Office of the Department of Defense General Counsel, has determined in

writing that this portion of the Board's meeting will be closed as the discussion will disclose sensitive personnel information, will include matters that relate solely to the internal personnel rules and practices of the agency, will involve allegations of a person having committed a crime or censuring an individual, and may disclose investigatory records compiled for law enforcement purposes.

Purpose of the Meeting: The purpose of the meeting is to provide advice and recommendations to the Secretary of Defense, through the Under Secretary of Defense for Personnel and Readiness, on academic and administrative matters critical to the full accreditation and successful operation of the University. These actions are necessary for the University to pursue its mission, which is to educate, train and comprehensively prepare uniformed services health professionals, officers, scientists and leaders to support the Military and Public Health Systems, the National Security and National Defense Strategies of the United States, and the readiness of our Uniformed Services.

Agenda: The actions scheduled to occur during the open session include the review of the minutes from the Board meeting held on February 2, 2017; recommendations regarding the awarding of post-baccalaureate degrees; recommendations regarding the approval of faculty appointments and promotions; and recommendations regarding award nominations. The University President will provide a report on recent actions affecting academic and operational aspects of the University. Member reports will include an Academics Summary consisting of reports from the Dean of the F. Edward Hébert School of Medicine, Dean of the Daniel K. Inouye Graduate School of Nursing, Executive Dean of the Postgraduate Dental College, Dean of the College of Allied Health Sciences, Director of Graduate Medical Education, and the President of the USU Faculty Senate. Member Reports will also include a Finance and Administration Summary consisting of reports from the Director of the Armed Forces Radiobiology Research Institute (AFRRI); Senior Vice President, Southern Region; Senior Vice President, Western Region; and Vice President for Finance and Administration. There will be reports on USU Student Leadership Curriculum, the Henry M. Jackson Foundation for the Advancement of Military Medicine, and the USU Alumni Association. A closed session will be held, after the open session, to discuss active investigations and personnel actions.

Meeting Accessibility: Pursuant to Federal statutes and regulations (5 U.S.C., Appendix, 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from 8:00 a.m. to 10:15 a.m. Seating is on a first-come basis. Members of the public wishing to attend the meeting should contact Jennifer Nuetzi James no later than five business days prior to the meeting, at the address and phone number noted in the **FOR FURTHER INFORMATION CONTACT** section.

Written Statements: Pursuant to section 10(a)(3) of the Federal Advisory Committee Act of 1972 and 41 CFR 102–3.140, the public or interested organizations may submit written comments to the Board about its approved agenda pertaining to this meeting or at any time regarding the Board's mission. Individuals submitting a written statement must submit their statement to the Designated Federal Officer at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written statements that do not pertain to a scheduled meeting of the Board may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at the planned meeting, then these statements must be received at least 5 calendar days prior to the meeting, otherwise, the comments may not be provided to or considered by the Board until a later date. The Designated Federal Officer will compile all timely submissions with the Board's Chair and ensure such submissions are provided to Board Members before the meeting.

Dated: April 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–07553 Filed 4–13–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Defense Science Board 2017 Summer Study Task Force on Countering Anti-Access Systems with Longer Range and Standoff Capabilities (''the Long Range Effects 2017 Summer Study Task Force'') will meet in closed session on Wednesday, April 26, 2017 from 7:50 a.m. to 5:00 p.m. and Thursday, April 27, 2017 from 8:00 a.m. to 4:00 p.m. at Strategic Analysis Inc., The Executive Conference Center, 4075 Wilson Boulevard, 3rd Floor, Arlington, VA 22203.

DATES: Wednesday, April 26, 2017 from 7:50 a.m. to 5:00 p.m. and Thursday, April 27, 2017 from 8:00 a.m. to 4:00 p.m.

ADDRESSES: Strategic Analysis Inc., The Executive Conference Center, 4075 Wilson Boulevard, 3rd Floor, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Rose, Executive Officer, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140, via email at *debra.a.rose20.civ@mail.mil,* or via phone at (703) 571–0084 or the Defense Science Board's Designated Federal Officer (DFO) Ms. Karen D.H. Saunders, Executive Director, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301, via email at *karen.d.saunders.civ@mail.mil* or via phone at (703) 571–0079.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Defense Science Board was unable to provide public notification concerning its meeting on April 26 through 27, 2017, of the Defense Science Board 2017 Summer Study Task Force on Countering Anti-access Systems with Longer Range and Standoff Capabilities, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

The mission of the DSB is to provide independent advice and recommendations on matters relating to the Department of Defense's (DoD) scientific and technical enterprise. The objective of the Long Range Effects 2017 Summer Study Task Force is to explore new defense systems and technologies that will enable cost effective power projection that relies on the use of longer stand-off distances than current capabilities. System components may be deployed on manned or unmanned platforms with a range of potential autonomous capabilities. Use of cost reducing technology and advanced production practices from defense and

commercial industry may be a major part of the strategy for deploying adequate numbers of weapons. The study should investigate and analyze all of these areas and recommend preferred system options. This two-day session will focus on future capabilities and architectures for the Department. Day One briefings will include opening remarks and expectations for the two-day session from Dr. David Whelan and Mr. Mark Russell, task force co-chairs; a briefing on long-range effects in the Pacific, including U.S. Navy operational programs and planning in the U.S. Pacific Command area of responsibility, from Commander David Fields, U.S. Pacific Fleet, U.S. Navy; a briefing on Future Naval Capabilities, including utilization of Navy resources to address adversary long range strike capabilities, from VADM Jan Tighe, Deputy Chief of Naval Operations for Information Warfare/Director of Naval Intelligence, U.S. Navy; a briefing on countering anti-access systems with longer range and standoff capabilities from Mr. James MacStravic, Performing the Duties of the Under Secretary of Defense for Acquisition, Technology, and Logistics; and a briefing on Department of Defense Space Policy, from Mr. John Hill, Office of the Secretary of Defense, Space Policy. The remainder of this day will be the Long Range Effects 2017 Summer Study Task Force's four panel break-out sessions: Architecture; Intelligence, Surveillance, and Reconnaissance (ISR); Basing, Delivery, and Weapons; Command, Control, Communications, and Cyber. These panels will meet simultaneously to discuss topics to analyze in support of the study. Day Two activities will be the Long Range Effects 2017 Summer Study Task Force's four panel break-out sessions: Architecture; Intelligence, Surveillance, and Reconnaissance (ISR); Basing, Delivery, and Weapons; Command, Control, Communications, and Cyber. These panels will meet simultaneously to discuss topics to analyze in support of the study. The Day Two will close with discussion of the four panels' work.

In accordance with section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the Long Range Effects 2017 Summer Study Task Force meeting will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology, and Logistics), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because matters covered by 5 U.S.C. 552b(c)(1) will be considered. The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

In accordance with section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the Long Range Effects 2017 Summer Study Task Force members at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB's DFO—Ms. Karen D.H. Saunders, Executive Director, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301, via email at *karen.d.saunders.civ@mail.mil* or via phone at (703) 571–0079 at any point; however, if a written statement is not received at least 3 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Long Range Effects 2017 Summer Study Task Force until the next meeting of this task force. The DFO will review all submissions with the Long Range Effects 2017 Summer Study Task Force Co-Chairs and ensure they are provided to Long Range Effects 2017 Summer Study Task Force members prior to the end of the two day meeting on April 27, 2017.

Dated: April 11, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–07588 Filed 4–13–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

The Release of the Draft Environmental Impact Statement (DEIS) for the Bogue Banks Master Beach Nourishment Plan (BBMBNP), on Bogue Banks Barrier Island, Carteret County, NC

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The U.S. Army Corps of Engineers (COE), Wilmington District, Wilmington Regulatory Field Office has received a request for Department of the Army authorization, pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbor Act, from Carteret County to implement, under an inter-local agreement between the towns on Bogue Banks barrier island, a comprehensive 50-year beach and inlet management plan for the protection of approximately 25 miles of Bogue Banks shoreline. In order to address ongoing shoreline erosion in a more effective manner, the County and island municipalities (Towns of Atlantic Beach, Pine Knoll Shores, Indian Beach, and Emerald Isle) are proposing to combine their shore protection efforts under a more efficient comprehensive 50-year beach and inlet management plan known as the Bogue Banks Master Beach Nourishment Plan (BBMBNP).

DATES: Written comments on the DEIS must be received at (see **ADDRESSES** below) no later than 5 p.m. on May 29, 2017.

ADDRESSES: Copies of comments and questions regarding the DEIS may be addressed to: U.S. Army Corps of Engineers, Wilmington District, Regulatory Division. ATTN: File Number SAW–2009–00293, 69 Darlington Avenue, Wilmington, NC 28403. Copies of the DEIS can be reviewed on the Corps homepage at, *http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/MajorProjects.aspx,* under Bogue Banks 50-Year Project: Corps ID # SAW–2009–00293.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS and/or to requests receive a CD or written copies of the DEIS can be directed to Mr. Mickey Sugg, Wilmington Regulatory Field Office, telephone: (910) 251–4811 or *mickey.t.sugg@usace.army.mil* .

SUPPLEMENTARY INFORMATION:

1. *Project Purpose and Need.* The proposed action is to establish and implement a comprehensive, long-term,

non-federal beach and inlet management program that would preserve Bogue Banks' tax base, protect its infrastructure, and maintain its tourism-based economy. The COE Civil Work's investigation of a long-term federal Coastal Storm Damaged Reduction (CSDR) project for Bogue Banks has been ongoing for nearly 30 years. The island's shoreline has been managed in some capacity for over 35 years by Federal projects administered through the COE Civil Works program and by non-federal projects implemented by the County, and/or local municipalities through the COE Regulatory permit program. Since 1978, roughly 11 million cubic yards of sand have been placed upon the beaches of Bogue Banks at a total cost of approximately $95 million. Past management efforts have largely consisted of stand-alone projects that were undertaken to address site-specific erosional problems. This stand-alone approach has limited the efficiency and effectiveness of past and current efforts by the County and island municipalities to implement shore protection projects and to maintain the beaches. As federal funding for shore protection projects has declined, the future of a long-term federal CSDR project has grown increasingly uncertain. The proposed action would address the ongoing trend of declining federal shore protection funding by establishing a non-federal management program under the autonomous control of the County and the island municipalities. An island wide regional strategy was developed to do the following: (1) Establish a regional approach by consolidating local community resources, both financially and logistically, to manage Bogue Inlet and the beaches on Bogue Banks in an effective manner, (2) Provide long-term shoreline protection stabilization and an equivalent level of protection along Bogue Banks' 25-mile oceanfront/inlet shorelines addressing long-term erosion, (3) Provide long-term protection to Bogue Banks' tourism industry, (4) Provide short and long-term protection to residential and commercial structures and island infrastructure, (5) Provide long-term protection to the local tax base by protection existing and future tax bases and public access/use, (6) Maintain and improve natural resources along Bogue Banks' oceanfront and inlet shoreline by using compatible beach material in compliance with the North Carolina State Sediment Criteria for shore protection, (7) Maintain and improve recreational uses of Bogue Banks' oceanfront/inlet shorelines, (8) Maintain navigation conditions within Bogue Inlet, and (9) Balance the needs of the human environment with the protection of existing natural resources.

2. *Proposed Action.* Within the County's preferred alternative, known as Alternative 4 (or the BBMBNP), the County would manage all of the approximately 18 miles of beaches along Pine Knoll Shores, Indian Beach/Salter Path, and Emerald Isle, along with the eastern shoreline of Bogue Inlet. The 50-year management would employ a regular and recurring cycle of nourishment events, in combination with periodic realignments of the Bogue Inlet ebb tide channel, to continuously maintain beach profile sand volumes at a 25-year Level of Protection (LOP). This LOP equates to protection for upland structures against a 25-year storm event, and nourishment events would be implemented according to 25-year LOP beach profile volumetric triggers. Volumetric triggers were developed by analyzing and adjusting design beach profiles in a series of iterative SBEACH numerical modeling runs. The final modeling results indicated appropriate volumetric triggers ranging from 211–266 cubic yards/foot along Bogue Banks, averaging 238 cubic yards/foot. Based on variability in the volumetric triggers, the project shoreline was divided into management reaches ranging in length from 2.4 to 4.5 miles. Reaches include Pine Knoll Shores, Indian Beach/Salter Path, Emerald Isle (EI) East, EI Central, EI West, and Bogue Inlet. Based on the SBEACH modeling results and observed background erosional loss rates, EI Central, EI West, and Bogue Inlet management reaches are expected to require recurring nourishment of approximately 0.06 to 0.23 million cubic yards of material at intervals of six or nine years to offset background erosion. For Pine Knoll Shores, Indian Beach/Salter Path, and EI East, recurring maintenance events would place approximately 0.2 to 0.5 million cubic yards of material at intervals of three or six years to offset background erosion. Actual maintenance nourishment intervals would be expected to vary in response to background erosion rate variability over the course of the 50-year project.

For Bogue Inlet management, the proposal has designated a ''safe box'' within the inlet throat where the ebb channel would be allowed to migrate freely so long as it remains within the boundaries of the safe box. If the channel migrates beyond the eastern boundary of the safe box (or toward Emerald Isle), this would trigger a preemptive event to realign the ebb channel mid-center within the established boundary. The limits of the safe box were developed and evaluated through empirical analysis of historical inlet changes and supplemental numerical modeling. Historical ebb channel alignments and corresponding inlet shoreline positions were analyzed through GIS analysis of historical aerial photography, National Ocean Service (NOS) T-sheet maps, and LIDAR topographic maps. Past migration rates and corresponding shoreline changes indicate that once eastward migration accelerates toward Emerald Isle, the migrating channel has the potential to threaten structures along the shoreline within two to three years. Based on the historical patterns, a safe box was established with boundaries corresponding to the location where acceleration of the ebb channel towards the west end of Emerald Isle has occurred in the past. The validity of the boundaries were then evaluated by modeling a series of six idealized inlet configurations encompassing the range of most relevant historical ebb channel alignments. Modeling results did not show any additional geomorphological indicators of an impending shift to accelerated migration that warranted modifications to the initial safe box. Once the boundary threshold is triggered, the relocation event would entail the construction of a channel approximately 6,000-feet long with variable bottom widths ranging from 150 to 500 feet. The dimensions of the channel would be similar to the footprint of the ebb tide channel realignment construction completed in 2005. Maintenance events of Bogue Inlet are expected approximately every ten to fifteen years, with corresponding placement of dredged material on the beaches of Emerald Isle.

Beach fill for all the proposed nourishment activities on Bogue Banks would be acquired from a combination of sources including offshore borrow sites, Atlantic Intracoastal Waterway disposal areas, upland sand mines, and the management of the Bogue Inlet. The offshore borrow sites consist of the Old Offshore Dredge Material Disposal Site (ODMDS) and the current ODMDS, which are located approximately 3 nautical miles offshore from Beaufort Inlet, and Area Y, which is located over 1.0 mile offshore from EI West reach. It is expected that hopper dredge plants will be used to extract beach fill material from the offshore borrow sites. Material would be transported from the hopper dredges to offshore booster pumps and carried to the appropriate nourishment reaches via pipeline. A hydraulic cutterhead dredge will likely be used during the management of the

inlet bar channel event, which would transport the dredge material directly from the dredge plant onto the beach via pipelines.

3. *Alternatives.* Several alternatives have been identified and evaluated through the scoping process, and further detailed description of all alternatives is disclosed in Section 3.0 of the FEIS.

4. *Scoping Process.* To date, a public scoping meeting was held on September 30, 2010 in Morehead City; several Project Delivery Team (PDT) meetings have been held, which were comprised of local, state, and federal government officials, local residents and nonprofit organizations.

The COE has coordinated closely with Bureau of Ocean Energy and Management (BOEM), which has agreed to be a cooperating agency, in the development of the DEIS to ensure the process complies with the requirements of the Outer Continental Shelf Lands Act (OCSLA) and with the National Environmental Policy Act (NEPA). Additionally, the COE has preliminarily consulted with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service Protected Resources Division under the Endangered Species Act; with U.S. Fish and Wildlife and National Marine Fisheries Service Habitat Conservation Division under the Fish and Wildlife Coordination Act; and with the National Marine Fisheries Service Habitat Conservation Division under the Magnuson-Stevens Act. The DEIS assesses the potential water quality impacts pursuant to Section 401 of the Clean Water Act, and is coordinated with the North Carolina Division of Coastal Management (DCM) to insure consistency with the Coastal Zone Management Act.

Dated: April 3, 2017.

Scott McLendon,

Regulatory Division Chief, Wilmington District.

[FR Doc. 2017–07572 Filed 4–13–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.259A]

Proposed Waiver and Extension of the Project Period for the Native Hawaiian Career and Technical Education Program

AGENCY: Office of Career, Technical, and Adult Education, Department of Education.

ACTION: Proposed waiver and extension of the project period.

SUMMARY: For the Native Hawaiian Career and Technical Education Program (NHCTEP), the Secretary proposes to waive the requirements in 34 CFR 75.261(a) and (c)(2) that generally prohibit project period extensions involving the obligation of additional Federal funds and extend the project periods for the current seven NHCTEP grantees for an additional 12 months under the existing program authority. This proposed waiver and extension would allow the seven current NHCTEP grantees to seek fiscal year (FY) 2017 continuation awards for project periods through FY 2018 under the existing program authority.

DATES: We must receive your comments on or before May 15, 2017.

ADDRESSES: Address all comments regarding this proposed extension and waiver to Linda Mayo, U.S. Department of Education, 400 Maryland Avenue SW., Room 11075, Potomac Center Plaza (PCP), Washington, DC 20202–7241. If you prefer to send your comments by email, use the following address: *linda.mayo@ed.gov.* You must include the term ''Proposed Waiver and Extension for NHCTEP'' in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Linda Mayo by telephone at (202) 245–7792 or by email at: *linda.mayo@ed.gov.* If you use a telecommunications device for the deaf or a text telephone, call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding this proposed waiver and extension of the project period. During and after the comment period, you may inspect all public comments about this proposed waiver and extension in Room 11075, PCP, 550 12th Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Washington, DC time, Monday through Friday of each week, except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Background

NHCTEP, authorized by section 116 of the Carl D. Perkins Career and Technical Education Act of 2006 (Act), supports grants to community-based organizations primarily serving and representing Native Hawaiians.[1] Under this program, grantees carry out projects that provide organized educational activities offering a sequence of courses that—

(a) Provides individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in current or emerging professions;

(b) Provides technical skill proficiency, an industry-recognized credential, a certificate, or an associate degree; and

(c) May include prerequisite courses (other than remedial courses) that meet the definitional requirements of section 3(5)(A) of the Act (20 U.S.C. 2302(5)(A)).

These organized educational activities may also include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

On June 14, 2013, we published in the **Federal Register** (78 FR 35877), a notice inviting applications for NHCTEP grants (2013 NIA). The project periods for the NHCTEP projects funded under the 2013 NIA were scheduled to end in 2015.

On February 10, 2015, we published in the **Federal Register** (80 FR 7397) a proposed waiver and extension of the project period for the NHCTEP. In that notice, we stated that we did not believe it would be in the public interest to hold a new NHCTEP competition in FY 2015, due to the potential for changes in the authorizing legislation for NHCTEP beyond 2015, resulting in projects that might then operate for just one year. Following that notice and consideration of the comments received in response to it, on July 7, 2015 we published in the **Federal Register** (80 FR 38672), a notice of final waiver and extension of the project period for the NHCTEP, waiving the requirements of 34 CFR 75.261(a) and (c)(2) that generally prohibit project period extensions involving the obligation of additional Federal funds. Therefore, the current seven NHCTEP grantees were permitted to request an

[1] For purposes of NHCTEP, ''community-based organization'' means a public or private organization that provides career and technical education, or related services, to individuals in the Native Hawaiian community.

extension of the project period for up to an additional 24 months.

In this notice, we are proposing to waive the requirements in 34 CFR 75.261(a) and (c)(2) in order to allow the Department to consider requests to extend the project period for an additional 12 months. Given that these funds expire by September 30, 2017, there would be limited time to conduct a NHCTEP competition and provide the new administration sufficient time to determine its Career and Technical Education priorities. Therefore, the Department believes it is in the best interest of the public to extend the grants for an additional twelve months.

If this proposed waiver becomes final through a notice of final waiver and extension of the project period published in the **Federal Register**: (1) The requirements applicable to continuation awards for current NHCTEP grantees set forth in the 2013 NIA and the requirements in 34 CFR 75.253 would apply to any continuation awards sought by current NHCTEP grantees; and (2) we will make decisions regarding the continuation awards based on grantee program narratives, budgets and budget narratives, and program performance reports and the requirements in 34 CFR 75.253; and (3) we will not announce a new competition or make new awards in FY 2017.

The proposed waiver and project period extension would not exempt the current NHCTEP grantees from the appropriation account closing provisions of 31 U.S.C. 1552(a), nor would they extend the availability of funds previously awarded to current NHCTEP grantees. As a result of 31 U.S.C. 1552(a), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the U.S. Department of the Treasury and is unavailable for restoration for any purpose (31 U.S.C. 1552(b)).

Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waiver and extension and the activities required to support additional months of funding would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by this proposed waiver and extension are the seven currently funded NHCTEP grantees and any other potential applicants. The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the extension of an existing project imposes minimal compliance costs, and the activities required to support the additional years of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of proposed waiver and extension does not contain any information collection requirements.

Intergovernmental Review

The NHCTEP is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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

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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: April 11, 2017.

Kim R. Ford,

Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.

[FR Doc. 2017–07608 Filed 4–13–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–62–000]

Potomac Economics, Ltd. v. PJM Interconnection, LLC; Notice of Complaint

Take notice that on April 6, 2017, pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 (2016), Potomac Economics, Ltd. (Complainant) filed a formal complaint against PJM Interconnection, LLC (Respondent) seeking revision of Respondent's Open Access Transmission Tariff and Reliability Assurance Agreement Among Load-Serving Entities in the PJM Region (Agreements). Complainant asserts that the Commission should direct the Respondent to revise these agreements by eliminating the existing pseudo-tie requirement that Complainant argues is unjust, unreasonable, and unduly discriminatory, all as more fully explained in the complaint.

Complainant certifies that copies of the complaint were served on Respondent, the Organization of PJM States, Inc. agencies, and all of the parties in Docket No. ER17–1138–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for

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

Comment Date: 5:00 p.m. Eastern Time on May 8, 2017.

Dated: April 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–07545 Filed 4–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–558–000]

PennEast Pipeline Company, LLC; Notice of Availability of the Final Environmental Impact Statement for the Proposed Penneast Pipeline Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a final environmental impact statement (EIS) for the PennEast Pipeline Project, proposed by PennEast Pipeline Company, LLC (PennEast) in the above-referenced docket. PennEast requests authorization to construct and operate a 120.2-mile-long greenfield pipeline to provide 1.1 million dekatherms per day of year-round natural gas transportation service from northern Pennsylvania to markets in eastern and southeastern Pennsylvania, New Jersey, and surrounding states. The 120.2 miles would consist of 116.0 miles of 36-inch-diameter pipeline (78.3 miles in Pennsylvania and 37.7 miles in New Jersey) as well as three laterals totaling 4.2 miles, and up to 47,700 horsepower (hp) of compression at one new compressor station in Carbon County, Pennsylvania.

The final EIS assesses the potential environmental effects of the construction and operation of the PennEast Pipeline Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with the mitigation measures recommended in the EIS, would result in some adverse environmental impacts, but impacts would be reduced to less than significant levels with the implementation of PennEast's proposed and our recommended mitigation measures. This determination is based on our review of the information provided by PennEast and further developed from data requests; field investigations; scoping; literature research; alternatives analysis; and contacts with federal, state, and local agencies as well as Indian tribes and individual members of the public.

The U.S. Environmental Protection Agency (EPA), U.S. Army Corps of Engineers, and U.S. Department of Agriculture, Natural Resource Conservation Service participated as cooperating agencies in the preparation of the final EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposal and participate in the NEPA analysis. Although these agencies provided input to the conclusions and recommendations presented in the final EIS, the agencies will present their own conclusions and recommendations in any respective record of decision or determination for the project.

The final EIS addresses the potential environmental effects of the construction and operation of the following project facilities:

- 116.0 miles of new, 36-inch-diameter pipeline extending from Luzerne County, Pennsylvania to Mercer County, New Jersey;
- the 2.1-mile Hellertown Lateral consisting of 24-inch-diameter pipeline in Northampton County, Pennsylvania;
- the 0.6-mile Gilbert Lateral consisting of 12-inch-diameter pipeline in Hunterdon County, New Jersey;
- the 1.5-mile Lambertville Lateral consisting of 36-inch-diameter pipeline in Hunterdon County, New Jersey;
- new, 47,700 hp Kidder Compressor Station in Kidder Township, Carbon County, Pennsylvania; and
- associated aboveground facilities including eight metering and regulating stations for interconnections, eleven main line valve sites, and four pig launcher/receiver sites.

The FERC staff mailed copies of the final EIS to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; and newspapers and libraries in the project area. Paper copy versions of this EIS (Volume 1 in paper copy with the remainder on CD) were mailed to those specifically requesting them; all others received a CD version of the complete document.

In addition, the final EIS is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426. (202) 502–8371.

In accordance with the Council on Environmental Quality's (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the EPA publishes a notice of availability of the final EIS in the **Federal Register**. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process that allows other agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the final EIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–558). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676; for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: April 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–07543 Filed 4–13–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No., 2305–059]

Sabine River Authority of Texas; Sabine River Authority, State of Louisiana: 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. *Application Type:* Non-Project Use of Project Lands.

b. *Project No:* 2305–059.

c. *Date Filed:* March 3, 2017 and supplemented on March 31, 2017.

d. *Applicant:* Sabine River Authority of Texas and Sabine River Authority, State of Louisiana.

e. *Name of Project:* Toledo Bend Project.

f. *Location:* The project is located on the Sabine River on the Texas-Louisiana border in Panola, Shelby, Sabine, and Newton Counties in Texas and DeSoto, Sabine, and Vernon Parishes in Louisiana.

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

h. *Applicant Contact:* Charles R. Sensiba; (202) 298–1800, Sharon L. White; (202) 298–1800, Van Ness Feldman, LLP, 1050 Thomas Jefferson St. NW., Washington DC 20007.

Carl L. Chance; (318) 256–4112, Sabine River Authority, State of Louisiana, 15091 Texas Hwy, Many, LA 71449.

i. *FERC Contact:* Holly Frank, (202) 502–6833, *Holly.Frank@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission. All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp*. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. 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–2305–059.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Sabine River Authority of Texas and Sabine River Authority, State of Louisiana request Commission approval to grant M5 Midstream LLC a permit to use project lands and waters within the project boundary on the Sabine River for the construction of a water withdrawal intake to withdraw up to 6.3 million gallons of water per day from the Sabine River for the purpose of creating an impoundment outside the project boundary to provide a freshwater source for nearby natural gas development. The water withdrawal is anticipated to occur full-time for the first month to create the impoundment and intermittently as needed afterwards for refill purposes. To facilitate the withdrawal, the water intake facility, an access road easement, and a combined water pipeline and overhead powerline easement would be constructed within the project boundary.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: April 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–07546 Filed 4–13–17; 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 exempt wholesale generator filings:

Docket Numbers: EG17–91–000.

Applicants: Deerfield Wind, LLC.

Description: Self-Certification of EWG Status of Deerfield Wind, LLC.

Filed Date: 4/7/17.

Accession Number: 20170407–5103.

Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: EG17–92–000.
Applicants: Tule Wind LLC.
Description: Self-Certification of EWG Status of Tule Wind LLC.
Filed Date: 4/7/17.
Accession Number: 20170407–5106.
Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: EG17–93–000.
Applicants: Twin Buttes Wind II LLC.
Description: Self-Certification of EWG Status of Twin Buttes Wind II LLC.
Filed Date: 4/7/17.
Accession Number: 20170407–5111.
Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: EG17–94–000.
Applicants: El Cabo Wind LLC.
Description: Self-Certification of EWG Status of El Cabo Wind LLC.
Filed Date: 4/7/17.
Accession Number: 20170407–5114.
Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: EG17–95–000.
Applicants: Henderson County Solar LLC.
Description: Self-Certification of EG or FC of Henderson County Solar LLC.
Filed Date: 4/7/17
Accession Number: 20170407–5205.
Comments Due: 5 p.m. ET 4/28/17.

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

Docket Numbers: ER16–1760–001.
Applicants: Armstrong Power, LLC.
Description: Compliance filing: Informational Filing Regarding Planned Transfer to be effective N/A.
Filed Date: 4/6/17.
Accession Number: 20170406–5231.
Comments Due: 5 p.m. ET 4/27/17.

Docket Numbers: ER16–1764–001.
Applicants: Troy Energy, LLC.
Description: Compliance filing: Informational Filing Regarding Planned Transfer to be effective N/A.
Filed Date: 4/6/17.
Accession Number: 20170406–5232.
Comments Due: 5 p.m. ET 4/27/17.

Docket Numbers: ER17–1390–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: Engineering and Permitting Agreement with California High Speed Rail (RS 247) to be effective 4/7/2017.
Filed Date: 4/6/17.
Accession Number: 20170406–5512.
Comments Due: 5 p.m. ET 4/27/17.

Docket Numbers: ER17–1391–000.
Applicants: Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Penelec, et al submits Revised WASPs Service Agreement Nos. 4221, 4222, and 4223 to be effective 6/6/2017.
Filed Date: 4/7/17.
Accession Number: 20170407–5053.
Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: ER17–1392–000.
Applicants: El Cabo Wind LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 6/6/2017.
Filed Date: 4/7/17.
Accession Number: 20170407–5054.
Comments Due: 5 p.m. ET 4/28/17.

Docket Numbers: ER17–1393–000.
Applicants: Midcontinent Independent System Operator.
Description: § 205(d) Rate Filing: 2017–04–07_MISO 1st Quarter 2017 Tariff Clean-Up Filing to be effective 4/8/2017.
Filed Date: 4/7/17.
Accession Number: 20170407–5207.
Comments Due: 5 p.m. ET 4/28/17.

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: April 7, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–07544 Filed 4–13–17; 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 Number: PR17–37–000.
Applicants: Atlanta Gas Light Company.
Description: Tariff filing per 284.123(b), (e)+(g): Rate Change to Reflect Change in State-Approved Rates to be effective 3/1/2017; Filing Type: 1300.
Filed Date: 3/30/17.
Accession Number: 201703305274.
Comments Due: 5 p.m. ET 4/20/17.
284.123(g) Protests Due: 5 p.m. ET 5/30/17.

Docket Number: PR17–38–000.
Applicants: Montana-Dakota Utilities Co.
Description: Tariff filing per 284.123(b), (e)+(g): Revision to Statement of Effective Rates to be effective 1/1/2017; Filing Type: 1300.
Filed Date: 3/31/17.
Accession Number: 201703315165.
Comments Due: 5 p.m. ET 4/21/17.
284.123(g) Protests Due: 5 p.m. ET 5/30/17.

Docket Number: PR17–39–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b), (e)/: COH SOC to be effective 3/30/2017; Filing Type: 980.
Filed Date: 3/31/17.
Accession Number: 201703315312.
Comments/Protests Due: 5 p.m. ET 4/21/17.

Docket Number: PR17–31–001.
Applicants: Southern California Gas Company.
Description: Tariff filing per 284.123(b), (e)+(g): Revision to rates for Offshore Delivery (OSHD) Refile 2 to be effective 1/1/2017; Filing Type: 1270.
Filed Date: 4/3/17.
Accession Number: 201704035504.
Comments Due: 5 p.m. ET 4/24/17.
284.123(g) Protests Due: 5 p.m. ET 5/1/17.

Docket Numbers: RP17–256–001.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits tariff filing per 154.203: Gas Quality Settlement—RP17–256 Compliance Filing to be effective 6/1/2017.
Filed Date: 04/05/2017.
Accession Number: 20170405–5021.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 17, 2017.

Docket Numbers: RP17–643–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Amendment to Neg Rate Agmt (FPL 41618–26) to be effective 4/5/2017.
Filed Date: 04/05/2017.
Accession Number: 20170405–5180.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 17, 2017.

Docket Numbers: RP17–644–000.
Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Remove Expired Agreements (Castleton 460, Wells Fargo 1696) to be effective 5/1/2017.

Filed Date: 04/05/2017.

Accession Number: 20170405–5303.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 17, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified 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: April 6, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–07542 Filed 4–13–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9032–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs)

Filed 04/03/2017 Through 04/07/2017

Pursuant to 40 CFR 1506.9

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *http://www.epa.gov/compliance/nepa/eisdata.html*

EIS No. 20170053, Final, USAF, NC, KC–46A Third Main Operating Base Beddown, Review Period Ends: 05/15/2017, Contact: Hamid Kamalpour 210–925–3001

EIS No. 20170054, Final, NOAA, AL, Deepwater Horizon Oil Spill Alabama Trustee Implementation Group Final Restoration Plan I and Environmental Impact Statement: Provide and Enhance Recreational Opportunities, Review Period Ends: 05/15/2017, Contact: Dan Van Nostrand 251–544–5015

EIS No. 20170055, Final, FERC, PA, PennEast Pipeline Project, Review Period Ends: 05/15/2017, Contact: Medha Kochhar 202–502–8964

EIS No. 20170056, Final, USFS, ID, Designated Routes and Areas for Motor Vehicle Use (DRAMVU), Review Period Ends: 05/15/2017, Contact: Jennie Fischer 208–983–4048

Dated: April 11, 2017.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2017–07592 Filed 4–13–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Technical Release 17

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mailstop 6H19, Washington, DC 20548, or call (202) 512–7350.

SUPPLEMENTARY INFORMATION:

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Technical Release (TR) 17: *Conforming Amendments to Technical Releases for SFFAS 50, Establishing Opening Balances for General Property, Plant, and Equipment.*

The Statement is available on the FASAB Web site at *http://www.fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: April 10, 2017.

Wendy M. Payne,

Executive Director.

[FR Doc. 2017–07606 Filed 4–13–17; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

DATE AND TIME: Wednesday, April 19, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on April 20, 2017.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 52 U.S.C. 30109.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

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

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–07746 Filed 4–12–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Board Member Meeting

Federal Retirement Thrift Investment Board, 77 K Street NE., 10th Floor Board Room, Washington, DC 20002.

Agenda

Federal Retirement Thrift Investment Board Member Meeting, April 24, 2017, 8:30 a.m. (In-Person).

Open Session

1. Approval of the Meeting Minutes for the March 27, 2017 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Legislative Report
3. Quarterly Reports
   (c) Investment Performance
   (d) Audit Status
4. Annual Financial Audit—CLA
5. DOL Presentation
6. Consolidated IT/Audit Activities
7. OCFO Annual Report and Budget Review
8. Internal Audit

Closed Session

Information covered under 5 U.S.C. 552b(c)(9)(B).

Adjourn

Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: April 12, 2017.

Megan Grumbine,

Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2017–07747 Filed 4–12–17; 4:15 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

Granting of Requests for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice.

Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS

[Granted March 1, 2017 through March 31, 2017]

03/01/2017		
20170703	G	Bob Evans Farms, Inc.; Pineland Farms Potato Company, Inc.; Bob Evans Farms, Inc.
20170736	G	JANA Offshore Partners, Ltd.; Tiffany & Co.; JANA Offshore Partners, Ltd.
20170737	G	JANA Nirvana Offshore Fund, Ltd.; Tiffany & Co.; JANA Nirvana Offshore Fund, Ltd.
20170755	G	Land O' Lakes, Inc; Southern States Cooperative, Incorporated; Land O' Lakes, Inc.
03/02/2017		
20170756	G	Marcato International Ltd.; Deckers Outdoor Corporation; Marcato International Ltd.
20170763	G	Sonoco Products Company; Odyssey Investment Partners Fund IV, L.P.; Sonoco Products Company.
20170766	G	Genstar Capital Partners VII, L.P.; Parthenon Investors IV, L.P.; Genstar Capital Partners VII, L.P.
03/03/2017		
20170710	G	Silver Lake Partners IV, L.P.; Social Finance, Inc.; Silver Lake Partners IV, L.P.
20170721	G	Johnson & Johnson; R&D NewCo; Johnson & Johnson.
20170746	G	Stonepeak Infrastructure Fund II LP; Communications Realty Investments, LLC; Stonepeak Infrastructure Fund II LP.
20170747	G	Stonepeak Infrastructure Fund II LP; Cologix Holdings, Inc.; Stonepeak Infrastructure Fund II LP.
20170765	G	AB Electrolux; Anova Industries, Inc.; AB Electrolux.
20170768	G	Flex Ltd.; TCFI AGM LLC; Flex Ltd.
20170771	G	Birch Hill Equity Partners (US) V, LP; Audax Private Equity Fund III, L.P.; Birch Hill Equity Partners (US) V, LP.
20170778	G	Dr. Patrick Soon-Shiong; Altor BioScience Corporation; Dr. Patrick Soon-Shiong.
20170779	G	Beijing Teamsun Technology Co., Ltd.; Grid Dynamics International, Inc.; Beijing Teamsun Technology Co., Ltd.
20170783	G	EQT Mid Market US Limited Partnership; Dorner Holding Corp.; EQT Mid Market US Limited Partnership.
20170800	G	KPKV Holdings, Inc.; OIP Pexco AIV, L.P.; KPKV Holdings, Inc.
20170806	G	Elementis plc; One Rock Capital Partners, LP; Elementis plc.
03/06/2017		
20170773	G	Anadarko Petroleum Corporation; Ranch Westex JV LLC; Anadarko Petroleum Corporation.
20170774	G	Anadarko Petroleum Corporation; The Williams Companies, Inc.; Anadarko Petroleum Corporation.
20170775	G	The Williams Companies, Inc.; Anadarko Petroleum Corporation; The Williams Companies, Inc.
20170776	G	The Wendy's Company; Joseph D. Karam; The Wendy's Company.
20170780	G	Markel Corporation; John T. Knox, Jr.; Markel Corporation.
20170785	G	Robert W. Duggan; Human Longevity, Inc.; Robert W. Duggan.
20170790	G	White Deer Energy L.P.; White Deer Energy L.P. II; White Deer Energy L.P.
20170791	G	White Deer Energy L.P. II; White Deer Energy L.P.; White Deer Energy L.P. II.
03/07/2017		
20170731	G	Busch GbR; Pfeiffer Vacuum Technology AG; Busch GbR.
20170804	G	Restaurant Brands International Inc.; Popeyes Louisiana Kitchen, Inc.; Restaurant Brands International Inc.
20170807	G	Comfort Systems USA, Inc.; Daryl W. Blume; Comfort Systems USA, Inc.
20170814	G	M5 Midstream LLC; Azure Midstream Partners, LP; M5 Midstream LLC
20170820	G	BP p.l.c.; Clean Energy Fuels Corp.; BP p.l.c
03/08/2017		
20170696	G	WestRock Company; Multi Packaging Solutions International Limited; WestRock Company.

EARLY TERMINATIONS—Continued

[Granted March 1, 2017 through March 31, 2017]

20170805	G	Dr. Patrick Soon-Shiong; tronc, Inc.; Dr. Patrick Soon-Shiong.
20170810	G	KKR European Fund IV L.P.; TUI AG; KKR European Fund IV L.P.
03/09/2017		
20170781	G	Madison Dearborn Capital Partners VII–A, L.P.; BlueCat Networks (USA) Inc.; Madison Dearborn Capital Partners VII–A, L.P.
03/10/2017		
20170725	G	The Veritas Capital Fund V, L.P.; Harris Corporation; The Veritas Capital Fund V, L.P.
20170735	G	Saint Francis Health Systems, Inc.; AP VIII DSB Holdings, L.P.; Saint Francis Health Systems, Inc.
20170812	G	Savage Companies; Russ A. Settoon; Savage Companies.
20170813	G	Savage Companies; Plains All American Pipeline, L.P.; Savage Companies.
20170828	G	Gray Television, Inc.; Diversified Holding Co.; Gray Television, Inc.
20170832	G	GTCR Fund XI/B LP; AstraZeneca PLC; GTCR Fund XI/B LP.
03/13/2017		
20170802	G	William J. Dorminy, Jr.; Robert A. Jeffreys; William J. Dorminy, Jr.
20170815	G	Johnson & Johnson; Torax Medical, Inc.; Johnson & Johnson.
20170836	G	Roger S. Penske; Werner Schumacher & Berta Schumacher; Roger S. Penske.
20170837	G	Discovery Global Focus Partners, LP; Peabody Energy Corporation; Discovery Global Focus Partners, LP.
20170838	G	Discovery Global Opportunity Partners, LP; Peabody Energy Corporation; Discovery Global Opportunity Partners, LP.
20170839	G	Discovery Global Opportunity Fund, Ltd.; Peabody Energy Corporation; Discovery Global Opportunity Fund, Ltd.
20170840	G	Elliott International Limited; Peabody Energy Corporation; Elliott International Limited.
20170841	G	Elliott Associates, L.P.; Peabody Energy Corporation; Elliott Associates, L.P.
20170844	G	Blackstone Capital Partners VII NQ L.P.; Aon plc; Blackstone Capital Partners VII NQ L.P.
20170845	G	Baptist Memorial Health Care Corporation; Mississippi Baptist Health Systems, Inc.; Baptist Memorial Health Care Corporation.
20170847	G	Hi-Crush Partners LP; Hi-Crush Proppants LLC; Hi-Crush Partners LP.
20170848	G	Pattern Energy Group Inc.; Riverstone/Carlyle Renewable and Alternative Energy Fund II; Pattern Energy Group Inc.
20170849	G	Vestar Capital Partners VI, L.P.; Steven R. Don; Vestar Capital Partners VI, L.P.
20170850	G	Vestar Capital Partners VI, L.P.; Robert E. Don; Vestar Capital Partners VI, L.P.
20170852	G	Bonduelle SCA; Bayside Opportunity Fund, L.P.; Bonduelle SCA.
20170853	G	Bridgestone Corporation; Gaco Holdings, Inc.; Bridgestone Corporation.
20170855	G	Windjammer Senior Equity Fund IV, L.P.; Vital Records Holdings, LLC; Windjammer Senior Equity Fund IV, L.P.
20170859	G	The Veritas Capital Fund V, L.P.; Chicago Bridge & Iron Company NV.; The Veritas Capital Fund V, L.P.
03/14/2017		
20170788	G	Henry Schein, Inc.; Beecken Petty O'Keefe Fund III, L.P.; Henry Schein, Inc.
03/15/2017		
20170784	G	Corning Incorporated; Raymond M. Karam and Susanne Karam; Corning Incorporated.
20170801	G	Softbank Group Corp.; Social Finance, Inc.; Softbank Group Corp.
20170858	G	Mike Ashley; Subortis Retail Financing, LLC; Mike Ashley.
03/16/2017		
20170748	G	Planet Labs Inc.; Alphabet Inc.; Planet Labs Inc.
20170749	G	Alphabet Inc.; Planet Labs Inc.; Alphabet Inc.
20170762	G	Letterone Investment Holdings S.A.; Great Hill Equity Partners IV, LP; Letterone Investment Holdings S.A.
20170822	G	Trian Star Trust; The Procter & Gamble Company; Trian Star Trust.
20170825	G	Trian SPV XII, L.P.; The Procter & Gamble Company; Trian SPV XII, L.P.
20170827	G	Trian Partners, L.P.; The Procter & Gamble Company; Trian Partners, L.P.
20170829	G	Trian Partners Strategic Co-Investment Fund-A, L.P.; The Procter & Gamble Company; Trian Partners Strategic Co-Investment Fund-A, L.P.
20170830	G	Trian Partners Co-Investment Opportunities Fund, LLC; The Procter & Gamble Company; Trian Partners Co-Investment Opportunities Fund, LLC.
20170831	G	Trian Partners Strategic Investment Fund–A, L.P.; The Procter & Gamble Company; Trian Partners Strategic Investment Fund–A, L.P.
20170860	G	SteelRiver Infrastructure Fund North America LP; Delta Natural Gas Company, Inc.; SteelRiver Infrastructure Fund North America LP.
03/17/2017		
20170871	G	Estate of Horst Sartorius; SFW Capital Partners Fund, L.P.; Estate of Horst Sartorius.
03/20/2017		
20170786	G	Trident VI, L.P.; Stonegate Mortgage Corporation; Trident VI, L.P.
20170835	G	Arca Continental, S.A.B. de C.V.; AC Bebidas, S. de R.L. de C.V.; Arca Continental, S.A.B. de C.V.

EARLY TERMINATIONS—Continued

[Granted March 1, 2017 through March 31, 2017]

20170861	G	Clearlake Capital Partners IV, L.P.; Frontier Fund III, L.P.; Clearlake Capital Partners IV, L.P.
20170864	G	Rockwater Energy Solutions, Inc.; White Deer Energy L.P.; Rockwater Energy Solutions, Inc.
20170867	G	Gryphon Partners IV, L.P.; RFE Investment Partners VIII, L.P.; Gryphon Partners IV, L.P.
20170872	G	Igor Samartsev; IPG Photonics Corporation; Igor Samartsev.
20170880	G	Recon Wenyuan Cable Co., Ltd.; A&T Media, Inc.; Recon Wenyuan Cable Co., Ltd.
20170882	G	Dakota Holdings, LLC; Mezzanine Management Fund IV A, L.P.; Dakota Holdings, LLC.
20170883	G	Quebec L.P.; Telefonica , S.A.; Quebec L.P.
20170884	G	Dolphin Investment, L.P.; Keenan & Associates; Dolphin Investment, L.P.
03/21/2017		
20170809	G	Elliott Associates, L.P.; Oracle Corporation; Elliott Associates, L.P.
03/22/2017		
20170789	G	Baylor Scott & White Holdings; Tenet Healthcare Corporation; Baylor Scott & White Holdings.
20170854	G	B. Riley Financial, Inc.; FBR & Co.; B. Riley Financial, Inc.
20170890	G	Coca-Cola Bottling Company United, Inc.; The Coca-Cola Company; Coca-Cola Bottling Company United, Inc.
03/23/2017		
20170605	G	A.P. Moller-Maersk A/S; Dr. August Oetker AG; A.P. Moller-Maersk A/S.
03/24/2017		
20170818	G	Noble Energy, Inc.; Advantage Pipeline, L.L.C.; Noble Energy, Inc.
20170819	G	Plains All American Pipeline, L.P.; Advantage Pipeline, L.L.C.; Plains All American Pipeline, L.P.
20170821	G	Reckitt Benckiser Group plc; Mead Johnson Nutrition Company; Reckitt Benckiser Group plc.
20170892	G	The Goldman Sachs Group, Inc.; MDC Partners Inc.; The Goldman Sachs Group, Inc.
20170899	G	Enterprise Products Partners L. P.; Azure Midstream Partners, LP; Enterprise Products Partners L.P.
20170902	G	Greenbriar Equity Fund III, L.P.; Linsalata Capital Partners Fund V, L.P.; Greenbriar Equity Fund III, L.P.
20170904	G	Hastings Equity Fund III, L.P.; Speciality Welding and Turnarounds, LLC; Hastings Equity Fund III, L.P.
20170905	G	Brentwood Associates Private Equity V, L.P.; BC-Jefferson, GP; Brentwood Associates Private Equity V, L.P.
20170908	G	Temasek Holdings (Private) Limited; Turn, Inc.; Temasek Holdings (Private) Limited.
20170909	G	The KeyW Holding Corporation; Ares Corporate Opportunities Fund III, L.P.; The KeyW Holding Corporation.
20170910	G	J&F Investimentos S.A.; Leverandoerselskabet Danish Crown AmbA; J&F Investimentos S.A.
20170912	G	Babcock & Brown Limited; Marquis Wisconsin Holdings, LLC; Babcock & Brown Limited.
20170920	G	Extreme Networks, Inc.; Avaya Inc.; Extreme Networks, Inc.
20170921	G	Genpact Limited; Rage Frameworks, Inc.; Genpact Limited.
03/27/2017		
20170862	G	Gilead Sciences, Inc.; Sarepta Therapeutics Inc.; Gilead Sciences, Inc.
20170927	G	Ferdinand Porsche Familien-Privatstiftung; Silvercar, Inc.; Ferdinand Porsche Familien-Privatstiftung.
20170928	G	Graham Holdings Company; Nicolas Berggruen; Graham Holdings Company.
20170929	G	ASP AMC Holdngs, Inc.; Air Methods Corporation; ASP AMC Holdngs, Inc.
20170930	G	Harbour Group Investments VI, L.P.; Pfingsten Partners Fund IV, L.P.; Harbour Group Investments VI, L.P.
03/28/2017		
20170873	G	Cypress Investor Holdings, L.P.; Jaguar Holdings Inc.; Cypress Investor Holdings, L.P.
20170903	G	Giovanni Ferrero; 1–800–FLOWERS.COM, Inc.; Giovanni Ferrero.
20170919	G	Audax Private Equity Fund V–A, L.P.; Fastener Distribution Holdings, LLC; Audax Private Equity Fund V–A, L.P.
03/29/2017		
20170879	G	CA, Inc.; Veracode, Inc.; CA, Inc.
03/30/2017		
20170846	G	PayPal Holdings, Inc.; TIO Networks Corp.; PayPal Holdings, Inc.
20170875	G	Insight MB Holdings, LLC; AKKR Trilogy Investments, LLC; Insight MB Holdings, LLC.
20170887	G	Euromoney Institutional Investor PLC; Electra Private Equity PLC; Euromoney Institutional Investor PLC.
20170901	G	AP VIII Eagle LM5 Holdings, L.P.; AMCP Security AIV, LP; AP VIII Eagle LM5 Holdings, L.P.
20170915	G	TPO Venture Partners, LLC; Quadrangle (AIV) Capital Partners II LP; TPO Venture Partners, LLC .
20170916	G	Kelso Investment Associates VIII, L.P.; Samuel R. Shapiro; Kelso Investment Associates VIII, L.P.
03/31/2017		
20170193	G	Smiths Group plc; Safran S.A.; Smiths Group plc.
20170868	G	Tech Mahindra Limited; The CJS Solutions Group, LLC; Tech Mahindra Limited.

FOR FURTHER INFORMATION CONTACT: Theresa Kingsberry, Program Support Specialist, Federal Trade Commission Premerger Notification Office, Bureau of Competition, Room CC–5301, Washington, DC 20024, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–07541 Filed 4–13–17; 8:45 am]

BILLING CODE 6750–01–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket Number: 104142017–1111–11]

Notice of Proposed Subaward Under a Council-Selected Restoration Component Award

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice; correction.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (Council) published a document in the **Federal Register** on March 14, 2017 to provide notice of a proposed subaward from the National Oceanic and Atmospheric Administration (NOAA) to the Gulf of Mexico Alliance (GOMA), a nonprofit organization, for the purpose of supporting the Council Monitoring and Assessment Program (CMAP) in accordance with the Council Monitoring & Assessment Program Development award as approved in the Initial Funded Priority List. The March 14, 2017 notice did not include the amount of the proposed subaward. Through this correction, the Council publishes the amount of the proposed subaward.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *raams_pgmsupport@restorethegulf.gov.*

SUPPLEMENTARY INFORMATION: Section 1321(t)(2)(E)(ii)(III) of the RESTORE Act (33 U.S.C. 1321(t)(2)(E)(ii)(III)) and Treasury's implementing regulation at 31 CFR 34.401(b) require that, for purposes of awards made under the Council-Selected Restoration Component, a State or Federal award recipient may make a grant or subaward to or enter into a cooperative agreement with a nongovernmental entity that equals or exceeds 10 percent of the total amount of the award provided to the State or Federal award recipient only if certain notice requirements are met. Specifically, at least 30 days before the State or Federal award recipient enters into such an agreement, the Council must publish in the **Federal Register** and deliver to specified Congressional Committees the name of the recipient and subrecipient; a brief description of the activity, including its purpose; and the amount of the award.

In the **Federal Register** notice of March 14, 2017, at 82 FR 13607, the Council provided notice of a proposed subaward from NOAA to GOMA for the purpose of supporting CMAP in accordance with the Council Monitoring & Assessment Program Development award; however, the March 14, 2017 notice inadvertently omitted the amount of the proposed subaward to GOMA. The amount of the proposed subaward from NOAA to GOMA under the Council Monitoring & Assessment Program Development award is $525,000.

Will D. Spoon,

Program Analyst, Gulf Coast Ecosystem Restoration Council.

[FR Doc. 2017–07562 Filed 4–13–17; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2015–0020; Docket Number NIOSH 156–A]

Issuance of Final Guidance Publications

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of issuance of final guidance publications.

SUMMARY: NIOSH announces the availability of the following final 14 IDLH Value Profiles: Iron Pentacarbonyl, Acrylonitrile, 1,1-Dichloro-1-Fluoroethane (HCFC–141b), Chloroacetyl Chloride, Chlorine Pentafluoride, Furan, Hexafluoroacetone, n-Butyl Acrylate, Benzontrile, Methyl Isocyanate, Bromine Pentafluoride, 1,3-Butadiene, Diketene and Butane.

DATES: The final IDLH documents were published on October 5 and December 16, 2016.

ADDRESSES: These documents may be obtained at the following links:

- *Iron Pentacarbonyl: https://www.cdc.gov/niosh/docs/2016-166/*
- *Acrylonitrile: https://www.cdc.gov/niosh/docs/2016-167/*
- *1,1-Dichloro-1-Fluoroethane (HCFC–141b): https://www.cdc.gov/niosh/docs/2016-168/*
- *Chloroacetyl Chloride: https://www.cdc.gov/niosh/docs/2016-169/*
- *Chlorine Pentafluoride: https://www.cdc.gov/niosh/docs/2016-170/*
- *Furan: https://www.cdc.gov/niosh/docs/2016-171/*
- *Hexafluoroacetone: https://www.cdc.gov/niosh/docs/2016-172/*
- *n-Butyl Acrylate: https://www.cdc.gov/niosh/docs/2016-173/*
- *Butane: https://www.cdc.gov/niosh/docs/2016-174/*
- *Benzontrile: https://www.cdc.gov/niosh/docs/2017-104/*
- *Methyl Isocynate: https://www.cdc.gov/niosh/docs/2017-105/*
- *Bromine Pentafluoride: https://www.cdc.gov/niosh/docs/2017-106/*
- *1,3-Butadiene: https://www.cdc.gov/niosh/docs/2017-107/*
- *Diketene: https://www.cdc.gov/niosh/docs/2017-108/*

FOR FURTHER INFORMATION CONTACT: G. Scott Dotson, NIOSH/Education and Information Division, 1090 Tusculum Ave., MS C–32, Cincinnati, OH 45226, email address: *fya8@cdc.gov.*

SUPPLEMENTARY INFORMATION: On May 1, 2015, NIOSH published a request for public review in the **Federal Register** [80 FR 24930] on immediately dangerous to life and health (IDLH) values and support technical documents. All comments received were reviewed and accepted where appropriate.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2017–07523 Filed 4–13–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns the Centers for Disease Control and Prevention (CDC) initial review of applications in response to Funding Opportunity Announcement (FOA) GH17–002, Program Development and Research to Establish and Evaluate Innovative and Emerging Best Practices in Clinical and Community Services through the Presidents Emergency Plan for AIDS Relief (PEPFAR); GH17–003,

Conducting Public Health Research in South Africa; GH17–004, Conducting Public Health Research Activities in Egypt.

Summary: This publication corrects a notice that was published in the **Federal Register** on April 4, 2017, Volume 82, Number 63, page 16403. The meeting announcement, meeting date, and matters for discussion should read as follows:

The meeting announced below concerns the Centers for Disease Control and Prevention (CDC) initial review of applications in response to Funding Opportunity Announcements GH17–002, Program Development and Research to Establish and Evaluate Innovative and Emerging Best Practices in Clinical and Community Services through the President's Emergency Plan for AIDS Relief (PEPFAR); and GH17–003, Conducting Public Health Research in South Africa.

Time and Date: 9:00 a.m.–2:00 p.m., EDT, April 25, 2017, Panel A (Closed).

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Program Development and Research to Establish and Evaluate Innovative and Emerging Best Practices in Clinical and Community Services through the President's Emergency Plan for AIDS Relief (PEPFAR)'', FOA GH17–002; and ''Conducting Public Health Research in South Africa'', FOA GH17–003.

For Further Information Contact: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone: (404) 639–4796, *HSHOOB@CDC.GOV.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–07595 Filed 4–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) announce the following committee meeting.

Times and Dates: 8:30 a.m.–5:00 p.m., EDT, May 10, 2017; 8:30 a.m.–3:00 p.m., EDT, May 11, 2017.

Place: CDC Corporate Square, Building 8, Conference Room 1–ABC, 8 Corporate Boulevard, Atlanta, Georgia 30329, Telephone: (404) 639–8317. The meeting is also accessible by teleconference. Toll-free number 1–877–603–4228, Participant code: 42598858.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people. Persons who desire to make an oral statement, may request it at the time of the public comment period on May 10, 2017 at 4:30 p.m., EDT. Public participation and ability to comment will be limited to space and time as it permits.

Purpose: This committee is charged with advising the Director, CDC and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS, Viral Hepatitis and other STDs.

Matters for Discussion: Agenda items include the following topics: (1) HIV transmission risk in the context of viral suppression and antiretroviral therapy (ART) use; (2) Update on Pre-Exposure Prophylaxis (PrEP) utilization; (3) Vulnerable youth at risk for HIV, STDs, hepatitis, substance use and other health outcomes; (4) Eliminating hepatitis B and hepatitis C as public health threats in the United States—Setting Goals and Taking Action; and (5) Updates from Workgroups. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, Centers for Disease Control and Prevention, 1600 Clifton Road NE., Mailstop E–07, Atlanta, Georgia 30329, telephone (404) 639–8317; Email: *zkr7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–07593 Filed 4–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID) announces a meeting of the aforementioned committee:

Time and Date: 1:00 p.m.–2:30 p.m., EDT, May 5, 2017.

Place: This meeting will be accessible by teleconference. Toll-free +1 (888) 469–1070, Participant Code: 3132529.

Status: Open to the public limited only by the availability of 200 telephone ports. To register for this call, please go to *www.cdc.gov/hicpac.*

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare Quality Promotion, the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters for Discussion: The agenda will include a follow-up discussion on the Draft Recommendation Update for Chlorhexidine Impregnated Dressings. Call materials will be made available to the public no later than 2 business days

before the call. If CDC is unable to post the background material on the HICPAC site prior to the meeting, the background material will be posted on HICPAC's Web site after the meeting. Background material is available at *http://www.cdc.gov/hicpac.*

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Erin Stone, M.A., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE., Mailstop A–31, Atlanta, Georgia 30333; Email: *HICPAC@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–07594 Filed 4–13–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–1561/1561A, CMS–370 and CMS–377, CMS–10488, and CMS–10393]

Agency Information Collection Activities: Proposed Collection; 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 (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 June 13, 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 *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

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: William Parham at (410) 786–4669.

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–1561/1561A Health Insurance Benefit Agreement

CMS–370 and CMS–377 ASC Forms for Medicare Program Certification

CMS–10488 Consumer Experience Survey Data Collection

CMS–10393 Beneficiary and Family Centered Data Collection

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:* Extension of a currently approved collection; *Title of Information Collection:* Health Insurance Benefit Agreement; *Use:* Applicants to the Medicare program are required to agree to provide services in accordance with federal requirements. The CMS–1561/1561A is essential in that is allows us to ensure that applicants are in compliance with the requirements. Applicants will be required to sign the completed form and provide operational information to us to assure that they continue to meet the requirements after approval. *Form Number:* CMS–1561/1561A (OMB control number: 0938–0832); *Frequency:* Yearly; *Affected Public:* Private sector—(Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 2,400; Total *Annual Responses:* 2,400; *Total Annual Hours:* 400. (For policy questions regarding this collection contact Shonte Carter at 410–786–3532).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Titles of Information Collection:* ASC Forms for Medicare Program Certification; *Use:* The CMS–370 is used to establish eligibility for payment. This agreement, upon submission by the ambulatory surgical center (ASC) and acceptance for filing by the Secretary of Health & Human Services, shall be binding on both the ASC and the Secretary. The agreement may be terminated by either party in accordance with regulations. In the event of termination, payment will not be available for ASC services furnished on or after the effective date of termination.

The Request for Certification or Update of Certification Information in the Medicare Program Form (CMS–377)

is used by State agencies who conduct certification surveys on CMS' behalf to maintain information on the facility's characteristics that facilitate conducting surveys, *e.g.,* determining the size and the composition of the survey team on the basis of the number of ORs/procedure rooms and the types of surgical procedures performed in the ASC. *Form Numbers:* CMS–370 and CMS–377 (OMB control number: 0938–0266); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 5,694; *Total Annual Responses:* 1,898; *Total Annual Hours:* 627. (For policy questions regarding this collection contact Erin McCoy at 410–786–2337.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Consumer Experience Survey Data Collection; *Use:* Section 1311(c)(4) of the Affordable Care Act requires the Department of Health and Human Services (HHS) to develop an enrollee satisfaction survey system that assesses consumer experience with qualified health plans (QHPs) offered through an Exchange. It also requires public display of enrollee satisfaction information by the Exchange to allow individuals to easily compare enrollee satisfaction levels between comparable plans. HHS established the QHP Enrollee Experience Survey (QHP Enrollee Survey) to assess consumer experience with the QHPs offered through the Marketplaces. The survey include topics to assess consumer experience with the health care system such as communication skills of providers and ease of access to health care services. CMS developed the survey using the Consumer Assessment of Health Providers and Systems (CAHPS®) principles (*https://www.ahrq.gov/cahps/about-cahps/principles/index.html*) and established an application and approval process for survey vendors who want to participate in collecting QHP enrollee experience data.

The QHP Enrollee Survey, which is based on the CAHPS® Health Plan Survey, will be used to (1) help consumers choose among competing health plans, (2) provide actionable information that the QHPs can use to improve performance, (3) provide information that regulatory and accreditation organizations can use to regulate and accredit plans, and (4) provide a longitudinal database for consumer research. CMS completed two rounds of developmental testing including 2014 psychometric testing and 2015 beta testing of the QHP Enrollee Survey. The psychometric testing helped determine psychometric properties and provided an initial measure of performance for Marketplaces and QHPs to use for quality improvement. Based on psychometric test results, CMS further refined the questionnaire and sampling design to conduct the 2015 beta test of the QHP Enrollee Survey. CMS previously obtained clearance for the 2016 and 2017 administrations of the QHP Enrollee Survey.

At this time, CMS is requesting to renew approval for the information collection related to the QHP Enrollee Experience Survey in 2018–2020. These activities are necessary to ensure that CMS fulfills legislative mandates established by section 1311(c)(4) of the Affordable Care Act to develop an ''enrollee satisfaction survey system'' and provide such information on Marketplace Web sites. CMS is also seeking approval to remove eight survey questions beginning with the 2018 survey administration. With the removal of these eight questions, the revised total estimated annual burden hours of national implementation of the QHP Enrollee Survey is 22,523 hours with 90,015 responses. The revised total annualized burden over three years for this requested information collection is 67,569 hours and the total average annualized number of responses is 270,045 responses. *Form Number:* CMS–10488 (OMB Control Number: 0938–1221); *Frequency:* Annually; *Affected Public:* Public sector (Individuals and Households), Private sector (Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 90,015; *Total Annual Responses:* 90,015; *Total Annual Hours:* 22,523; (For policy questions regarding this collection contact Nidhi Singh-Shah at 301–492–5110.)

4. *Type of Information Collection Request:* Revision of a previously approved collection; *Title of Information Collection:* Beneficiary and Family Centered Data Collection; *Use:* The CMS Quality Improvement Organization (QIO) Program includes Beneficiary and Family Centered Care (BFCC) QIOs whose functions, as set forth in Section 1862(g) of the Social Security Act, are to improve the effectiveness, efficiency, economy, and quality of services delivered to Medicare beneficiaries. To accomplish these goals, the QIOs review health care services funded under Medicare to determine whether those services are reasonable, medically necessary, furnished in the appropriate setting, and meet professionally recognized standards of quality. The QIOs also review health care services where the beneficiary or a representative has complained about the quality of those services or is appealing alleged premature discharge.

Under the current 11th QIO Statement of Work (SOW), two organizations are providing services as BFCC QIOs across all of the United States. The QIO evaluation criteria have been revised to reflect this national regionalization and it is important for CMS to understand the impact on beneficiaries from this reorganization. The information will be used to evaluate the success of each QIO in meeting its contractual requirements and to understand the experience of Medicare beneficiaries and/or their representative with QIO contract mandated work. *Form Number:* CMS–10393 (OMB Control number: 0938–1177); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 24,970; *Number of Responses:* 24,970; *Total Annual Hours:* 2,899. (For policy questions regarding this collection, contact David Russo at 617–565–1310.)

Dated: April 11, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–07568 Filed 4–13–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5523–N]

Medicare Program; Funding in Support of the Pennsylvania Rural Health Model—Cooperative Agreement

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the issuance of the January 12, 2017 single-source cooperative agreement funding opportunity announcement to begin the Pennsylvania Rural Health Model's implementation activities, titled ''Funding in Support of the Pennsylvania Rural Health Model Cooperative Agreement'' (the ''Funding Opportunity''). This Funding Opportunity is available solely to the Commonwealth of Pennsylvania acting through the Pennsylvania Department of Health (the ''Commonwealth''). This

Funding Opportunity provides the Commonwealth with necessary start-up funding for the Model and is open to the Pennsylvania Department of Health, and, once established, the Rural Health Redesign Center (RHRC) (or in the event that the RHRC is not established, the Pennsylvania Department of Health).

DATES: The project period of the initial award, in the amount of $10 million, to the Pennsylvania Department of Health will be 12 months from the date of award. The project period of the second award, in the amount of $15 million, to the RHRC, or to the Pennsylvania Department of Health if the RHRC has not been established, will be 36 months from the date of award. The performance period of the Pennsylvania Rural Health Model began on January 13, 2017, and will conclude on December 31, 2023.

FOR FURTHER INFORMATION CONTACT: Stephen Cha, (410) 786–1876.

SUPPLEMENTARY INFORMATION:

I. Background

The Pennsylvania Rural Health Model (the ''Model'') is a new Centers for Medicare & Medicaid Services (CMS) alternative payment model designed to improve health and health care in rural Pennsylvania. Specifically, the Model seeks to increase rural Pennsylvanians' access to high-quality care and improve their health, while also reducing the growth of hospital expenditures across payers, including Medicare fee-for-service, and increasing the financial viability of the State's rural hospitals to ensure continued access to care facilities. The Model will test whether the deliberate care delivery transformation of participating rural hospitals, including critical access hospitals (CAHs), in conjunction with population-based payments to those hospitals (in the form of prospective hospital global budgets for participating payers) improves health outcomes and quality of care for the Commonwealth's rural residents, reduces the growth of hospital expenditures across payers, and improves the financial viability of participant rural hospitals to maintain access to care for the Commonwealth's rural residents. Participation in the model is voluntary for hospitals and payers; and CMS and the Commonwealth will collaborate to achieve participation sufficient to meet the hospital participation and payer participation scale targets in the Model. This Model is being tested by the Center for Medicare and Medicaid Innovation (the ''Innovation Center'') using the authority of the Secretary of the Department of Health and Human Services (the ''Secretary'') in section 1115A of the Social Security Act (the Act).

CMS believes that states can be critical partners of the federal government and other health care payers to facilitate the design, implementation, and evaluation of community-centered health systems that can deliver significantly improved cost, quality, and population health performance results for all state residents, including Medicare, Medicaid, and Children's Health Insurance Program (CHIP) beneficiaries. States have policy and regulatory authorities, as well as ongoing relationships with commercial health care payers, health plans, and health care providers that can accelerate delivery system reform. CMS has previously partnered with states to accelerate delivery system reform through initiatives such as the State Innovation Models (SIM) initiative. SIM provides state-based health care transformation efforts with funding to test the ability of states to utilize policy and regulatory levers to advance multi-payer health care payment and delivery system reform models.

On January 13, 2017, CMS and the Commonwealth entered into the Pennsylvania Rural Health Model Agreement (the ''State Agreement'') to implement the Pennsylvania Rural Health Model. The performance period of the Model began on January 13, 2017 and will end on December 31, 2023. As part of the Model, the Commonwealth commits to achieving population health outcomes, access and quality targets, financial targets, and rural hospital participation and payer participation scale targets, as defined in the State Agreement. The Commonwealth intends to legislatively authorize and, through the Pennsylvania Department of Health, establish the RHRC to operate certain aspects of the Model.

The Funding Opportunity offers up to a total of $25 million in funding to the Commonwealth over a 4-year period, with an initial award to the Pennsylvania Department of Health, and a second award to the RHRC (or to the Pennsylvania Department of Health, if the RHRC is not established in time). The Pennsylvania Department of Health will have the opportunity to apply for the initial award with a project period of one year (one 12-month budget period) from the date of the award. Then the RHRC, if established in time, will have the opportunity to apply for the second award with a project period of 36 months from the date of the award, comprised of three 12-month budget periods. In the event that the RHRC is not established in time, the Pennsylvania Department of Health can apply again as the second award applicant.

II. Provisions of the Notice

The Funding Opportunity offers $10 million in start-up funding to the Pennsylvania Department of Health to begin the Model's implementation activities, including Model operations, global budget administration, data analytics, technical assistance, quality assurance, and to establish the RHRC (if authorized to do so by Pennsylvania's legislature), to which the Pennsylvania Department of Health may delegate the Model's implementation activities once the RHRC is established. The Funding Opportunity also provides the RHRC (or the Pennsylvania Department of Health, if the RHRC is not established in time) with the opportunity to apply for an additional $15 million to continue implementation activities under the Model. In the event that the RHRC is not established in time, the Pennsylvania Department of Health can apply as the second applicant for the additional $15 million to continue implementation activities under the Model.

As set forth in the State Agreement, the Commonwealth commits to achieving population health outcomes, access and quality targets, financial targets, and rural hospital participation and payer participation scale targets. CMS and the Commonwealth aim to transform the rural hospital care delivery system to address community health needs, achieve financial sustainability for rural hospitals, and achieve savings or budget neutrality for payers participating in the Model. Payers and rural hospitals can choose to participate in the Model, and CMS and the Commonwealth expect to work closely together to achieve participation sufficient to meet the hospital participation and payer participation scale targets. Additionally, CMS and the Commonwealth aim for this Model to deliver meaningful improvements in the health of the Commonwealth's rural population by transforming the relationships between and among care delivery and public health systems across the Commonwealth. CMS and the Commonwealth believe the Model can help rural hospitals to succeed, in part by transitioning hospital payments from fee-for-service to, prospective hospital global budgets for participating payers. More information about the Pennsylvania Rural Health Model can be found at: *https://innovation.cms.gov/initiatives/pa-rural-health-model/.*

The Funding Opportunity is open solely to the Pennsylvania Department

of Health and to the RHRC (once established). The Pennsylvania Department of Health is uniquely positioned as the initial applicant under the Funding Opportunity based on its existing knowledge of the Model; authority and role in administering the Model; and its existing partnerships and collaborations with Pennsylvania health care providers, payers, and community-based stakeholders. The RHRC (once established) will also be uniquely positioned to meet the goals of the Model (as outlined in the State Agreement), as it will be established specifically to provide implementation support for the Model.

III. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: April 10, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2017–07555 Filed 4–11–17; 11:15 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB NO.: 0970–0354]

Proposed Information Collection Activity; Comment Request; The Early Head Start Family and Child Experiences Survey 2018 (Baby FACES 2018)

Description: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) seeks approval to collect descriptive information for the Early Head Start Family and Child Experiences Survey 2018 (Baby FACES 2018). This information collection is to provide nationally representative data on Early Head Start (EHS) programs, centers, classrooms, staff, and families to guide program planning, technical assistance, and research. The proposed data collection builds upon a prior study (Baby FACES 2009; OMB 0970–0354) that longitudinally followed two cohorts of children through their experience in the program. While that study provided a great deal of information about program participation over time and about services received by children and families, it did not allow for national level estimates of service quality, nor inferences about children who enter the program after 15 months of age. To fill these knowledge gaps and to answer additional questions about how programs function, the proposed Baby FACES 2018 design will include a cross-section of a nationally representative sample of programs, centers, home visitors, teachers, classrooms, children and families. This will allow nationally representative estimates at all levels at a point in time and will include the entire age span of enrolled children.

The goal of this work is to obtain updated information on EHS programs and understand better how program processes support relationships (*e.g.,* between home visitors and parents, between parents and children, and between teachers and children) which are hypothesized to lead to improved child and family outcomes.

Respondents: Early Head Start program directors, child care center directors, teachers and home visitors, and parents of enrolled children.

ANNUAL BURDEN ESTIMATES

[2-Year clearance]

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Classroom/home visitor sampling form from EHS staff	563	282	1	.17	48
Child roster form from EHS staff	563	282	1	.33	93
Parent consent form	2,475	1,238	1	.17	210
Parent survey	2,475	1,238	1	.5	619
Parent Child Report (PCR)	2,475	1,238	1	.25	309
Staff survey (Teacher survey and Home Visitor survey)	1,575	788	1	.5	394
Staff Child Report (SCR)	1,238	619	2	.25	310
Program director survey	150	75	1	.5	38
Center director survey	450	225	1	.33	74

Estimated Total Annual Burden Hours: 2,095.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–07602 Filed 4–13–17; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Information Collection Request Title: Data System for Organ Procurement and Transplantation Network, OMB No. 0915–0157, Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than May 15, 2017.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (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: Data System for Organ Procurement and Transplantation Network.

OMB No. 0915–0157—Revision

Abstract: Section 372 of the Public Health Service (PHS) Act requires that the Secretary, by contract, provide for the establishment and operation of an Organ Procurement and Transplantation Network (OPTN). This is a request for revisions to a subset of the current OPTN data collection forms associated with donor organ procurement and an individual's clinical characteristics at the time of registration, transplant, and follow-up after transplant.

Need and Proposed Use of the Information: Data for the OPTN data system are collected from transplant hospitals, organ procurement organizations, and tissue-typing laboratories. The information is used to facilitate organ placement and match donor organs with recipients, monitor compliance of member organizations with Federal laws and regulations and with OPTN requirements, review and report periodically to the public on the status of organ donation and transplantation in the United States, provide data to researchers and government agencies to study the scientific and clinical status of organ transplantation, and perform transplantation-related public health surveillance including possible transmission of donor disease. This request revises a subset of the current OPTN data forms associated with donor organ procurement and an individual's clinical characteristics at the time of registration, transplant, and follow up.

In 2015, the OPTN Board of Directors approved policies that necessitate the addition of new data elements to registration forms for heart, lung, heart/lung, liver, intestine, kidney, pancreas, and kidney/pancreas recipients. The OPTN also approved policies that impact the data collection for deceased donor registration, pancreas candidate registration, kidney/pancreas candidate registration, pancreas follow-up, and kidney/pancreas follow-up forms. The policy modifications necessitate changes to 17 of the 52 forms contained in this data collection. For example, the pancreas and kidney/pancreas transplant recipient registration and follow up forms were modified to be consistent with an OPTN policy change pertaining to data collected from pancreas programs for pancreas graft failure. Specifically, the ''graft status'' section of the pancreas forms was updated to be consistent with a new policy that helps transplant professionals identify when pancreas allograft failure has occurred and how to document the pancreas graft failure event. In addition, ''drop down'' menus were added to facilitate reporting of toxoplasma serology results and infectious diseases, consistent with revised scope of policy requirements for infectious disease testing and reporting. Finally, a policy modification to improve collection of information on lungs perfused prior to transplant resulted in the creation of easy-to-complete data fields on lung and heart/lung recipient registration forms. The modified forms allow transplant centers to easily provide information on lung perfusion, which contributes to improved accuracy in monitoring of lung allocation, recipient safety, and organ and patient outcomes.

Likely Respondents: Transplant programs, organ procurement organizations, histocompatibility laboratories, medical and scientific organizations, and public organizations.

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. The burden will decrease by approximately 3,500 hours.

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
Deceased Donor Registration	58	176.9	10,262	1.1	11,288.2
Living Donor Registration	304	19.5	5,936	1.8	10,684.8
Living Donor Follow-Up	304	58.2	17,686	1.3	22,991.8
Donor Histocompatibility	152	102.7	15,611	0.2	3,122.2
Recipient Histocompatibility	152	183.0	27,810	0.4	11,124.0
Heart Candidate Registration	137	32.4	4,439	0.9	3,995.1

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS—Continued

Form name	Number of respondents	Number of responses per respondent *	Total responses	Average burden per response (in hours)	Total burden hours
Heart Recipient Registration	137	20.5	2.805	1.2	3,366.0
Heart Follow-Up (6 Months)	137	16.5	2,261	0.4	904.4
Heart Follow-Up (1–5 Years)	137	77.3	10,595	0.9	9,535.5
Heart Follow-Up (Post 5 Years)	137	117.4	16,085	0.5	8,042.5
Heart Post-Transplant Malignancy	137	11.8	1,623	0.9	1,460.7
Lung Candidate Registration	70	37.0	2,592	0.9	2,332.8
Lung Recipient Registration	70	29.4	2,058	1.2	2,469.6
Lung Follow-Up (6 Months)	70	25.8	1,809	0.5	904.5
Lung Follow-Up (1–5 Years)	70	99.1	6,939	1.1	7,632.9
Lung Follow-Up (Post 5 Years)	70	70.0	4,898	0.6	2,938.8
Lung Post-Transplant Malignancy	70	15.8	1,106	0.4	442.4
Heart/Lung Candidate Registration	68	0.7	46	1.1	50.6
Heart/Lung Recipient Registration	68	0.2	14	1.3	18.2
Heart/Lung Follow-Up (6 Months)	68	0.2	13	0.8	10.4
Heart/Lung Follow-Up (1–5 Years)	68	1.4	94	1.1	103.4
Heart/Lung Follow-Up (Post 5 Years)	68	2.9	199	0.6	119.4
Heart/Lung Post-Transplant Malignancy	68	0.3	21	0.4	8.4
Liver Candidate Registration	140	85.9	12,026	0.8	9,620.8
Liver Recipient Registration	140	50.9	7,125	1.2	8,550.0
Liver Follow-Up (6 Months–5 Years)	140	235.6	32,985	1	32,985.0
Liver Follow-Up (Post 5 Years)	140	279.3	39,108	0.5	19,554.0
Liver Recipient Explant Pathology	140	12.9	1,812	0.6	1,087.2
Liver Post-Transplant Malignancy	140	14.2	1,985	0.8	1,588.0
Intestine Candidate Registration	40	5.0	200	1.3	260.0
Intestine Recipient Registration	40	3.5	141	1.8	253.8
Intestine Follow-Up (6 Months–5 Years)	40	13.3	530	1.5	795.0
Intestine Follow-Up (Post 5 Years)	40	16.4	655	0.4	262.0
Intestine Post-Transplant Malignancy	40	0.6	24	1	24.0
Kidney Candidate Registration	238	151.6	36,076	0.8	28,860.8
Kidney Recipient Registration	238	75.2	17,899	1.2	21,478.8
Kidney Follow-Up (6 Months–5 Years)	238	383.3	91,234	0.9	82,110.6
Kidney Follow-Up (Post 5 Years)	238	375.9	89,453	0.5	44,726.5
Kidney Post-Transplant Malignancy	238	22.4	5,327	0.8	4,261.6
Pancreas Candidate Registration	133	2.9	389	0.6	233.4
Pancreas Recipient Registration	133	1.8	233	1.2	279.6
Pancreas Follow-Up (6 Months–5 Years)	133	9.4	1,252	0.5	626.0
Pancreas Follow-Up (Post 5 Years)	133	14.7	1,953	0.5	976.5
Pancreas Post-Transplant Malignancy	133	0.9	120	0.6	72.0
Kidney/Pancreas Candidate Registration	133	9.5	1,265	0.6	759.0
Kidney/Pancreas Recipient Registration	133	5.4	718	1.2	861.6
Kidney/Pancreas Follow-Up (6 Months–5 Years)	133	32.0	4,262	0.5	2,131.0
Kidney/Pancreas Follow-Up (Post 5 Years)	133	51.7	6,876	0.6	4,125.6
Kidney/Pancreas Post-Transplant Malignancy Form	133	2.1	283	0.4	113.2
VCA Candidate Registration	28	1.8	49	0.4	19.6
VCA Recipient Registration	28	1.8	49	1.3	63.7
VCA Recipient Follow-Up	28	1.8	49	1	49.0
Total	** 463		488,980		370,274.9

* The Number of Responses per Respondent was calculated by dividing the Total Responses by the Number of Respondents and rounding to the nearest tenth.

** Total number of OPTN member institutions as of April 6, 2017. Number of respondents for transplant candidate or recipient forms based on the organ-specific programs associated with each form.

Amy McNulty,

Deputy Director, Division of the Executive Secretariat.

[FR Doc. 2017–07526 Filed 4–13–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket Number CDC–2016–0121; NIOSH–285]

Closed-Circuit Escape Respirators; Final Guidance for Industry; Availability

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of availability.

SUMMARY: On December 28, 2016, the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention, Department of Health and Human Services, published a notice in the **Federal Register** announcing the availability of an interim guidance document addressing the availability of closed-circuit escape respirators (CCERs) for purchase, and the readiness of respirator manufacturers to comply with the regulatory provisions

addressing these respirators. After consideration of public comments, NIOSH has revised the guidance and now announces that NIOSH does not intend to revoke any certificate of approval for any escape respirator approved for use in mining in accordance with NIOSH regulations, that are manufactured, labeled, or sold prior to June 1, 2019, provided that th.ere is no cause for revocation under existing NIOSH regulation.

DATES: The final guidance announced in this **Federal Register** notice is effective on April 14, 2017.

FOR FURTHER INFORMATION CONTACT: Maryann D'Alessandro, NIOSH National Personal Protective Technology Laboratory, 626 Cochrans Mill Road, Pittsburgh, PA 15236; 1–888–654–2294 (this is a toll-free phone number); *PPEconcerns@cdc.gov.*

SUPPLEMENTARY INFORMATION: The final guidance announced in this notice addresses the availability of closed-circuit escape respirators (CCERs) for purchase and the readiness of respirator manufacturers to comply with the provisions in Part 84, Subpart O, of Title 42 of the Code of Federal Regulations (CFR). Pursuant to a **Federal Register** notice published on February 10, 2016, beginning on January 4, 2017, manufacturers were no longer authorized to manufacture, label, and sell 1-hour escape respirators, known in the mining community as self-contained self-rescuers (SCSRs), approved in accordance with the certification testing standards in Part 84, Subpart H.[1] Beginning on May 14, 2016, manufacturers were no longer authorized to manufacture, label, or sell 10-minute escape respirators for use in mining approved pursuant to Subpart H.[2]

In an interim guidance document published on December 28, 2016,[3] NIOSH announced its intention not to revoke any certificate of approval for 1-hour escape respirators approved in accordance with 42 CFR part 84, Subpart H, that are manufactured, labeled, or sold prior to January 4, 2018, provided that there is no cause for revocation under 42 CFR 84.34 or 84.43(c). Upon consideration of public comments submitted to the docket for this action, NIOSH has reconsidered the scope of the guidance as well as the compliance deadline.[4] The final guidance is summarized below. The full final guidance, entitled ''Closed-Circuit Escape Respirators Approved for Use in Mining, 42 CFR part 84, Subpart O Compliance; Guidance for Industry; Final'' is available on the NIOSH National Personal Protective Technology Web site at *www.cdc.gov/niosh/npptl.*

Standards for the approval of CCERs were updated in a final rule published March 8, 2012, in which HHS codified the new Subpart O and removed only those technical requirements in 42 CFR part 84, Subpart H that were uniquely applicable to CCERs.[5] All other applicable requirements of 42 CFR part 84 were unchanged. The purpose of these updated requirements is to enable NIOSH and the Mine Safety and Health Administration (MSHA), which co-approves respirators used in underground coal mining, respirator manufacturers, and ultimately, respirator users, to more effectively ensure the performance, reliability, and safety of CCERs used in all workplace applications.[6] The March 2012 final rule established a sunset provision for the Subpart H standards on April 9, 2015, three years after the final rule's effective date; the three-year period was intended to provide sufficient time for manufacturers to obtain certificates of approval for CCER designs developed under the Subpart O standards. Since April 10, 2012, no new applications for approval of Subpart H SCSRs have been accepted.

However, manufacturers did not develop small capacity CCERs approved for use in mining or large capacity CCERs approved for use in non-mining and mining in time to meet the April 2015 transition deadline and, as a result, NIOSH ultimately extended the deadline to one year after the date that the first approval was granted to those CCER models.[7] Under this deadline extension formula, manufacturers were authorized to continue the manufacturing, labeling, and sale of 10-minute Subpart H escape respirators approved for use in mining until May 13, 2016 and 1-hour Subpart H escape respirators for use in mining until January 4, 2017.

The deadline extensions have contributed to the availability of new escape respirator designs which conform to the Subpart O requirements, and have addressed the needs of certain broad segments of the market for such devices;[8] however, MSHA has recently expressed concern that a market gap is imminent in the underground coal mining industry.[9] Further communications with stakeholders, including the underground coal mine industry and respirator manufacturers, some of whom submitted comments to the docket for this action, have indicated that the supply of Subpart O CCERs approved for use in mining are insufficient to meet the current needs of the mining industry.

In order to allow mine operators access to all of the tools necessary to protect miners, to give respirator manufacturers time to develop a solution to the mine industry's desire for person-wearable Subpart O CCERs, and to ensure a smooth transition from the Subpart H to Subpart O approval standards, NIOSH does not intend to revoke any certificate of approval for escape respirators approved for use in mining in accordance with 42 CFR part 84, Subpart H, that are manufactured, labeled, or sold prior to June 1, 2019, provided that there is no cause for revocation under 42 CFR 84.34 or 84.43(c), including misuse of approval labels and markings, misleading advertising, and failure to maintain or cause to be maintained the applicable quality control requirements.

The final guidance, available on the NIOSH National Personal Protective Technology Web site, does not create any new deadlines or waive any existing deadlines. The final guidance is not an interpretation of 42 CFR 84.301(a), it is a policy statement regarding NIOSH's intent to not revoke, except for cause, any certificate of approval for escape respirators approved for use in mining in accordance with 42 CFR part 84,

[1] 81 FR 7121.

[2] *See* NIOSH final rule, Closed-Circuit Escape Respirators; Extension of Transition Period, 80 FR 48268 (August 12, 2015).

[3] The December 2016 guidance was announced in a **Federal Register** notice published on December 28, 2016 (81 FR 95623).

[4] One public commenter asked that we extend the comment period for this action. Although we are closing the comment period for this final guidance, we are considering additional steps, such as a public meeting, to continue a dialog with stakeholders concerning the implementation of the CCER standards in 42 CFR part 84, Subpart O.

[5] 77 FR 14168.

[6] *See* 77 FR 14168 at 14169–14182 to read the background for this rulemaking; additional background materials as well as public comments are available in NIOSH Docket 005.

[7] 80 FR 4801 (January 29, 2015).

[8] The maritime market, which includes the U.S. Navy, have been quick adopters of newly-approved small capacity (Cap 1) CCERs (often referred to in that market as emergency escape breathing devices or EEBDs). Cap 1 CCERs which were available to replace Subpart H, 10-minute approved apparatus are being deployed in that market segment in great numbers.

[9] Joe Main, Assistant Secretary of Labor, MSHA, letter to John Howard, Director, NIOSH, December 14, 2016. This letter is available in the docket for this guidance and corresponding **Federal Register** notice.

Subpart H, that are manufactured, labeled, or sold prior to June 1, 2019.

Thomas E. Price,

Secretary, Department of Health and Human Services.

[FR Doc. 2017–07587 Filed 4–13–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation of King Laboratories, Inc., as a Commercial Laboratory

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

ACTION: Notice of accreditation of King Laboratories, Inc., as a commercial laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that King Laboratories, Inc., has been accredited to test petroleum and certain petroleum products for customs purposes as of February 15, 2017.

DATES: *Effective:* The accreditation of King Laboratories, Inc., as commercial laboratory became effective on February 15, 2017. The next triennial inspection date will be scheduled for September 2018.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12, that King Laboratories, Inc., 1300 E. 223rd St., #401, Carson, CA 90745, has been accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12.

King Laboratories, Inc., is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
	ASTM D7153	Standard Test Method for Freezing Point of Aviation Fuels (Automatic Laser Method).

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories.*

Dated: April 7, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–07559 Filed 4–13–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request; OMB Control No. 1653–0051

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 30-Day Notice of Information collection for review; Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities; OMB Control No. 1653–0051.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (USICE) is submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** on February 8, 2017, Vol. 82 No. 9752 allowing for a 60 day comment period. No comments were received on this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection

(2) *Title of the Form/Collection:* Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities

(3) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. DHS is setting standards for the prevention, detection, and response to sexual abuse in its confinement facilities. For DHS facilities and as incorporated in DHS contracts, these standards require covered facilities to retain and report to the agency certain specified information relating to sexual abuse prevention planning, responsive planning, education and training, and investigations, as well as to collect, retain, and report to the agency certain specified information relating to allegations of sexual abuse within the covered facility.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,385,063 responses at 5 minutes (.08 hours) per response.

(5) *An estimate of the total public burden (in hours) associated with the collection:* 119,321 annual burden hours.

Dated: April 10, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017–07520 Filed 4–13–17; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–23144; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of two properties Determined Eligible on March 13, 2017, for listing in the National Register of Historic Places.

DATES: Comments should be submitted by May 1, 2017.

ADDRESSES: Comments may be sent via U.S. Postal Service and by all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 7228, Washington, DC 20240; or by email: *Edson_Beall@nps.gov.*

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing in the National Register of Historic Places. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

HAWAII

Honolulu County,

Little Makalapa Naval Housing Historic District, Palmyra St. & Tarawa Dr., Honolulu, 100000731

Makalapa Naval Housing Historic District, Roughly bounded by HI 1, Kamehameha Hwy., Radford & Makalapa Drs., Honolulu, 100000732

The above districts, listed in the National Register of Historic Places on 3/13/2017, have been removed from the National Register of Historic Places by the Keeper of the National Register in order to correct a prejudicial procedural error that occurred during the listing process, per section 60.15(a)(4) of 36 CFR part 60.

In accordance with the above-referenced Federal regulation, the two districts have been Determined Eligible for listing in the National Register of Historic Places.

A new 15-day public comment period for these two nominations will begin as of the date the **Federal Register** notice is published, pursuant to section 60.13(a) of 36 CFR part 60.

The Keeper of the National Register will reconsider listing both districts following the end of the 15-day public comment period, as outlined at section 60.9 of 36 CFR part 60.

Authority: 36 CFR part 60.

Dated: March 22, 2017.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2017–07527 Filed 4–13–17; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0081: Docket ID: BOEM–2017–0016]

Information Collection: Operations in the Outer Continental Shelf for Minerals Other Than Oil, Gas, and Sulphur; Proposed Collection for OMB Review; Comment Request; MMAA104000

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: 60-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations covered under Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

DATES: Submit written comments by June 13, 2017.

ADDRESSES: Please send your comments on this ICR to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, VAM–DIR, Sterling, Virginia 20166 (mail); or *anna.atkinson@boem.gov* (email); or 703–787–1209 (fax). Please reference ICR 1010–0081 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: To obtain information pertaining to this notice, contact Anna Atkinson at (703) 787–1025.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0081.

Title: 30 CFR 582, Operations in the Outer Continental Shelf for Minerals Other than Oil, Gas, and Sulphur.

Abstract: The Outer Continental Shelf Lands Act (43 U.S.C. 1334 and 43 U.S.C. 1337(k)(1)) authorizes the Secretary of the Interior to issue regulations to grant to qualified persons, offering the highest cash bonus on a basis of competitive bidding, leases of any mineral other than oil, gas, and sulphur in any area of the outer Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.

Regulations at 30 CFR part 582 carry out these statutory requirements by

governing mining operations within the OCS for minerals other than oil, gas, and sulphur and establishing a comprehensive regulatory program for such minerals.

There has been no competitive leasing activity in the OCS for minerals other than oil, gas, and sulphur for many years, and so BOEM has not generally collected information under this Part of its regulations. However, since these are regulatory requirements, the potential exists for information to be collected. Therefore, we are renewing OMB approval for this information collection.

We will use the information required by 30 CFR part 582 to determine if lessees are complying with the regulations for mining minerals other than oil, gas, and sulphur. BOEM will also use the information to ensure that such operations are conducted in a manner that will result in orderly resource recovery, development, and the protection of the human, marine, and coastal environments and for technical and environmental evaluations which provide a basis for BOEM to make informed decisions to approve, disapprove, or require modification of the proposed activities.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and the Department's implementing regulations (43 CFR part 2), 30 CFR 582.5 and 582.6, and applicable sections of 30 CFR parts 580 and 581. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Monthly; quarterly; on occasion.

Estimated Number and Description of Respondents: As there are no active respondents, we estimated the potential annual number of respondents to be one. Potential respondents are OCS lessees.

Estimated Reporting and Recordkeeping Hour Burden: We expect the burden estimate for the renewal will be 212 hours. The following table details the individual BOEM components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN TABLE

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Subpart A—General				
4; 21(b)	Governors, other Federal/State agencies, lessees, interested parties, and others review and provide comments/recommendations on all plans and environmental information.	10	1	10
4(b); 12(b)(2); 21; 22; 25; 26; 28.	Submit delineation plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
4(c); 12(c)(2); 21; 23; 25; 26; 28.	Submit testing plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
4(d); 12(d)(2); 21; 24; 25; 26; 28.	Submit mining plan, including environmental information, contingency plan, monitoring program, and various requests for approval referred to throughout; submit modifications and required information.	40	1	40
5	Request non-disclosure of G&G info; provide consent; demonstrate loss of competitive position.	10	1	10
6	Governors of adjacent States request proprietary data, samples, etc., and disclosure agreement with BOEM.	10	1	10
7	Governor of affected State initiates negotiations on jurisdictional controversy, etc., and enters agreement with BOEM.	10	1	10
Subtotal			7	160
Subpart B—Jurisdiction and Responsibilities of Director				
11(c); 20(h); 30	Apply for right-of-use and easement; submit confirmations, demonstrations, and notifications.	30	1	30
11(d);	Request consolidation/splitting of two or more OCS mineral leases or portions.	1	1	1
20(h)	Request approval of operations or departure from operating requirements.	Burden included with applicable plans		0
14	Submit response copy of form BOEM–1832 indicating date violations (INCs) corrected.	2	1	2

BURDEN TABLE—Continued

Citation 30 CFR 582	Reporting or recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Subtotal			3	33
Subpart C—Obligations and Responsibilities of Lessees				
20(a), (g); 29(i)	Make available all mineral resource or environmental data and information; submit reports and maintain records, as specified.	Burden included with individual reporting requirements below		0
20(b) thru (e)	Submit designation of payor, operator, or local representative; submit changes, terminations, notifications.	1	1	1
21(d)	Notify BOEM of preliminary activities	1	1	1
29(a)	Submit monthly report of minerals produced; request extension	1	1	1
29(b), (c)	Submit quarterly status and final report on exploration and/or testing activities.	5	1	5
29(d)	Submit results of environmental monitoring activities	5	1	5
29(e)	Submit marked and certified maps annually or as required	1	1	1
29(f)	Maintain rock, minerals, and core samples for 5 years and make available upon request.	1	1	1
29(g)	Maintain original data and information and navigation tapes as long as lease is in effect and make available upon request.	1	1	1
29(h)	Maintain hard mineral records and make available upon request	1	1	1
Subtotal			9	17
Subpart D—Payments				
40	Submit surety, personal bond, or approved alternative	2	1	2
Subpart E—Appeals				
50; 15	File an appeal	Burden exempt under 5 CFR 1320.4(a)(2), (c)		0
Total burden			20	212

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no non-hour cost burdens associated with this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments on: (a) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden on respondents.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup costs or annual operation, maintenance, and purchase of service costs. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (a) Before October 1, 1995; (b) to comply with requirements not associated with the information collection; (c) for reasons other than to provide information or keep records for the Government; or (d) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold such information, which we will honor to the extent allowable by law. If you wish us to withhold this information, you must state this prominently at the beginning

of your comment. However, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The authorities for this action are the OCS Lands Act, as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)(1)), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*).

Dated: April 11, 2017.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2017–07605 Filed 4–13–17; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0082]

Information Collection: Leasing of Minerals Other Than Oil, Gas, and Sulphur in the Outer Continental Shelf; Proposed Collection for OMB Review; Comment Request; MMAA104000

ACTION: 60-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf.

DATES: Submit written comments by June 13, 2017.

ADDRESSES: Please send your comments on this ICR to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166 (mail); or *anna.atkinson@boem.gov* (email); or 703–787–1209 (fax). Please reference ICR 1010–0082 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Anna Atkinson, Office of Policy, Regulations, and Analysis at (703) 787–1025 to request a copy of the ICR.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0082.

Title: 30 CFR part 581, Leasing of Minerals Other than Oil, Gas, and Sulphur in the Outer Continental Shelf.

Abstract: The Outer Continental Shelf (OCS) Lands Act (Act), as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)), authorizes the Secretary of the Interior (Secretary) to administer the provisions relating to the leasing of the OCS, and to prescribe such rules and regulations as may be necessary to carry out such provisions. Additionally, the Act authorizes the Secretary to implement regulations to grant to qualified persons, offering the highest cash bonuses on the basis of competitive bidding, leases of any mineral other than oil, gas, and sulphur. This applies to any area of the OCS not then under lease for such mineral upon royalty, rental, and other terms and conditions that the Secretary may prescribe at the time of the lease offer. The Secretary is to administer the leasing provisions of the Act and prescribe the rules and regulations necessary to carry out those provisions.

Regulations at 30 CFR part 581 implement these statutory requirements. There has been no leasing activity in the OCS for minerals other than oil, gas, or sulphur under these regulations for many years, and so BOEM has not generally collected information under this Part of its regulations; however, because these are regulatory requirements, the potential exists for information to be collected. Therefore, we are renewing OMB approval for this information collection.

BOEM will use the information required by 30 CFR part 581 to determine if statutory requirements are met prior to the issuance of a lease. Specifically, BOEM will use the information to:

- Evaluate the area and minerals requested by the lessee to assess the viability of offering leases for sale;
- Request the state(s) to initiate the establishment of a joint group to assess the proposed action;
- Ensure excessive overriding royalty interests are not created that would put economic constraints on all parties involved;
- Document that a leasehold or geographical subdivision has been surrendered by the record title holder; and
- Determine if activities on the proposed lease area(s) will have a significant impact on the environment.

We protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and the Department of the Interior's implementing regulations (43 CFR part 2), and 30 CFR 581.7. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion.

Description of Respondents: As there are no active respondents, we estimate the potential annual number of respondents to be one. Potential respondents are OCS lease requestors, state governments, and OCS lessees.

Estimated Reporting and Recordkeeping Hour Burden: We expect the annual reporting burden for this renewal to be 984 hours, which reflects a decrease of 280 hour burdens.

The following table details the individual components and respective hour burden estimates of this ICR. We assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

In calculating burdens, responses to requests for information and interest or proposed notices of sale pursuant to 30 CFR 581.12 and 581.16 do not constitute information collection under 5 CFR 1320.3(h)(4). These inquiries are general solicitations of public comment, so BOEM has removed the burden hours associated with them reflecting a decrease of 280 hour burdens.

BURDEN BREAKDOWN

Citation 30 CFR part 581	Reporting and/or recordkeeping requirements *	Hour burden	Average number of annual reponses	Annual burden hours
		Non-hour cost burden(s) *		
Subpart A—General				
6	Appeal decisions	Exempt under 5 CFR 1320.4(a)(2), (c).		0

BURDEN BREAKDOWN—Continued

Citation 30 CFR part 581	Reporting and/or recordkeeping requirements *	Hour burden	Average number of annual reponses	Annual burden hours
		Non-hour cost burden(s) *		
9	Governor of affected States initiates negotiations on jurisdictional controversy, etc., and enters agreement with BOEM.	16	1 request	16
Subtotal			1 Response	16
Subpart B—Leasing Procedures				
11(a), (c)	Submit request for approval for mineral lease with required information.	60	1 request	60
12; all sections	Submit response to Call for Information and Interest on areas for leasing of minerals (other than oil, gas, sulphur) in accordance with approved lease program, including information from States/local governments, industry, Federal agencies.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0
13; 16	States or local governments establish task force; submit comments/recommendations on planning, coordination, consultation, and other issues that may contribute to the leasing process.	200	1 comment	200
16; all sections	Submit suggestions and relevant information in response to request for comments on the proposed leasing notice, including information from States/local governments.	Not considered IC as defined in 5 CFR 1320.3(h)(4).		0
18; 20(e), (f); 26(a), (b)	Submit bids (oral or sealed) and required information.	250	1 response	250
18(b)(3), (c); 20(e), (f)	Tie bids—submit oral bids for highest bidder	20	1 response	20
20(a), (b), (c); 41(a)	Establish a company file for qualification, submit updated information, submit qualifications for lessee/bidder and required information.	58	1 response	58
21(a); 47(c)	Request for reconsideration of bid rejection/cancellation.	Not considered IC per 5 CFR 1320.3(h)(9).		0
21(b), (e); 23; 26(e), (i); 40(b).	Execute lease (includes submission of evidence of authorized agent and request for dating of leases); maintain auditable records re 30 CFR Chapter XII, Subchapter A—[burden under ONRR requirements].	100	1 lease	100
Subtotal			8 Responses	688
Subpart C—Financial Considerations				
31(b); 41	File application and required information for assignment or transfer for approval.	160	1 application	160
32(b), (c)	File application for waiver, suspension, or reduction and required documentation.	80	1 application	80
33; 41(c)	Submit surety or personal bond	Burden covered under 1010–0081.		0
Subtotal			2 Responses	240
Subpart D—Assignments and Lease Extensions				
41	Transfer application filing fee	$50 required or non-required filing document fee × 1 = $50		
Subpart E—Termination of Leases				
46	File written request for relinquishment	40	1 Response	40

BURDEN BREAKDOWN—Continued

Citation 30 CFR part 581	Reporting and/or recordkeeping requirements *	Hour burden	Average number of annual reponses	Annual burden hours
		Non-hour cost burden(s) *		
Total Burden	.....	.....	12 Responses	984
			$50 Non-Hour Cost Burden	

* In the future, BOEM may require electronic filing of certain submissions.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified one non-hour cost burden for this collection, a $50 required or non-required filing document fee under 30 CFR 581.41.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .''. Agencies must specifically solicit comments on: (a) Whether or not the collection of information is necessary, including whether or not the information will have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden on respondents.

Agencies must also estimate the non-hour cost burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup costs or annual operation, maintenance, and purchase of service costs. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (a) Before October 1, 1995; (b) to comply with requirements not associated with the information collection; (c) for reasons other than to provide information or keep records for the Government; or (d) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Our practice is to make comments, including names, phone numbers, email addresses, and home addresses of respondents, available for public review. Individual respondents may request that we withhold such information, which we will honor to the extent allowable by law. If you wish us to withhold this information, you must state this prominently at the beginning of your comment. However, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The authorities for this action are the OCS Lands Act, as amended (43 U.S.C. 1334 and 43 U.S.C. 1337(k)), and the Paperwork Reduction Act of 1995 (44 U.S.C 3501 *et seq.*).

Dated: April 10, 2017.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2017–07586 Filed 4–13–17; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–013]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 19, 2017 at 11:00 a.m.

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

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None
2. Minutes
3. Ratification List
4. Vote in Inv. No. 731–TA–1315 (Final)(Ferrovanadium from Korea). The Commission is currently scheduled to complete and file its determination and views of the Commission by May 8, 2017.
5. Outstanding action jackets: None

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

By order of the Commission.

Issued: April 12, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–07744 Filed 4–12–17; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–014]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: April 21, 2017 at 11:00 a.m.

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

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–567–569 and 731–TA–1343–1345 (Preliminary)(Silicon Metal from Australia, Brazil, Kazakhstan, and Norway). The Commission is currently scheduled to complete and file its determinations on April 24, 2017; views of the Commission are currently scheduled to be completed and filed on May 1, 2017.
5. Vote in Inv. Nos. 701–TA–570 and 731–TA–1346 (Preliminary)(Aluminum

Foil from China). The Commission is currently scheduled to complete and filed its determinations on April 24, 2017; views of the Commission are currently scheduled to be completed and filed on May 1, 2017.

6. Vote in Inv. Nos. 701–TA–558 and 731–TA–1316 (Final)(1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by May 8, 2017.

7. Outstanding action jackets: None.

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

By order of the Commission.

Issued: April 12, 2017.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2017–07718 Filed 4–12–17; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Collapsible Sockets for Mobile Electronic Devices and Components Thereof, DN 3214;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of PopSockets LLC on April 10, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain collapsible sockets for mobile electronic devices and components thereof. The complaint names as respondents Agomax Group Ltd. of Hong Kong; Guangzhou Xi Xun Electronics Co., Ltd. of China; Shenzhen Chuanghui Industry Co., Ltd. of China; Shenzhen VVI Electronic Limited of China; Shenzhen Yright Technology Co., Ltd. of China; Hangzhou Hangkai Technology Co., Ltd of China; Shenzhen Kinsen Technology Co., Limited of China; Shenzhen Enruize Technology Co., Ltd. of China; Shenzhen Showerstar Industrial Co., Ltd. of China; Shenzhen Lamye Technology Co., Ltd. of China; Jiangmen Besnovo Electronics Co., Ltd. of China; Shenzhen Belking Electronic Co., Ltd. of China; Yiwu Wentou Import & Export Co., Ltd. of China; and Shenzhen CEX Electronic Co., Limited of China. The complainant requests that the Commission issue a general exclusion order, or if a general exclusion order is not granted, a limited exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register.** There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3214'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[1] Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: April 10, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–07525 Filed 4–13–17; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Particle Sensor Performance and Durability

Notice is hereby given that, on March 15, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Particle Sensor Performance and Durability (''PSPD–II'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Continental Automotive Systems, Inc., Deer Park, IL; Coorstek Sensors, LLC, Grand Junction, CO; Cummins Inc., Columbus, IN; Denso Corporation, Southfield, MI; FCA US LLC, Auburn Hills, MI; Hino Motors, Ltd., Tokyo, JAPAN; John Deere, Waterloo, IA; NGK Spark Plug Co., Ltd., Nagota, JAPAN; Stoneridge, Warren, OH; and Tenneco Automotive Operating Company Inc., Jackson, MI. The general area of PSPD–II's planned activity is to critically investigate the performance and durability of various exhaust particle and gaseous sensor technologies on different engine platforms.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–07589 Filed 4–13–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on March 30, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, ABB Automation GmbH, Minden, GERMANY; Aramco Services Company, Houston, TX; ARC Advisory Group, Inc., Dedham, MA; ARCHIT, Valby, DENMARK; Aspen Technology, Inc., Bedford, MA; BASF Corporation, Florham, NJ; Belcan, LLC, Oldsmar, FL; CentraleSupélec, Châtenay-Malabry, FRANCE; Cirrus Link Solutions, LLC, Spring Hill, KS; CTPartners S.A., Warszawa, POLAND; Emerson Process Management LLLP, Round Rock, TX; eVOLVE Gestão Empresarial, Barueri, BRAZIL; General Electric, Niskayuna, NY; Inductive Automation, Folsom, CA; Infinite Dimensions Integration, Inc., West Plains, MO; Intel Corporation, Santa Clara, CA; it SolutionCrew GmbH, Nussbaumen, SWITZERLAND; Koch Industries, Inc., Wichita, KS; Leidse Onderwijsinstellingen BV, Leiderdorp, THE NETHERLANDS; McLeod Consultancy Pty. Ltd., Canberra, AUSTRALIA; Merck & Co., Inc., Kenilworth, NJ; Mocana Corporation, San Francisco, CA; NxGN Pty., Ltd., Johannesburg, SOUTH AFRICA; nxtControl GmbH, Leobersdorf, AUSTRIA; OMEC Sp. z.o.o, Warsaw, POLAND; Praxair, Inc., Tanawanda, NY; Process Systems Enterprise Ltd., London, UNITED KINGDOM; Radix U.S., LLC, Houston, TX; Relcom, Inc., Forest Grove, OR; Rogerson Kratos, Irvine, CA; Invensys Systems, Inc., Foxboro, MA; Shenzhen Expressway Engineering Consultants Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Siemens Industry, Inc., Spring House, PA; Silver Storm Solutions SL, Valladolid, SPAIN; Skayl, LLC, Scottsdale, AZ; Société Générale S.A., Paris, FRANCE; StackFrame, LLC, Sanford, FL; Strategy Alliance B.V., Puttershoek, THE NETHERLANDS; The Dow Chemical Company, Midland, MI; and Yokogawa Electric Corporation, Musashino, JAPAN, have been added as parties to this venture.

Also, BEDROCKmg, Hawthorn, AUSTRALIA; CALCULEX, Inc., Las Cruces, NM; Cordial Business Advisers AB, Stockholm, SWEDEN; Dividend Group Corp., Toronto, CANADA; EOH Mthombo (Pty) Ltd. t/a Wonderware, Bedfordview, SOUTH AFRICA; Eskom Holdings, Johannesburg, SOUTH AFRICA; Exostrategies, Inc., Woodland, CO; FEAC Institute, Monument, CO; Genesis Housing Association, London, UNITED KINGDOM; Incepture S.a.r.l., Rabat, MOROCCO; Link Consulting, S.A., Lisbon, PORTUGAL; Mariner Partners, Inc., Saint John, CANADA; Massachusetts Institute of Technology, Cambridge, MA; nVision IT (Pty) Ltd., Sandton, SOUTH AFRICA; Ohio University, Athens, OH; Osrodek Studiow nad Cyfrowym Panstwem, Lodz, POLAND; Processworks Pte., Ltd., Singapore, SINGAPORE; *Salesforce.com*, Inc., San Francisco, CA; State Farm Mutual Automobile Insurance Company, Bloomington, IL; Time-Critical Technologies, Natick, MA; and Wispa Systems-Parsons Brinckerhoff Africa, Johannesburg, SOUTH AFRICA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends

to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on January 24, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 27, 2017 (82 FR 11943).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–07590 Filed 4–13–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Application No. D–11880]

Notice of Proposed Exemption Aon Pension Plan (the Plan) Located in Chicago, Illinois

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following proposed exemption: D–11880, Aon Pension Plan (the Plan).

DATES: All interested persons are invited to submit written comments and/or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Proposed Exemption, within 44 days from the date of publication of this **Federal Register** Notice.

ADDRESSES: Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, U.S. Department of Labor, 200 Constitution Avenue NW., Suite 400, Washington, DC 20210. Attention: Application No. D–11880. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: *moffitt.betty@dol.gov,* or by FAX to (202) 693–8474 by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW., Washington, DC 20210.

Warning: All comments will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Mrs. Blessed Chuksorji-Keefe of the Department, telephone (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 44 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

The proposed exemption was requested in an application filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for a complete statement of the facts and representations.

Proposed Exemption

Section I. Covered Transactions

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D), and (E) of the Code,[2] shall not apply to the proposed in-kind contribution (the Contribution) by Aon Corporation (Aon), to the Plan of a 3.5% limited partnership interest (the Partnership Interest) in the Trident V, L.P. Fund (the Fund).

Section II. General Conditions

(a) The Independent Fiduciary, as defined in Section IV(c) of this proposed exemption, negotiates the terms and conditions of the Contribution, and approves the Contribution as being in the interest of the Plan;

(b) The Partnership Interest is contributed to the Plan by Aon at its current fair market value, as determined by the Independent Fiduciary, at the time of the Contribution;

(c) On a date preceding the Contribution, Aon makes a cash contribution to the Plan of $7.5 million (the Additional Cash Contribution);

(d) The Plan does not have any obligation to make future payments with respect to the Partnership Interest;

(e) Aon contributes, on behalf of the Plan, cash amounts that are equal to the remaining capital calls that are requested by the general partner (the General Partner) of the Fund with respect to the Partnership Interest;

(f) The Plan does not pay any fees, commissions, costs or other expenses in connection with the either the Contribution or the Additional Cash Contribution, except for fees that are paid by the Plan to the Independent Fiduciary; and

[1] The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

[2] For purposes of this proposed exemption, references to specific provisions of section 406 of Title I of the Act, unless otherwise specified, should be read to refer as well to the corresponding provisions of section 4975 of the Code.

(g) The terms and conditions of the Contribution and the Additional Cash Contribution are no less favorable to the Plan than those obtainable under similar circumstances when negotiated at arm's-length with unrelated third parties.

Section III. Independent Fiduciary

(a) The Independent Fiduciary represents the interests of the Plan for all purposes with respect to the Contribution and the Additional Cash Contribution;

(b) The Independent Fiduciary:

(1) Reviews, negotiates (if applicable), and approves the terms and conditions of the Contribution and the Additional Cash Contribution, as evidenced in the Contribution Agreement;

(2) Determines, in its sole discretion, that the reported value of the Partnership, as calculated by the General Partner, reflects the fair market value of the Partnership Interest;

(3) Determines, at the time of the Contribution, that the terms of such transaction are no less favorable to the Plan than the terms negotiated at arm's-length under similar circumstances between unrelated third parties;

(4) Ensures the Plan incurs no fees, costs or other charges (other than the fees and expenses of the Independent Fiduciary) as a result of the Contribution and the Additional Cash Contribution;

(5) Acknowledges that the Partnership Interest may not be sold, assigned, transferred or otherwise disposed of without the prior written consent of the General Partner of the Fund, which must be given at least 30 days prior to such transfer;

(6) Enforces the Plan's rights and interests with respect to the terms the Contribution and the Additional Cash Contribution; and

(7) Takes all steps that are necessary and proper to protect the Plan under the terms of the Contribution Agreement.

Section IV. Definitions

(a) The term ''Aon'' means Aon Corporation, and any of its affiliates.

(b) The term ''affiliate'' means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; or

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

For the purposes of clause (b)(1) above, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term ''Independent Fiduciary'' means Evercore Trust Company (Evercore), to the extent Evercore is a fiduciary with respect to the Plan that is independent of or unrelated to Aon, and has the appropriate training, experience, and facilities to act on behalf of the Plan regarding the proposed transactions in accordance with the fiduciary duties and responsibilities prescribed by the Act (including, if necessary, the responsibility to seek the counsel of knowledgeable advisors to assist in its compliance with the Act). The Independent Fiduciary will not be deemed to be independent of and unrelated to Aon if: (1) Such Independent Fiduciary directly or indirectly controls, is controlled by or is under common control, with Aon; (2) such Independent Fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption other than for acting as Independent Fiduciary in connection with the transactions described herein, provided that the amount or payment of such compensation is not contingent upon, or in any way affected by, the Independent Fiduciary's ultimate decision; and (3) the annual gross revenue received by the Independent Fiduciary from Aon, during any year of its engagement, does not exceed one percent (1%) of such Independent Fiduciary's annual gross revenue from all sources (for federal income tax purposes) for its prior tax year.

Summary of Facts and Representations [3]

The Parties

1. Aon, which is located in Chicago, Illinois, is the sponsor of the Plan. Aon is a provider of risk management services, insurance and reinsurance brokerage, and human resource consulting and outsourcing. As of December 31, 2015, Aon had total assets of approximately $22 billion.

2. The Plan is a defined benefit plan maintained by Aon in Chicago, Illinois. As of December 31, 2015, the Plan had approximately 33,016 participants and beneficiaries.[4] Also on that date, the Plan had $1.952 billion in assets. The Plan's assets were allocated 35.7% to fixed income investments, 44% to equity investments, 3.9% to real assets (real estate and commodities), 10.8% to hedge funds, 3.9% to private equity and 1.7% to cash. The Plan's current target asset allocation is 30% for fixed income, 50% for equities, 5% for real assets, 8% for hedge funds, and 7% for private equity.[5]

The Plan trustee (the Trustee) is Northern Trust Company of Chicago, Illinois. Investment decisions for the Plan are made by the Aon Corporation Retirement Plan Governance and Investment Committee (the Plan Committee), which is the named fiduciary for the Plan. The Plan Committee is comprised of senior executives of Aon.

3. Effective April 1, 2009, the Plan was frozen for future accrual of benefits. Employees hired on or after January 1, 2004 are not permitted to participate in the Plan. According to Aon, it is not anticipated that the Plan will be terminated assuming the proposed exemption is granted. Instead, Aon states that its de-risking strategy for the Plan is focused on reducing investment risk.

As reported in the Plan's annual funding notice for the plan year ending December 31, 2015, the funding target attainment percentage for the Plan on a HAFTA/MAP–21 basis is 100.97%. On a non-HAFTA/MAP–21 basis, according to Aon, the funding target attainment percentage for the Plan is 80.68%. Aon represents that, based on preliminary information as of December 12, 2016, it will be required to make a $30.5 million cash contribution to the Plan for the 2016 plan year, which will be due in September 2017.

The Partnership Interest

4. Among Aon's assets is an approximately 3.5% interest in the Fund, a private equity fund that is designed to invest in shares of capital stock, limited partnership interests, limited liability company interests, options, bonds, debentures and other forms of equity and debt securities. The Fund, which is structured as a limited partnership, was formed by Stone Point Capital LLC (Stone Point), a private equity investment manager and an unrelated party with respect to the Plan. Stone Point is the General Partner of the Fund and an unrelated party. Stone

[3] The Summary of Facts and Representations is based on Aon's representations, unless indicated otherwise.

[4] Although these are the most recent financial statements available for the Plan, Aon represents that as of September 30, 2016, the Plan had total assets of $2.015 million based on reports retained by the Trustee.

[5] Aon represents that following the Contribution, the 7% target allocation for private equity investments will not be exceeded. Aon also represents that if the Plan is over this target allocation, it will amend the Plan's Statement of Investment Policy. However, if the Plan is within 1% of the target allocation, Aon explains that this would be well within an acceptable range.

Point makes private equity investments in businesses within the financial services industry in the United States, the United Kingdom, Western Europe and Bermuda.

5. In May 2010, Aon acquired the Partnership Interest in the Fund by making a capital commitment to the General Partner to contribute $75 million during the life of the Fund. The capital commitment represented 3.65% of the Fund's total capital commitments of $2 billion. As of December 31, 2015, $78.4 million of capital had been called from Aon to the Fund, and $11.3 million had been returned by the Fund to Aon.

The Partnership Interest is non-voting and it generally does not provide for a limited partner's participation in the management of the Fund. However, in certain circumstances set forth in the Fund's Partnership Agreement (*e.g.,* misconduct by the General Partner), a limited partner may vote for the election, removal or replacement of the Fund's General Partner.

Contribution of Partnership Interest to Plan

6. Aon is requesting an administrative exemption from the Department in order to contribute the Partnership Interest to the Plan. Aon represents that the proposed contribution is permitted by the Plan's Statement of Investment Policy. By its terms, the Partnership Interest will not be transferred to the Plan without the full, written consent of Stone Point, which Aon will provide to the Department prior to any final determination by the Department to grant this exemption. In addition, the Plan will not have any obligation to make future payments with respect to the Partnership Interest. Further, Aon must contribute to the Plan amounts equal to any remaining capital calls that the General Partner of the Fund may require following the Contribution.

If consummated, the Contribution will be a one-time transaction. The Plan will pay no fees, commissions, or other expenses in connection with the Contribution), with the exception of the fees that are charged by the Independent Fiduciary. Immediately following the Contribution, the aggregate fair market value of the Partnership Interest (approximately $79.2 million, as described below) will represent approximately four (4%) of the Plan's assets, based on a valuation as of December 31, 2015.

Additional Cash Contribution to Plan

7. On December 29, 2016, Aon made a cash contribution to the Plan of $7.5 million.[6] According to Aon, the Additional Cash Contribution represents an amount in excess of the aggregate value of: (a) A Put Option that would provide the Plan with the right to sell the Partnership Interest back to Aon at the fair market value of such Partnership Interest as of the date of the Contribution; and (b) a Guaranteed Investment Return of 6% for the life of the Fund, based on the value of the Partnership Interest, and adjusted for distributions.

Taken together, Aon represents that the estimated aggregate value of the Contribution ($79.2 million) and the Additional Cash Contribution ($7.5 million) is $86.7 million. Aon represents that this amount is in excess of Aon's funding obligation to the Plan.

Aon's Other Obligations

8. Besides making the Contribution and the Additional Cash Contribution to the Plan, Aon is also solely responsible for: (a) Determining the proper treatment of the Partnership Interest with respect to distributions, or other payments, or any proceeds received from any redemption or conversion thereof for tax or financial accounting purposes; (b) any and all regulatory reporting or filings required in connection with or as a result of the Contribution or the Plan's ownership or disposition of the Partnership Interest; and (c) any transfer agency or similar fees or expenses relating to the issuance or transfer of the Partnership Interest.

Rationale for Exemptive Relief

9. Aon represents that the proposed Contribution will allow Aon to enhance the funding to the Plan. In addition, Aon represents that the proposed Contribution will bring the Plan's investment portfolio closer in line with the asset allocation guidelines contained in the Plan's Statement of Investment Policy. In this regard, Aon states that the proposed Contribution will enhance the diversity of the Plan's investment portfolio and align the Plan's portfolio with the asset allocation strategy described in the Statement of Investment Policy.

10. Aon further represents that the Contribution will enhance the Plan's cash flow because of the maturity of the underlying Fund. Aon states that funds that are nearly fully committed, such as the Fund, tend to generate cash distributions at a much higher rate. According to Aon, the Fund completed its investment period on June 30, 2014. Although remaining capital commitments may be called, no new investments in new portfolio companies have been or will be made. Also, because most of the full capital commitment of the Fund has been invested, Aon represents that the Fund has already started making distributions to limited partners. Therefore, according to Aon, the Partnership Interest will likely generate a significant cash flow to the Plan.

Legal Analysis

11. The proposed Contribution by Aon of the Partnership Interest to the Plan would violate several provisions of the Act. In this regard, section 406(a)(1)(A) of the Act provides that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect sale or exchange of any property between the plan and a party in interest. Section 406(a)(1)(D) of the Act provides that a fiduciary with respect to a plan shall not cause a plan to engage in a transaction if the fiduciary knows or has reason to know that such transaction constitutes a direct or indirect transfer to, or use by or for the benefit of, a party in interest, of any assets of a plan.

In addition, section 406(b)(1) of the Act prohibits a fiduciary with respect to a plan from dealing with the assets of the plan in such fiduciary's own interest or for such fiduciary's own account. Further, section 406(b)(2) of the Act prohibits a fiduciary from acting in such fiduciary's individual or other capacity in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan, or the interests of the plan participants and beneficiaries.

The term ''party in interest'' is defined in section 3(14)(A) and (C) of the Act to include a fiduciary with respect to a plan, and an employer, any of whose employees are covered by such plan. As fiduciaries to the Plan, the Trustee and the Plan Committee are parties in interest under section 3(14)(A) of the Act. As an employer whose employees are covered under the Plan, Aon is a party in interest under section 3(14)(C) of the Act.

12. Under Department Regulation 2509.94–3, an in-kind contribution of property to a defined benefit pension plan by a plan sponsor is a prohibited transaction under section 406(a)(1)(A) of the Act because it would constitute a

[6] Initially, Aon proposed to make an Additional Cash Contribution to the Plan of $7.4 million, which was consistent with the conclusions reached by Evercore, the Independent Fiduciary for the Plan in the Independent Fiduciary Report (see Representation 18). Aon subsequently decided to increase the Additional Cash Contribution to $7.5 million.

transfer that would reduce the obligation of the sponsor or employer to fund the plan. In effect, the Contribution would be treated as a prohibited ''sale or exchange'' between a party in interest and a plan because it would discharge the sponsor's legal obligation to make an annual cash contribution to the plan.

In addition, because the Plan Committee is a fiduciary with respect to the Plan, the Contribution would violate section 406(b)(1) of the Act. Moreover, the Contribution would violate section 406(b)(2) of the Act inasmuch as the Plan Committee, as a Plan fiduciary, would be acting on be acting on behalf of Aon, whose interests are adverse to the interests of the Plan. Accordingly, Aon has requested exemptive relief from the foregoing violations.

The Independent Fiduciary

13. Evercore, the Independent Fiduciary for the Plan, is a national trust bank chartered by the Office of the U.S. Comptroller of the Currency. In an engagement letter dated November 5, 2015 (the Engagement Letter), Evercore represents that it was appointed by the Plan Committee to: (a) Determine whether the proposed Contribution is in the interest of the Plan and its participants and beneficiaries, including the terms of the Contribution Agreement and other instruments which Evercore and its legal counsel deem necessary to proceed with the proposed transaction; (b) determine whether the terms of the proposed transaction between Aon and the Plan are no less favorable to the Plan than terms negotiated at arm's-length under similar circumstances between unrelated third parties; (c) determine the fair market value of the Partnership Interest; (d) determine whether the Additional Cash Contribution, equal to 9.33% of the fair market value of the Partnership Interest as of the date of the Contribution, is greater in amount than the aggregate value of the Put Option and the Guaranteed Investment Return; (e) determine whether the Plan should enter into the proposed transaction in accordance with the terms of the proposed exemption, if granted; and (f) report its initial and final determinations in a written report (the Independent Fiduciary Report) to the named Plan Fiduciary, suitable for submission to the Department in connection with the subject exemption request. Also, in the Engagement Letter, William E. Ryan III, Managing Director and Chief Fiduciary Officer of Evercore, agreed to undertake the duties and responsibilities of the Independent Fiduciary.

In the Independent Fiduciary Report, dated May 16, 2016, Evercore represents that it is: (a) Independent of and unrelated to Aon, and (b) appointed to act pursuant to an Independent Fiduciary Agreement dated November 16, 2015. Evercore also represents that it does not directly or indirectly control, is not controlled by, and is not under common control with the Applicant and has warranted that neither it, nor any of its officers, directors, or employees is an officer, director, partner or employee of Aon (or a relative of such person). In addition, Evercore asserts that it will not directly or indirectly receive any compensation or other consideration from Aon in connection with the proposed transaction. In this regard, Evercore represents that the fees and expenses it has received or will receive for its services will be paid by the Plan, and that its compensation will not be contingent upon, or in any way affected by, the decisions or determinations it will make with respect to the value of the Partnership Interest, and the Additional Cash Contribution.

In addition, Evercore represents that the fees it received from the Plan during 2015, as well as the fees it has received from the Plan during 2016, will represented less than one (1%) percent of its gross annual revenues. Further, Evercore states that it has not received any compensation from Aon or its affiliates during these years.

14. In its role as Independent Fiduciary for the Plan, Evercore must: (a) Review, negotiate (to the extent applicable), and approve the terms and conditions of the Contribution and the Additional Cash Contribution, as evidenced in the Contribution Agreement; (b) determine, in its sole discretion, based primarily on its review of the Fund's audited financials and other qualitative and quantitative information provided by Aon, that the reported value of the Partnership, as calculated by the General Partner, reflects the fair market value of the Partnership Interest; (c) determine, at the time of the Contribution, that the terms of such transaction are no less favorable to the Plan than the terms negotiated at arm's-length under similar circumstances between unrelated third parties; (d) ensure the Plan incurs no fees, costs or other charges (other than the Independent Fiduciary fees and expenses it receives as a result of the Contribution; (e) acknowledge that the Partnership Interest may not be sold, assigned, transferred or otherwise disposed of without the prior written consent of the General Partner of the Fund, which must be given at least 30 days prior to such transfer; (f) enforce the Plan's rights and interests with respect to the terms the Contribution; and (g) take all steps that are necessary and proper to protect the Plan under the terms of the Contribution Agreement.

15. As Independent Fiduciary, Evercore represents that it conducted a comprehensive due diligence process to evaluate the terms of the Contribution. Evercore states that this process involved: (a) Reviewing the Fund's audited financial statements and other information concerning the valuation of the Partnership Interest; (b) conducting numerous calls with Aon's personnel; and (c) holding meetings with professionals from Evercore Partners, Inc. with respect to: (i) Secondary private equity markets; and (ii) the investment performance of the General Partner. In addition, Evercore represents that it gathered and reviewed publicly-available information.

16. In valuing the Partnership Interest, Evercore represents that there was no detailed, portfolio-level information available that could be used to perform portfolio-level valuation. Instead, Evercore represents that it used the audited financial statements for the Fund as of December 31, 2015 to provide a fair value estimate of the Partnership Interest, in its Independent Fiduciary Report dated May 16, 2016. Evercore states that the fair value estimate could be adjusted for such factors as the track record and assessment of the General Partner/manager, the stage of the Fund, and the size of the Partnership Interest, in order to determine the fair market value of such Partnership Interest. Based on these assessments, Evercore represents that it applied a discount of 2.5% to its initial valuation of the Partnership Interest of $81.2 million. Based on this discount, Evercore concluded that the fair market value of the Partnership Interest was $79.2 million as of December 31, 2015. Evercore will update the fair market value of the Partnership Interest at the time of the Contribution.

17. In addition, Evercore represents that it evaluated Aon's analysis of the Put Option and the Guaranteed Investment Return, as if these options were being provided to the Plan. Evercore explains that Aon had valued the Put Option and Guaranteed Investment Return, using methodologies that were based on a Monte Carlo simulation and a Black Scholes valuation model.[7] Under these valuation

[7] It is represented that the Monte Carlo methodology simulates over one thousand different investment return scenarios for the private equity fund. Using these different investment return scenarios, a value for the put option and the guaranteed investment return was calculated. It is also represented that the Black Scholes

approaches, Evercore represents that Aon's combined range of values as of December 31, 2015 was $4.04–$4.17 million for the Put Option and $6.82–$6.95 million for the Guaranteed Investment Return. In Evercore's assessment, the range of values for the Put Option and the Guaranteed Investment Return was $4.0–$6.9 million as of December 31, 2015.

18. Accordingly, Evercore concluded that, as of December 31, 2015, 9.33% of the $79.2 million fair market value of the Partnership Interest, or approximately $7.4 million, was greater than the aggregate fair market value of the Put Option and the Guaranteed Investment Return, less fees, costs, or other charges incurred by the Plan as a result of the proposed transaction. Evercore will update the Independent Fiduciary Report and its valuations at the time of the Contribution.

Other Considerations Made by the Independent Fiduciary

19. In the Independent Fiduciary Report, Evercore also considered the following factors in determining that the Contribution and the Additional Cash Contribution are appropriate and in the interests of the Plan:

(a) *Accelerated Contributions.* Evercore represents that Aon is not required to make any minimum required contributions to the Plan until 2017. If the exemption is approved, Aon will contribute the Partnership Interest to the Plan and also give the Plan an Additional Cash Contribution equal to 9.33% of the fair market value of Partnership Interest as of the date of such contribution. Absent the Additional Cash Contribution, Evercore represents that it would take until July 2018 for the Plan to receive a similar amount in cash. Based on independent third party estimates, Evercore states that private equity investments are projected to return 10.2% per year. Also, with the Contribution, Evercore represents that the Plan could be earning the 10.2% projected return and receiving all of the cash distributions. Evercore further represents that assuming the Contribution is made at the end of 2016 and using the 10.2% projected return, the timing of the investment returns could be worth over $5 million.

(b) *Cash Contribution in Lieu of Put Option.* Evercore represents that the Additional Cash Contribution will be invested to provide additional returns to the Plan, whereas the Put Option will be an illiquid investment and will only benefit the Plan in the event that circumstances compelled to the Plan to exercise the Put Option, assuming this was an alternative for the Plan.

Statutory Findings

20. Aon represents that the proposed exemption is administratively feasible because the Contribution will be a one-time transaction that will require no ongoing oversight by the Department. Administration of the transaction, according to Aon, will not result in any extraordinary burden or cost to the Plan.

In addition, Aon represents that the proposed exemption is in the interests of the Plan and its participants and beneficiaries because the Plan and its participants and beneficiaries will benefit from the substantial, additional funding of the Plan. As described above, if the proposed exemption is granted, Aon will contribute the Partnership Interest to the Plan and will make the Additional Cash Contribution to the Plan. Moreover, Aon will make all remaining capital calls that the Fund's General Partner requests after the Partnership Interest is contributed to the Plan. According to Aon, the Contribution and the Additional Cash Contribution are in excess of the legally required cash contribution to the Plan for the 2016 plan year.

21. Further, Aon represents that the enhanced funding provided by the Contribution adds protection to the rights of the participants and beneficiaries under the Plan to the timely receipt of benefits. Additionally, Aon states that the proposed exemption is conditioned on safeguards that will protect the rights of the Plan's participants and beneficiaries. These protections, according to Aon, include those that are afforded by the Additional Cash Contribution, which will safeguard the Plan's participants and beneficiaries in the event the Partnership Interest loses value after the Contribution is made, and retain the ability of such participants and beneficiaries to benefit from any increase in the Partnership Interest's value.

Summary

22. Given the conditions described above, the Department has tentatively determined that the relief sought by Aon satisfies the statutory requirements for an exemption under section 408(a) of the Act.

Notice to Interested Persons

The persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) include the following:

(a) *For all currently active employees of Aon, former employees of Aon, Aon retirees, and Aon beneficiaries who participate in the Plan, who either: (a) Have email access as a part of performing their job duties; or (b) have consented to, and enrolled in, electronic delivery of benefits information.* Aon will send to such interested persons, an email containing the Notice; a link to the Supplemental Statement (Supplemental Statement), as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; a link to a summary of the Department's proposed exemption (the Summary Statement); and a link to the actual proposed exemption, as published in the **Federal Register**. The email system will notify Aon of any delivery failures (i) in the case of active employees with an Aon email address, on the day that the emails are sent, and (ii) in the case of individuals using an external email address, within three (3) calendar days after the emails are sent.

(b) *For active or former employees of Aon, Aon retirees or Aon beneficiaries whose email transmission fails. Aon will send the Notice by first-class U.S. mail to such interested person's home address.* The Notice will contain a Web site address where interested persons can obtain the Supplemental Statement as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; the Summary Statement; and a copy of the proposed exemption, as published in the **Federal Register**. Such interested persons will also be given instructions explaining how they may obtain paper copies of these documents upon request, and at no charge. The mailing will be sent: (i) In the case of active employees with an Aon email address, within four (4) calendar days, and (ii) in the case of interested persons using an external email address, within six (6) calendar days, after the failed email transmission.

(c) *For active or former employees of Aon, Aon retirees or Aon beneficiaries who participate in the Plan and who do not have email access as a part of performing their job or who have not consented to electronic delivery of benefits information.* Aon will send the Notice by first-class U.S. mail to such interested person's home address. The Notice will contain a Web site address where such interested persons can

methodology is a model of price variations over time of financial instruments that is commonly used to determine the price of put and call options. The model incorporates the volatility of the financial instrument, the time value of money using the risk free rate, the option's strike price, and the time to the option's expiry.

obtain the Supplemental Statement, as required pursuant to 29 CFR 2570.43(b)(2), which will advise interested persons of their right to comment on and/or to request a hearing; the Summary Statement, and a copy of the proposed exemption, as published in the **Federal Register**. Interested persons will also be given instructions explaining how to obtain paper copies of these documents upon request, and at no charge.

Aon will provide the Notice to interested persons within fourteen (14) calendar days from the date of publication of the proposed exemption in the **Federal Register** in order to provide the Notice in the manner described above. All written comments or hearing requests must be received by the Department within forty-four (44) calendar days of the publication of this proposed exemption in the **Federal Register**.

All comments will be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemption, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 4th day of April, 2017.

Lyssa E. Hall,

Director, Office of Exemption, Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2017–07421 Filed 4–13–17; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0068]

Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Pressurized Water Reactors; Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Boiling Water Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft NUREGs; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment drafts of NUREG–1122, Revision 3, ''Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Pressurized Water Reactors;'' and NUREG–1123, Revision 3, ''Knowledge and Abilities Catalog for Nuclear Power Plant Operators: Boiling Water Reactors.''

DATES: Submit comments by May 15, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0068. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: David Muller, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1412, email: *David.Muller@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0068 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0068.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section. The draft NUREGs are available in ADAMS under Accession Nos. ML17097A204 and ML17097A214, respectively. The draft NUREGs will also be accessible through the NRC's Public Site under draft NUREGs for comment.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, O1–F21, One White

Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0068 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

NUREG–1122 and NUREG–1123 provide the basis for development of content valid examinations used for licensing operators at nuclear power plants under the Commission's regulations contained in part 55 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Operator Licenses.'' The examinations developed using NUREG–1122 and NUREG–1123, along with NUREG–1021, ''Operator Licensing Examination Standards for Power Reactors,'' will sample the topics listed in 10 CFR part 55.

Dated at Rockville, Maryland, this 10th day of April, 2017.

For the Nuclear Regulatory Commission.

Nancy Salgado,

Chief, Operator Licensing Branch, Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–07604 Filed 4–13–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of April 17, 24, May 1, 8, 15, 22, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 17, 2017

There are no meetings scheduled for the week of April 17, 2017.

Week of April 24, 2017—Tentative

Wednesday, April 26, 2017

9:00 a.m. Briefing on the Status of Subsequent License Renewal Preparations (Public Meeting); (Contact: Steven Bloom: 301–415–2431).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, April 27, 2017

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Douglas Bollock: 301–415–6609).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of May 1, 2017—Tentative

There are no meetings scheduled for the week of May 1, 2017.

Week of May 8, 2017—Tentative

Tuesday, May 9, 2017

10:00 a.m. Briefing on Security Issues (Closed Ex. 1).

2:00 p.m. Briefing on Security Issues (Closed Ex. 1).

Thursday, May 11, 2017

9:00 a.m. Briefing on Risk-Informed Regulation (Public Meeting); (Contact: Steve Ruffin: 301–415–1985).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of May 15, 2017—Tentative

There are no meetings scheduled for the week of May 15, 2017.

Week of May 22, 2017—Tentative

There are no meetings scheduled for the week of May 22, 2017.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: April 12, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–07745 Filed 4–12–17; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–285; NRC–2017–0099]

Omaha Public Power District; Fort Calhoun Station, Unit No. 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; availability; public meeting; and request for comment.

SUMMARY: On March 30, 2017, the U.S. Nuclear Regulatory Commission (NRC) received the Post-Shutdown Decommissioning Activities Report (PSDAR) and the Site Specific Decommissioning Cost Estimate (DCE), dated March 30, 2017, for the Fort Calhoun Station, Unit No. 1 (FCS). The PSDAR, which includes the DCE, provides an overview of Omaha Public Power District's (OPPD, or the licensee) planned decommissioning activities, schedule, projected costs, and environmental impacts for FCS. The

NRC will hold a public meeting to discuss the PSDAR and DCE and receive comments.

DATES: Submit comments by July 7, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0099. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

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

FOR FURTHER INFORMATION CONTACT: James Kim, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone: 301–415–4125; email: *James.Kim@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0099 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0099.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if that document is available in ADAMS) is provided the first time that document is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0099 in your comment submission.

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

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Discussion

Omaha Public Power District is the holder of Renewed Facility Operating License No. DPR–40 for FCS. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect. The facility consists of one pressurized-water reactor located in Washington County, Nebraska. By letter dated August 25, 2016 (ADAMS Accession No. ML16242A127), OPPD submitted a certification to the NRC indicating it would permanently cease power operations at FCS on October 24, 2016. On October 24, 2016, OPPD permanently ceased power operation at FCS. On November 13, 2016 (ADAMS Accession No. ML16319A254), OPPD certified that it had permanently defueled the FCS reactor vessel.

On March 30, 2017, OPPD submitted the PSDAR and DCE for FCS in accordance with § 50.82(a)(4)(i) of title 10 of the *Code of Federal Regulations* (ADAMS Accession No. ML17089A759). The PSDAR includes a description of the planned decommissioning activities, a proposed schedule for their accomplishment, the site-specific DCE (submitted concurrently), and a discussion that provides the basis for concluding that the environmental impacts associated with the site-specific decommissioning activities will be bounded by appropriate, previously issued generic and plant-specific environmental impact statements.

III. Request for Comment and Public Meeting

The NRC is requesting public comments on the PSDAR and DCE for FCS. The NRC will conduct a public meeting to discuss the PSDAR and DCE and receive comments on Wednesday, May 31, 2017, from 6 p.m. until 9 p.m., CDT, at the Double Tree Hotel, 1616 Dodge Street, Omaha, Nebraska 68102. The NRC requests that comments that are not provided during the meeting be submitted as noted in section I., ''Obtaining Information and Submitting Comments'' of this document in writing by July 7, 2017.

Dated at Rockville, Maryland, this 7th day of April 2017.

For the Nuclear Regulatory Commission.

Douglas A. Broaddus,

Chief, Special Projects and Process Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–07603 Filed 4–13–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Submission for Approval: Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S)

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The National Background Investigation Bureau (NBIB), U.S. Office of Personnel Management (OPM) is notifying the general public and other Federal agencies that OPM is seeking Office of Management and Budget (OMB) approval of a revised information collection, Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S).

DATES: Comments are encouraged and will be accepted until May 15, 2017. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting NBIB, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Donna McLeod or by electronic mail at *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1), OPM is providing an additional 30 days for public comments. OPM previously solicited comments for this collection, with a 60-day public comment period, at 81 FR 16224 (March 25, 2016).

This notice announces that OPM has submitted to OMB a request for review and clearance of a revised information collection (OMB No. 3206–0258) Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S). The public has an additional 30-day opportunity to comment.

The SF 85P and SF 85P–S are completed by applicants for, or incumbents of, Federal Government civilian positions, or positions in private entities performing work for the Federal Government under contract. For applicants to Federal positions, the SF 85P and SF 85P–S are to be used only after a conditional offer of employment has been made. The SF 85P–S is supplemental to the SF 85P and is used only as approved by OPM, for certain positions such as those requiring carrying of a firearm. Electronic Questionnaires for Investigations Processing (e-QIP) is a web-based system application that houses the SF 85P and SF 85P–S. A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. Accordingly, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history.

The 60-day **Federal Register** Notice was published on March 25, 2016 (81 FR 16224). Comments were received from the U.S. Postal Inspection Service (USPIS), Alcohol, Tobacco and Firearms (ATF HQ–DoJ), an individual from VHA Servicing HR Office (VSHO), the National Treasury Employees Union (NTEU), and the Electronic Privacy Information Center (EPIC).

A commenter from VSHO provided that initiating background investigations after conditional offer of employment led to significant delays with onboarding new employees and executing the agency's mission. According to the commenter, mandating limits on an agency's ability to collect investigative documents within its own timeframes can negatively impact the speed of hiring. OPM did not accept the recommendation. An agency's internal hiring procedures are established by policies for the agency and do not fall under the intended purpose of this information collection. Also, the agency should note that in accordance with recent changes found in 5 CFR 731.103, a hiring agency may not make specific inquiries concerning an applicant's criminal or credit background of the sort asked on the OF–306 or other forms used to conduct suitability investigations for employment unless the hiring agency has made a conditional offer of employment to the applicant. Requests for an exception to this requirement must be submitted to the Office of Personnel Management, in accordance with the provision of 5 CFR part 330 subpart M.

A commenter from USPIS recommended that another authorization paragraph be added to the release form to accommodate the IRS tax-payer consent requirement needed to search tax-payer records. OPM did not accept this comment. IRS has indicated that a separate distinct release apart from an authorization form is needed to conduct such record searches when necessary and appropriate.

A commenter from ATF HQ–DoJ submitted a recommendation that the Alien Registration Number should be mandatory if applicant indicates being a naturalized United States Citizen, a legal permanent resident, or a person applying for legal status. OPM did not accept this comment. While use of the alien registration number may yield better results for confirming citizenship status, it is possible for a person born outside of the United States not to have an alien registration number. For this reason providing the alien registration number cannot be mandatory. Another recommendation from a commenter with ATF HQ–DoJ indicated that section13a (Employment Activities-Employment & Unemployment Record) should have more detailed instructions when listing employment with the same employer but at different locations. OPM acknowledged the need for this change as part of the proposed changes identified in the 60 day **Federal Register** notice publication for this collection.

Comments were received from NTEU and EPIC regarding recent activities surrounding the data breach experienced at the U.S. Office of Personnel Management. Concerns were expressed regarding OPM's ability to secure the information collected from the standard forms. No action is taken in reference to the comments because they are outside the purpose of this information collection request. OPM notes that information has been communicated through many forums regarding work underway at OPM and across the government to safeguard personnel records and enhance the security and effectiveness of federal background investigations. OPM also notes that information regarding the cybersecurity incidents is available at *www.opm.gov/cybersecurity.*

EPIC commented that OPM's proposal to collect information from social media activity as part of the employment background investigation raises significant privacy and civil liberty concerns and that this information should not be collected as part of the employment background investigation. OPM did not accept this comment as it is outside the purpose of the information collection request. OPM has already determined that background investigations may appropriately collect publicly available electronic information, including public posts on social media. The change to the information collection request is to more explicitly convey to the individual whose consent is required in order for OPM to conduct the investigation that the investigation may include collection of publicly available electronic information.

EPIC commented on OPM's proposal to revise instructions in section 21 (Illegal Use of Drugs and Drug Activity) to include the advisement that ''the following questions pertain to the illegal use of drugs or controlled substances or drug or controlled substance activity not in accordance with Federal laws, even though permissible under state laws.''

EPIC claims that 20 states have legalized medical marijuana and that requiring individuals to disclose their use of medical marijuana implicates significant privacy interests in medical information and treatment confidentiality. OPM did not accept this comment because knowing or intentional possession of marijuana, even for personal use, is illegal under Federal law. Unlawful possession of marijuana, or marijuana abuse without evidence of substantial rehabilitation, can raise questions about an applicant's or employee's reliability, judgment, and trustworthiness or ability or willingness to comply with laws, rules, and regulations, thus indicating his or her employment might not promote the efficiency or protect the integrity of the service. Further, from a credentialing perspective, an agency must evaluate whether an applicant's or employee's abuse of drugs may put people, property, or information systems at risk.

However, in response to EPIC's concerns, OPM notes that it recently issued government-wide guidance that an individual's marijuana-related conduct must be evaluated on a case-by-case basis, and explaining that a suitability determination based on unlawful marijuana possession must include consideration of the nature and seriousness of the conduct, the circumstances surrounding the conduct, and contributing societal conditions. In the same guidance OPM reminded Federal agencies of responsibilities for appropriate prevention, treatment, and rehabilitation programs and services for Federal civilian employees with drug problems. *See https://www.chcoc.gov/content/federal-laws-and-policies-prohibiting-marijuana-use.*

EPIC also commented that OPM's proposal to revise ''defendant in'' to ''party to'' any public record civil court action(s) in section 26 (Involvement in Non-Criminal Court Actions) could encompass child custody disputes and divorce proceedings, and require domestic abuse survivors to provide details about restraining orders they have obtained and could reveal highly personal and sensitive information that is unrelated to employment eligibility. OPM did not accept this comment as the collection of information regarding civil and criminal records is required for OPM to meet federal investigative standards designed to provide relevant information to support adjudication of the background investigation.

The Privacy Act Routine Uses provided on the form were updated to conform to the most recent publication of routine uses by OPM.

Changes were made to the authorization release pages to maintain consistency, as applicable, with authorization forms used for conducting background investigations.

OPM added clarifying language to the ''Authorization for Release of Information'' to specify that information collected during the background investigation may include publicly available social media information. OPM also added an explanation that publicly available social media information includes any electronic social media information that has been published or broadcast for public consumption, is available on request to the public, is accessible on-line to the public, is available to the public by subscription or purchase, or is otherwise lawfully accessible to the public. The respondent is further advised that consent provided through the authorization does not require the respondent to provide passwords; log into a private account; or take any action that would disclose non-publicly available social media information.

OPM amended the ''Authorization for Release of Information'' to include the addition of other entities (Department of Homeland Security and the Office of the Director of National Intelligence) that are authorized to request criminal record information from criminal justice agencies for the purpose of determining the respondent's eligibility for assignment to, or retention in, a public trust position. This change is in accordance with the recent amendment to 5 U.S.C. 9101.

OPM added language to the ''Authorization for Release of Medical Information Pursuant to the Health Insurance Portability and Accountability Act'' to provide explanatory information as to the need for information about respondents' mental health conditions, in certain circumstances, to assist in assessing suitability for positions of public trust with the Federal government. The release was also amended to inform the respondent that (1) should the respondent seek to revoke the authorization, the respondent should write to the respondent's health care provider or entity, and (2) revocation of the authorization would not be effective until received by the respondent's health care provider or entity.

OPM amended the ''Fair Credit Reporting Disclosure and Authorization'' to provide additional information regarding the impact of a security freeze on the respondent's consumer or credit report file on the investigation process. Information regarding the need for the respondent's Social Security number was removed as the information was duplicative of information already provided in the SF 85P instructions.

OPM proposes changes to the SF 85P–S, Question 5, ''Your Medical Record'' to include re-titling to ''Psychological and Emotional Health.'' The new section will clarify support for mental health treatment and encourage pro-active management of mental health conditions to support wellness and recovery.

The proposed revision to the SF 85P–S, Question 5 will inquire as to whether a court or administrative agency has ever issued an order declaring the respondent mentally incompetent; whether a court or administrative agency has ever ordered the respondent to consult with a mental health professional; and whether the respondent has ever been diagnosed by a physician or other health professional with psychotic disorder, schizophrenia, schizoaffective disorder, delusional disorder, bipolar mood disorder, borderline personality disorder, or antisocial personality disorder. A respondent who answers affirmatively to the latter question is asked whether, in the last five years, there have been any occasions when the respondent did not consult with a medical professional before altering or discontinuing, or failing to start a prescribed course of treatment for any of the listed diagnoses. A respondent who answers ''no'' to each of the previous questions is asked whether the respondent has a mental health or other health condition that substantially adversely affects his or her judgment, reliability, or trustworthiness even if he or she is not experiencing such symptoms today. These questions are necessary to satisfy adjudicative decision-making regarding suitability or fitness determinations for the population of individuals required to complete the SF 85PS. As noted, the SF 85P–S form, and this question, is only used for certain public trust positions that pose special risks, such as law enforcement positions in which the incumbents are required to carry firearms.

Analysis

Agency: NBIB, U.S. Office of Personnel Management.

Title: Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S).

OMB Number: 3206–0258.

Affected Public: Completed by applicants for, or incumbents of, Federal Government civilian positions, or positions in private entities performing

work for the Federal Government under contract.

Number of Respondents: 112,894 (SF 85P); 11,717 (SF 85P–S).

Estimated Time per Respondent: 155 minutes (SF 85P); 10 minutes (SF 85P–S).

Total Burden Hours: 291,643 (SF 85P); 1,953 (SF 85P–S).

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–07609 Filed 4–13–17; 8:45 am]

BILLING CODE 6325–53–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017–110 and CP2017–158, MC2017–111 and CP2017–159, MC2017–112 and CP2017–160, MC2017–113, and CP2017–161]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 18, 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:

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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).:* MC2017–110 and CP2017–158; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 305 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* April 10, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Max E. Schnidman; *Comments Due:* April 18, 2017.

2. *Docket No(s).:* MC2017–111 and CP2017–159; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 306 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* April 10, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Max E. Schnidman; *Comments Due:* April 18, 2017.

3. *Docket No(s).:* MC2017–112 and CP2017–160; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 307 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* April 10, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* April 18, 2017.

4. *Docket No(s).:* MC2017–113 and CP2017–161; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 45 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* April 10, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* April 18, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–07563 Filed 4–13–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–32597; File No. 812–14548–05]

Excelsior Private Markets Fund II (Master), LLC, et al.

April 10, 2017.

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

ACTION: Notice.

Notice of application for an order under section 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Excelsior Private Markets Fund II (Master), LLC (''Excelsior Private Markets II''); Excelsior Private Markets Fund III (Master), LLC (''Excelsior Private Markets III''); NB Crossroads Private Markets Fund IV Holdings LLC (''NB Crossroads''); UST Global Private Markets Fund, LLC (''UST Global''); Excelsior Venture

Partners III, LLC (''Excelsior Venture III'' and, collectively with Excelsior Private Markets II, Excelsior Private Markets III, NB Crossroads and UST Global, the ''Existing Regulated Entities''); Neuberger Berman Investment Advisers LLC (''NBIA''); NB Alternatives Advisers LLC (''NBAA''); NB ASGA Fund Holdings LP, NB Canafund Private Debt LP, NB Caspian Holdings LP, NB CPEG Fund Holdings LP, NB Crossroads XXI—LC Holdings LP, NB Crossroads XXI—MC Holdings LP, NB Crossroads XXI—SS Holdings LP, NB Crossroads XXI—VC Holdings LP, NB Crystal PE Holdings LP, NB Flamingo Private Debt LP, NB Granite Private Debt LP, NB—Iowa's Private Universities LP, NB LAOF—Holdings LP, NB PEP Holdings Limited, NB Pine Private Debt LP, NB Private Debt Fund LP, NB Private Debt II Holdings LP, NB Private Equity Credit Opportunities Holdings LP, NB Renaissance Partners Holdings S.a.r.l., NB RP Co-Investment & Secondary Fund LLC, NB RPPE Partners LP, NB SBS US 1 Fund LP, NB SOF 2016–A Master LP, NB SOF III Holdings LP, NB SOF IV Holdings LP, NB SOF IV Cayman Holdings LP, NB-Sompo RA Holdings LP, NB Sonoran Fund Limited Partnership, NB Strategic Co-Investment Partners III Holdings LP, NB Wildcats Fund LP, Columbia NB Crossroads Fund II LP, NorthBound Emerging Manager Fund II—A LP, NorthBound NCRS Fund LP, and NYSCRF NB Co-Investment Fund LLC (collectively, the ''Existing Affiliated Funds'').

FILING DATES: The application was filed on September 17, 2015, and amended on February 4, 2016; September 20, 2016; February 27, 2017; and March 28, 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 May 5, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, 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 St. NE., Washington, DC 20549–1090. Applicants: 1290 Avenue of the Americas, New York, NY 10104.

FOR FURTHER INFORMATION CONTACT: James D. McGinnis, Senior Counsel, at (202) 551–3025 or Holly Hunter-Ceci, Acting Assistant Chief Counsel, at (202) 551–6825 (Chief Counsel's Office, Division of Investment Management).

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

Applicants' Representations

1. NB Crossroads is a Delaware limited liability corporation organized as a closed-end management investment company. NB Crossroads's investment objective is to provide attractive risk-adjusted returns through diversified portfolio of professionally managed private equity funds and select direct investments in portfolio companies. The board of managers (''Board'') of NB Crossroads has six members, each of whom is not an ''interested person'' of NB Crossroads within the meaning of Section 2(a)(19) of the Act (each is an ''Independent Manager'').[1]

2. Excelsior Private Markets II is a Delaware limited liability company organized as a closed-end management investment company. Excelsior Private Markets II seeks to provide attractive long-term returns to investors through investments in a diversified portfolio of professionally managed private equity funds and select direct investments in portfolio companies. The Board of Excelsior Private Markets II has six members, each of whom is an Independent Manager.

3. Excelsior Private Markets III is a Delaware limited liability company organized as a closed-end management investment company. Excelsior Private Markets III seeks to provide attractive long-term returns to investors through investments in a diversified portfolio of professionally managed private equity funds and select direct investments in portfolio companies. The Board of Excelsior Private Markets III has six members, each of whom is an Independent Manager.

4. UST Global is a Delaware limited liability company organized as a closed-end management v company. UST Global seeks long-term capital appreciation by investing in a diversified group of private equity funds formed by a fund sponsor or sponsors experienced in making private equity investments. The Board of UST Global has six members, each of whom is an Independent Manager.

5. Excelsior Venture III is a Delaware limited liability company organized as a closed-end management v company. Excelsior Venture III seeks long-term capital appreciation primarily by investing in private domestic venture capital companies and other private companies, and, to a lesser extent, domestic and international private funds, negotiated private investments in public companies and international direct investments. The Board of Excelsior Venture III has three members, each of whom is an Independent Manager.

6. NBIA is a Delaware limited liability company that is registered as an investment adviser with the Commission under the Investment Advisers Act of 1940 (the ''Advisers Act''). NBIA serves as the investment adviser to each Existing Regulated Entity. NBIA is an indirect, wholly-owned subsidiary of Neuberger Berman Group LLC (''Neuberger Berman'').

7. NBAA is a Delaware limited liability company that is registered as an investment adviser with the Commission under the Advisers Act. NBAA serves as the investment adviser to certain Existing Affiliated Funds and as the sub-adviser to each Existing Regulated Entity. NBAA is an indirect, wholly-owned subsidiary of Neuberger Berman.

8. The Existing Affiliated Funds pursue strategies focused on investing in a portfolio of professionally managed private equity funds and select direct investments in portfolio companies. Each Existing Affiliated Fund is advised by an Existing NB Adviser[2] and would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

9. Applicants seek an order (''Order'') to permit a Regulated Entity[3] and one or more other Regulated Entities and one or more Affiliated Funds[4] to (a)

[1] The term ''Independent Manager'' refers to the independent managers, directors or trustees of any Regulated Entity (defined below).

[2] ''Existing NB Adviser'' means NBIA or NBAA.

[3] ''Regulated Entity'' refers to any Existing Regulated Entity and any Future Regulated Entity. ''Future Regulated Entity'' means any closed-end management investment company formed in the future that is registered under the Act and is advised by a Regulated Entity Adviser and sub-advised by NBAA. ''Regulated Entity Adviser'' means (a) NBIA and (b) any future investment adviser that controls, is controlled by, or is under common control with NBIA and is registered as an investment adviser under the Advisers Act.

[4] ''Affiliated Fund'' means any Existing Affiliated Fund or any Future Affiliated Fund. ''Future Affiliated Fund'' means any investment fund that would be an ''investment company'' but for section 3(c)(1) or 3(c)(7) of the Act, is formed in the future,

participate in the same investment opportunities through a proposed co-investment program where such participation would otherwise be prohibited under section 17 of the Act; and (b) make additional investments in securities of such issuers (''Follow-On Investments''), including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers. ''Co-Investment Transaction'' means any transaction in which a Regulated Entity (or its Wholly-Owned Investment Subsidiary, as defined below) participated together with one or more other Regulated Entities and/or Affiliated Funds in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Entity (or its Wholly-Owned Investment Subsidiaries) could not participate together with one or more other Regulated Entities and/or one or more Affiliated Funds without obtaining and relying on the Order.[5]

10. Applicants state that a Regulated Entity may, from time to time, form one or more Wholly-Owned Investment Subsidiaries.[6] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Entity or Affiliated Fund because it would be a company controlled by its parent Regulated Entity for purposes of rule 17d-1. Applicants request that each Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Entity and that the Wholly-Owned Investment Subsidiary's participation in any such transaction be treated, for purposes of the Order, as though the parent Regulated Entity were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Subsidiary would have no purpose other than serving as a holding vehicle for the Regulated Entity's investments and, therefore, no conflicts of interest could arise between the Regulated Entity and the Wholly-Owned Investment Subsidiary. The Regulated Entity's Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Subsidiary's participation in a Co-Investment Transaction, and the Regulated Entity's Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Subsidiary in the Regulated Entity's place. If the Regulated Entity proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subsidiaries, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Entity and the Wholly-Owned Investment Subsidiary.

11. When considering Potential Co-Investment Transactions for any Regulated Entity, the relevant Adviser will consider only the Objectives and Strategies,[7] investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Entity. The Advisers expect that any portfolio company that is an appropriate investment for a Regulated Entity should also be an appropriate investment for one or more other Regulated Entities and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.[8]

12. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote on that Co-Investment Transaction (the ''Eligible Directors'')[9] and the majority of such managers of the Board who are Independent Managers (a ''Required Majority'') will approve each Co-Investment Transaction prior to any investment by the participating Regulated Entity.

13. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Entity may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Entity has approved that Regulated Entity's participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Entity. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Entity's Eligible Directors. The Board of any Regulated Entity may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

14. No Independent Manager of a Regulated Entity will have a direct or indirect financial interest in any Co-Investment Transaction (other than indirectly through share ownership in one of the Regulated Entities), including any interest in any company whose securities would be acquired in a Co-Investment Transaction.

15. Under condition 15, if an Adviser, its principals, or any person controlling, controlled by, or under common control with the Adviser or its principals, and the Affiliated Funds (collectively, the ''Holders'') own in the aggregate more than 25 percent of the outstanding voting shares of a Regulated Entity (the ''Shares''), then the Holders will vote such Shares as directed by an independent third party when voting on matters specified in the condition. Applicants believe that this condition will ensure that the Independent Managers will act independently in evaluating the co-investment program, because the ability of an Adviser or its principals to influence the Independent Managers by a suggestion, explicit or implied, that the Independent Managers can be removed will be limited significantly. Applicants represent that the Independent Managers will evaluate

and is advised by an Adviser. The term ''Adviser'' means any Existing NB Adviser or any Regulated Entity Adviser. No Affiliated Fund is or will be a subsidiary of a Regulated Entity.

[5] All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

[6] The term ''Wholly-Owned Investment Subsidiary'' means an entity: (a) That is wholly-owned by a Regulated Entity (with such Regulated Entity at all times holding, beneficially and of record, 100% of the voting and economic interests); (b) whose sole business purpose is to hold one or more investments on behalf of such Regulated Entity; (c) with respect to which the board of directors of such Regulated Entity has the sole authority to make all determinations with respect to the entity's participation under the conditions of the application; and (d) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. All subsidiaries participating in Co-Investment Transactions will be Wholly-Owned Investment Subsidiaries and will have Objectives and Strategies (as defined below) that are either the same as, or a subset of, their parent Regulated Entity's Objectives and Strategies.

[7] The term ''Objectives and Strategies'' means a Regulated Entity's investment objectives and strategies as described in the Regulated Entity's registration statement on Form N–2, other filings the Regulated Entity has made with the Commission under the Securities Act of 1933 (the ''Securities Act'') or the Securities Exchange Act of 1934, and the Regulated Entity's reports to shareholders.

[8] The Regulated Entities, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[9] Eligible Directors may not have a financial interest in such transaction, plan, or arrangement.

and approve any such independent third party, taking into account its qualifications, reputation for independence, cost to the Regulated Entity's shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Entities may be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Entity's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Entities' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that the Order will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for another Regulated Entity or an Affiliated Fund that falls within a Regulated Entity's then-current Objectives and Strategies, the Regulated Entity's Adviser will make an independent determination of the appropriateness of the investment for the Regulated Entity in light of the Regulated Entity's then-current circumstances.

2. (a) If the Adviser deems a Regulated Entity's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Entity, the Adviser will then determine an appropriate level of investment for the Regulated Entity.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Entity in the Potential Co-Investment Transaction together with the amount proposed to be invested by the other participating Regulated Entities and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Entity with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Entity's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each Regulated Entity and each Affiliated Fund) to the Eligible Directors of each participating Regulated Entity for their consideration. A Regulated Entity will co-invest with another Regulated Entity or an Affiliated Fund only if, prior to the Regulated Entity's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Entity and its investors and do not involve overreaching in respect of the Regulated Entity or its investors on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Entity's investors; and

(B) the Regulated Entity's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Entities or any Affiliated Funds would not disadvantage the Regulated Entity, and participation by the Regulated Entity would not be on a basis different from or less advantageous than that of any other Regulated Entities or any Affiliated Funds; provided that, if any other Regulated Entity or any Affiliated Fund, but not the Regulated Entity itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any; and

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Board of the Regulated Entity with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Regulated Entity or any Affiliated Fund or any affiliated person of any Regulated Entity or any Affiliated Fund receives in connection with the right of a Regulated Entity or an Affiliated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who may each, in turn, share its portion with its affiliated persons) and the participating Regulated Entities in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Entity will not benefit any Adviser, the other Regulated Entities, the Affiliated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by section 17(e) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Entity has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Entity, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Entities or Affiliated Funds during the preceding quarter that fell within the Regulated Entity's then-current Objectives and Strategies that were not made available to the Regulated Entity, and an explanation of why the investment opportunities were not offered to the Regulated Entity. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Entity and at least two years thereafter, and will be

subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,[10] a Regulated Entity will not invest in reliance on the Order in any issuer in which another Regulated Entity, Affiliated Fund, or any affiliated person of another Regulated Entity or Affiliated Fund is an existing investor.

6. A Regulated Entity will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Entity and Affiliated Fund. The grant to another Regulated Entity or an Affiliated Fund, but not the Regulated Entity, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Regulated Entity or an Affiliated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Entity that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Entity in the disposition.

(b) Each Regulated Entity will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Regulated Entities and Affiliated Funds.

(c) A Regulated Entity may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Entity has approved as being in the best interests of the Regulated Entity the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Entity is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Entity's participation to the Regulated Entity's Eligible Directors, and the Regulated Entity will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Entity's best interests.

(d) Each Regulated Entity and each Affiliated Fund will bear its own expenses in connection with any such disposition.

8. (a) If a Regulated Entity or an Affiliated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Adviser will:

(i) Notify each Regulated Entity that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Entity.

(b) A Regulated Entity may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Entity and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Entity has approved as being in the best interests of the Regulated Entity the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Entity's participation to the Eligible Directors, and the Regulated Entity will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Entity's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of a Follow-On Investment is not based on the Regulated Entities' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Entity in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Managers of each Regulated Entity will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Entities and the Affiliated Funds that the Regulated Entity considered but declined to participate in, so that the Independent Managers may determine whether all investments made during the preceding quarter, including those investments which the Regulated Entity considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Managers will consider at least annually the continued appropriateness for the Regulated Entity of participating in new and existing Co-Investment Transactions.

10. Each Regulated Entity will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Entities were a business development company (as defined in section 2(a)(48) of the Act) and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Independent Manager of a Regulated Entity will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act) of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by an Adviser under the investment advisory agreements with the Regulated Entities and the Affiliated Funds, be shared by the Affiliated Funds and the Regulated Entities in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

[10] This exception applies only to Follow-On Investments by a Regulated Entity in issuers in which that Regulated Entity already holds investments.

13. Any transaction fee [11] (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) of the Act, as applicable), received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Entities and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by the Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Entities and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Entities or any affiliated person of the Regulated Entities or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Entities and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of the Advisers, investment advisory fees paid in accordance with the agreements between the Advisers and the Regulated Entities or the Affiliated Funds).

14. The Advisers will each maintain policies and procedures reasonably designed to ensure compliance with the foregoing conditions. These policies and procedures will require, among other things, that the applicable Regulated Entity Adviser will be notified of all Potential Co-Investment Transactions that fall within a Regulated Entity's then-current Objectives and Strategies and will be given sufficient information to make its independent determination and recommendations under conditions 1, 2(a), 7 and 8.

15. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Entity, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) all other matters under either the Act or applicable State law affecting the Board's composition, size or manner of election.

16. Each Regulated Entity's chief compliance officer, as defined in Rule 38a–1(a)(4) under the 1940 Act, will prepare an annual report for its Board each year that evaluates (and documents the basis of that evaluation) the Regulated Entity's compliance with the terms and conditions of the application and the procedures established to achieve such compliance.

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

Eduardo A. Aleman,

Assistant Secretary.

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[11] Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80416; File No. SR–MIAX–2017–15]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

April 10, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 6, 2017, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The Exchange initially filed the proposal on March 29, 2017 (SR–MIAX–2017–14). That filing was withdrawn and replaced with the current filing (SR–MIAX–2017–15).

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 Exchange proposes to amend its Fee Schedule to permit Exchange Market Makers [3] to appoint Electronic Exchange Members [4] (''EEMs''), and vice versa, as ''Affiliates,'' solely for purposes of calculating transaction volume in order to qualify for certain transaction rebates and fee incentives under the Fee Schedule. The Exchange notes that this concept of appointment between market makers and order flow providers currently exists at a number of other exchanges, including Bats BZX Exchange, Inc. (''BATS''), Bats EDGX Exchange, Inc. (''EDGX''), Chicago Board Options Exchange, Incorporated (''CBOE''), NYSE Amex Options LLC (''Amex Options''), and NASDAQ PHLX LLC (''PHLX''), as more fully discussed below.

In order for the Exchange to implement this concept of appointment, the Exchange proposes to amend the definition of ''Affiliate'' contained in Section (1)(a)(i), footnote 1, of the Fee Schedule. Footnote 1 currently reads:

> ''For purposes of the MIAX Options Fee Schedule, the term ''Affiliate'' means an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A (''Affiliate'').''

[3] The term ''Market Makers'' refers to Lead Market Makers (''LMMs''), Primary Lead Market Makers (''PLMMs''), and Registered Market Makers (''RMMs'') collectively. See Exchange Rule 100. A Directed Order Lead Market Maker (''DLMM'') and Directed Primary Lead Market Maker (''DPLMM'') is a party to a transaction being allocated to the LMM or PLMM and is the result of an order that has been directed to the LMM or PLMM. See Footnote 2 to the Fee Schedule.

[4] The term ''EEM'' refers to the holder of a Trading Permit who is not a Market Maker. *See* Exchange Rule 100.

The Exchange proposes to amend footnote 1 so that it instead reads:

''For purposes of the MIAX Options Fee Schedule, the term ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker) that has been appointed by a MIAX Market Maker, pursuant to the following process. A MIAX Market Maker appoints an EEM and an EEM appoints a MIAX Market Maker, for the purposes of the Fee Schedule, by each completing and sending an executed Volume Aggregation Request Form by email to *membership@miaxoptions.com* no later than 2 business days prior to the first business day of the month in which the designation is to become effective. Transmittal of a validly completed and executed form to the Exchange along with the Exchange's acknowledgement of the effective designation to each of the Market Maker and EEM will be viewed as acceptance of the appointment. The Exchange will only recognize one designation per Member. A Member may make a designation not more than once every 12 months (from the date of its most recent designation), which designation shall remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either Member indicating that the appointment has been terminated. Designations will become operative on the first business day of the effective month and may not be terminated prior to the end of the month. Execution data and reports will be provided to both parties.''

The purpose of the proposed rule change is to increase opportunities for EEMs and Market Makers, who do not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker or EEM, as the case may be, to potentially qualify for tiered pricing incentives on the Exchange. Specifically, the Exchange proposes to allow a MIAX Market Maker to designate an EEM as its ''Appointed EEM'' and for an EEM to designate a MIAX Market Maker as its ''Appointed Market Maker'' for purposes of Sections (1)(a)(i) through (1)(a)(v) of the Fee Schedule. Members of the Exchange would effectuate such designation by completing and sending an executed Volume Aggregation Request Form by email to the Exchange no later than 2 business days prior to the first business day of the month in which the designation is to become effective.[5] As specified in the proposed Fee Schedule, the Exchange would view the transmittal of the validly completed and executed form along with the Exchange's acknowledgement of the effective designation as acceptance of such an appointment.[6] The proposed new concepts would be applicable to all tiered pricing offered by the Exchange in Sections (1)(a)(i) through (1)(a)(v) of the Fee Schedule, and are designed to increase opportunities for Members to qualify for such tiers.

The Exchange currently offers tiers of credits and fees as described in Sections (1)(a)(i) through (1)(a)(v) of the Fee Schedule. Under the current tiers, Members that achieve certain volume criteria may qualify for reduced fees or enhanced credits for various executions, including executions of Priority Customer[7] and Market Maker orders. In connection with such tiers, the Exchange calculates on a monthly basis a Member's volume in the applicable category (*e.g.,* Priority Customer orders or Market Maker orders), as specified in the Fee Schedule for each applicable transaction.[8] For example, upon reaching a volume threshold that qualifies a Member for a specified tier under the Priority Customer Rebate Program,[9] a Member receives the enhanced credit or reduced fee associated with the highest tier achieved for each eligible contract executed on the Exchange. Upon reaching a volume threshold that qualifies a Member for a specified tier under the MIAX Market Maker Sliding Scale, however, a Member receives the enhanced credit or reduced fee associated with the tier achieved for each eligible contract executed within that tier on the Exchange. Further, upon reaching a volume threshold that qualifies a Member for a specified tier under the Professional Rebate Program,[10] a Member receives the enhanced credit for each eligible contract executed within that tier based upon that percentage tier only, and will not receive a rebate applicable to any other tier for such contracts.

Under the Exchange's current Fee Schedule, a Member is permitted to aggregate volume with a Member's ''Affiliates'', which are defined as firms that have at least 75% common ownership with the Member as reflected on each firm's Form BD, Schedule A.[11] Thus, Members that act as EEMs with affiliated broker-dealers that are Market Makers on the Exchange, and vice-versa, may be able to potentially qualify for certain pricing incentives offered by the Exchange based on such affiliation and aggregation.

The Exchange proposes that all MIAX Market Makers who do not otherwise have a corporate affiliation based upon common ownership with an EEM (whether in the same broker-dealer or in a separate broker-dealer) would be able to appoint an EEM to aggregate its volume for purposes of reaching tier thresholds under the Fee Schedule, and conversely, all EEMs who do not otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker (whether in the same broker-dealer or in a separate broker-dealer) could appoint a MIAX Market Maker for the same purposes.[12]

[5] Members should direct their executed forms to *membership@miaxoptions.com.*

[6] The Exchange further notes that, as proposed, the Exchange would only recognize one such designation for each party once every 12 months (from the date of its most recent designation), which designation would remain in effect unless or until the Exchange receives written notice submitted 2 business days prior to the first business day of the month from either party indicating that the appointment has been terminated.

[7] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s).

[8] For example, under Section (1)(a)(i), volume thresholds are based on the total national Market Maker volume of any options classes with traded volume on MIAX during the month in simple and complex orders (excluding QCC Orders, PRIME AOC Responses, and unrelated MIAX Market Maker quotes or unrelated MIAX Market Maker orders that are received during the Response Time Interval and executed against the PRIME Order (''PRIME Participating Quotes or Orders'')).

[9] *See* Securities Exchange Act Release Nos. 77777 (May 6, 2016), 81 FR 29603 (May 12, 2016)(SR–MIAX–2016–09); 76557 (December 4, 2015), 80 FR 76716 (December 10, 2015) (SR–MIAX–2015–65); 76098 (October 7, 2015), 80 FR 61866 (October 14, 2015) (SR–MIAX–2015–58); 75856 (September 8, 2015), 80 FR 55158 (September 14, 2015) (SR–MIAX–2015–53); 75631 (August 6, 2015), 80 FR 48382 (August 12, 2015) (SR–MIAX–2015–51); 74758 (April 17, 2015), 80 FR 22756 (April 23, 2015)(SR–MIAX–2015–27); 74007 (January 9, 2015), 80 FR 1537 (January 12, 2015) (SR–MIAX–2014–69); 72799 (August 8, 2014), 79 FR 47698 (August 14, 2014) (SR–MIAX–2014–40); 72355 (June 10, 2014), 79 FR 34368 (June 16, 2014) (SR–MIAX–2014–25); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR–MIAX–2014–12); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR–MIAX–2013–63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR–MIAX–2013–56).

[10] *See* Securities Exchange Act Release Nos. 80190 (March 9, 2017), 82 FR 13895 (March 15, 2017) (SR–MIAX–2017–11); 77097 (February 9, 2016), 81 FR 7877 (February 16, 2016) (SR–MIAX–2016–05); 77777 (May 6, 2016), 81 FR 29603 (May 12, 2016) (SR–MIAX–2016–09); 79157 (October 26, 2016), 81 FR 75885 (November 1, 2016) (SR–MIAX–2016–38).

[11] *See* Footnote 1 to the Fee Schedule.

[12] The Commission notes that the Exchange calculates on a monthly basis a Member's volume in the applicable category (*e.g.,* Priority Customer orders or Market Maker orders), as specified in the

Continued

The proposal would be available to all MIAX Market Makers and EEMs, except for those MIAX Market Makers who otherwise have a corporate affiliation based upon common ownership with an EEM (and vice versa). The proposed change would enable a MIAX Market Maker without an affiliated EEM to enter into a relationship with an Appointed EEM. By virtue of designating an Appointed Market Maker, an EEM benefits by establishing an execution relationship with a MIAX Market Maker that may potentially provide greater liquidity to trade with its own Priority Customer volume. To be clear, the Exchange notes that an EEM that has a corporate affiliation based upon common ownership with a MIAX Market Maker may only aggregate volumes with its corporate-affiliated MIAX Market Maker, and not with any other MIAX Market Maker. Further, MIAX Market Makers that have multiple Market Maker memberships which are already aggregated by the Exchange for purposes of qualifying the Member for tiered pricing incentives will be treated as a single entity.

Thus, the proposed changes would enable Members that may not currently qualify for tiered pricing incentives to potentially avail themselves of such incentives, as well as to assist Members to potentially achieve a higher tier, thus qualifying for higher credits or reduced transaction fees. The Exchange believes these proposed changes would incentivize Members to direct their order flow to the Exchange to the benefit of all market participants. Further, the Exchange believes that the proposed changes would encourage MIAX Market Makers to increase their participation on the Exchange, which would increase capital commitment and liquidity on the Exchange to the benefit of all market participants.

As proposed, the Exchange will only recognize one such designation for each party once every 12 months (from the date of its most recent designation), which designation would remain in effect unless or until the parties informed the Exchange of its termination.[13] The Exchange believes that this requirement would impose a measure of exclusivity and would enable both parties to rely upon each other's transaction volumes executed on the Exchange, and potentially increase such volumes, which is beneficial to all Exchange participants. Other exchanges have adopted similar concepts and permit their market makers and order flow providers to appoint one another for purposes of volume aggregation to reach higher volume tier thresholds.[14]

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Sections 6(b)(4) of the Act,[16] 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, and Section 6(b)(5) of the Act,[17] 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 mechanisms 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 its proposed fees and rebates are reasonable, fair and equitable, and non-discriminatory for the following reasons. First, the proposal would be available to all MIAX Market Makers and EEMs (except for those MIAX Market Makers who otherwise have a corporate affiliation based upon common ownership with an EEM (and vice versa)), and the decision to be designated as an ''Appointed EEM'' or ''Appointed Market Maker'' is completely voluntary and Members may elect to accept this appointment or not. Excluding Members that have a corporate affiliation by common ownership from also appointing other Members as ''Affiliates'' is equitable and not unfairly discriminatory because those Members are already eligible to aggregate volume and thus potentially qualify for tiered pricing incentives. In addition, the proposed changes would enable Members that are not able to achieve tiered pricing incentives to potentially avail themselves of such pricing as well as to assist Members that are currently able to achieve such tiers to potentially achieve a higher tier, thus qualifying for higher rebates or lower fees. The Exchange believes these proposed changes would incentivize Members to direct their order flow to the Exchange. Specifically, the proposed changes would enable any MIAX Market Maker (except for those MIAX Market Makers who otherwise have a corporate affiliation based upon common ownership with an EEM) to qualify its Appointed EEM for purposes of potential tiered pricing incentives. Moreover, the proposed change would allow any EEM (except for those EEMs who otherwise have a corporate affiliation based upon common ownership with a MIAX Market Maker), by virtue of designating an Appointed Market Maker, to establish an execution relationship with a MIAX Market Maker that may potentially provide greater liquidity to trade with its own volume, including Priority Customer volume. The Exchange believes these proposed changes would incentivize Appointed EEMs with an Appointed Market Maker to direct their order flow to the Exchange, which would result in an increase in orders routed to the Exchange which in turn would benefit all market participants by expanding liquidity and providing more trading opportunities on the Exchange. Similarly, the Exchange believes these proposed changes would incentivize Appointed Market Makers with an Appointed EEM to increase their participation on the Exchange, which would increase capital commitment and liquidity and decrease spreads on the Exchange to the benefit of all market participants. The Exchange believes that, similar to volume-based tiers offered by the Exchange, the benefits of the proposal extend to all market participants based on the increased quality of liquidity on the Exchange, including those market participants that opt not to become an Appointed EEM or Appointed Market Maker.

Further, the Exchange believes that the proposal is reasonable and equitably allocated because it is beneficial to all Exchange participants based on the fact that it enables parties to rely upon each other's transaction volumes executed on the Exchange, and potentially increase such volumes. In turn, as above, the potential increase in order flow, capital commitment and resulting liquidity on the Exchange would benefit all market participants by expanding liquidity, providing more trading opportunities and tighter spreads. The proposal is also reasonable, equitable and not unfairly discriminatory because the Exchange would only recognize one such designation for each party once every 12 months (from the date of its most recent designation), which requirement would impose a measure of exclusivity while

Fee Schedule for each applicable transaction. *See supra* note 8 and accompanying text.

[13] *See supra* note 6.

[14] *See* Securities Exchange Act Release Nos. 77524 (April 5, 2016), 81 FR 21417 (April 11, 2016)(SR–BatsBZX–2016–04); 77526 (April 5, 2016), 81 FR 21405 (April 11, 2016) (SR–BatsEDGX–2016–05); 77926 (May 26, 2016), 81 FR 35421 (June 2, 2016) (SR–CBOE–2016–045); 78382 (July 21, 2016), 81 FR 49293 (July 27,2016) (SR–Phlx-2016–62).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4).

[17] 15 U.S.C. 78f(b)(5).

allowing both parties to rely upon each other's transaction volumes executed on the Exchange, and potentially increase such volumes, again, to the benefit of all market participants. Finally, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory and facilitates trading as it may encourage an increase in orders routed to the Exchange, which would expand liquidity and provide more trading opportunities and tighter spreads to the benefit of all market participants, even to those market participants that are either currently affiliated by virtue of their common ownership or that opt not to become an Appointed EEM or Appointed Market Maker under this proposal. Other exchanges have adopted similar concepts.[18]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed amendments to its fee schedule will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes are pro-competitive as they would increase opportunities for MIAX Market Makers and EEMs (who do not otherwise have a corporate affiliation based upon common ownership with an EEM, and MIAX Market Maker, respectively) to potentially qualify for tiered pricing incentives on the Exchange, which may increase intermarket and intramarket competition by incentivizing participants to direct their orders to the Exchange thereby increasing the volume of contracts traded on the Exchange. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange would benefit all market participants and improve competition on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment

[18] *See supra* note 14.

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,[19] and Rule 19b–4(f)(2) [20] 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 Number SR–MIAX–2017–15 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2017–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2017–15, and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

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[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 240.19b–4(f)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80418; File No. SR–NYSEARCA–2017–29]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Amending the Certificate of Incorporation and Bylaws of Its Ultimate Parent Company, Intercontinental Exchange, Inc.

April 10, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 28, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 6, 2017, the Exchange filed Amendment No. 1 to the proposal.[4] The Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 clarifies that ICE is a public company listed on the NYSE and that the word

Continued

is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the certificate of incorporation and bylaws of its ultimate parent company, Intercontinental Exchange, Inc. (''ICE''), to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in ICE's certificate of incorporation to its bylaws and make a technical correction to a cross-reference within the bylaws; (3) make certain simplifying or clarifying changes in ICE's bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the bylaws to the Vice Chair with references to the lead independent director. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ICE's Third Amended and Restated Certificate of Incorporation (the ''ICE Certificate'') and Seventh Amended and Restated Bylaws (the ''ICE Bylaws'') to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in the ICE Certificate to the ICE Bylaws and make a technical correction to a cross-reference within the ICE Bylaws; (3) make certain simplifying or clarifying changes in the ICE Bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the ICE Bylaws to the Vice Chair with references to the lead independent director.

ICE owns 100% of the equity interest in Intercontinental Exchange Holdings, Inc. (''ICE Holdings''), which in turn owns 100% of the equity interest in NYSE Holdings LLC (''NYSE Holdings''). NYSE Holdings owns 100% of the equity interest of NYSE Group, Inc. (''NYSE Group''), which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (''NYSE MKT'') and NYSE National, Inc. (''NYSE National'').[5]

ICE Certificate

The Exchange proposes to amend the limitations on voting and ownership in Article V of the ICE Certificate to update and streamline references to ICE subsidiaries that are national securities exchanges or that control national securities exchanges, as well as to delete references to other subsidiaries of ICE. In addition, it proposes to revise the amendment provision in Article X of the ICE Certificate to remove an obsolete reference.

Limitations on Voting and Ownership

Article V of the ICE Certificate establishes voting limitations and ownership concentration limitations on owners of ICE common stock above certain thresholds for so long as ICE owns any U.S. Regulated Subsidiary. By reference to the ICE Bylaws, ''U.S. Regulated Subsidiaries'' is defined to mean the four national securities exchanges owned by ICE (the Exchange, NYSE, NYSE MKT, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by ICE.[6]

Article V of the ICE Certificate also authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations. Those include determinations that such an exception would not impair the ability of ICE, the U.S. Regulated Subsidiaries, ICE Holdings, NYSE Holdings, and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder, and that such an exception is otherwise in the best interests of ICE, its stockholders and the U.S. Regulated Subsidiaries.

NYSE Arca proposes to amend Article V to replace references to the U.S. Regulated Subsidiaries with references to the ''Exchanges.'' An ''Exchange'' would be defined as a national securities exchange registered under Section 6 of the Exchange Act[7] that is directly or indirectly controlled by ICE.[8] Accordingly, Article V would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. NYSE Arca believes omitting such entities is appropriate because the Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.''[9] In addition, NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.[10] Moreover, the proposed change would align Article V with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to

''indirect'' is proposed to be deleted from clause (iii)(y) of the first sentence of Section 2.13(b) of ICE's bylaws.

[5] ICE is a publicly traded company listed on the NYSE. The Exchange's affiliates NYSE, NYSE MKT, and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2017–13, SR–NYSEMKT–2017–17, and SR–NYSENAT–2017–01.

[6] ICE Certificate, Article V, Section A.10; ICE Bylaws, Article III, Section 3.15. NYSE Arca, LLC, is a subsidiary of NYSE Group, and NYSE Arca Equities is a subsidiary of NYSE Arca.

[7] 15 U.S.C. 78f.

[8] *See* proposed Fourth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. (''Proposed ICE Certificate''), Article V, Section A.3(a).

[9] 15 U.S.C. 78c(a)(1).

[10] *See* NYSE Arca Equities Rule 3.4 (''The NYSE Arca, Inc. ('NYSE Arca Parent'), as a self-regulatory organization registered with the Securities and Exchange Commission pursuant to Section 6 of the Exchange Act, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary, NYSE Arca Equities, Inc. ('Corporation')''). *See also* NYSE Arca Equities Rule 14.1.

subsidiaries other than national securities exchanges.[11]

As noted above, Article V of the ICE Certificate authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if it makes certain determinations. Such determinations include that the proposed exception would not impair the ability of ICE Holdings, NYSE Holdings and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder.[12] NYSE Arca proposes to amend Article V to replace the references to ICE Holdings, NYSE Holdings and NYSE Group with the defined term ''Intermediate Holding Companies.''

Finally, Article V includes lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE MKT and NYSE Arca.[13] NYSE Arca proposes to use a new defined term, ''Member,'' to mean a person that is a ''member'' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[14] NYSE Arca believes that using ''Member'' in place of the list of categories of members and permit holders would simplify the provisions and avoid Exchange-by-Exchange descriptions without substantive change. Each of the categories listed—an ETP Holder of NYSE Arca Equities (as defined in the NYSE Arca Equities rules of NYSE Arca); an OTP Holder or OTP Firm of NYSE Arca (each as defined in the rules of NYSE Arca); a ''member'' or ''member organization'' of NYSE (as defined in the rules of the NYSE) and NYSE MKT [15]—is a ''member'' of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[16]

More specifically, the revised ICE Certificate would require, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the different categories of membership recognized by each Exchange.[17] Similarly, the conditions relating to a person seeking approval to exceed the ownership concentration limitation would be rephrased in the same way.[18] Use of ''Member'' would permit a simplification, without substantive change, of the portion of the definition of the term ''Related Persons'' relating to members and trading permit holders.[19]

NYSE Arca believes that the use of ''Member'' and the changes to remove the Exchange-by-Exchange lists of categories of Members would be appropriate because it would align the provision in the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[20]

To implement the proposed changes, NYSE Arca proposes the following amendments to Article V of the ICE Certificate:

- In Article V, Section A.1, the text ''any U.S. Regulated Subsidiary (as defined below)'' would be replaced with ''a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the 'Exchange Act').''
- In Article V, Section A.2, the text ''Securities Exchange Act of 1934, as amended (the 'Exchange Act'),'' would be replaced with ''Exchange Act.''
- In Article V, Section A.3(a), the text ''U.S. Regulated Subsidiary'' would be replaced with the text ''national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an 'Exchange'), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company') or''; the text '', Intercontinental Exchange Holdings, Inc. ('ICE Holdings'), NYSE Holdings LLC ('NYSE Holdings') or NYSE Group, Inc. ('NYSE Group') (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange.''
- In Article V, Section A.3(c), ''and'' would be added between (i) and (ii); the text ''NYSE Arca, Inc. ('NYSE Arca') or NYSE Arca Equities, Inc. ('NYSE Arca Equities') or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member (as defined below) of any Exchange'' would replace the text from ''an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca'' through the end of the paragraph.
- In Article V, Section A.3(d), ''and'' would be added between (i) and (ii); the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member of any Exchange'' would replace the text from ''an ETP Holder'' through the end of the paragraph.
- The definition of ''Member'' would be added as new Article V, Section A.8, defined to ''mean a Person that is a 'member' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.'' Article V, Sections A.8 and A.9 would be renumbered as Sections A.9 and A.10, respectively.
- In Article V, Section A.9 (which would be renumbered A.10), the definition of the term ''Related Person'' would be simplified to eliminate the Exchange-by-Exchange definition, as follows:
- In Section A.10(d), the text '' 'member organization' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any 'member' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)'' would be replaced with ''Member, any Person'';
- In Section A.10(e), the text ''an OTP Firm, any OTP Holder that is associated with such Person'' would be replaced with ''natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated'';
- ''and'' would be added between Sections A.10(g) and (h); and
- Sections A.10(i) through (l) would be deleted.
- The definition of ''U.S. Regulated Subsidiary'' and ''U.S. Regulated Subsidiaries'' in Article V, Section A.10 would be deleted.

[11] *See* Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (''CBOE Certificate''), Article Sixth, Sections (a)(ii)(A) and (b)(ii)(A) (referencing ''Regulated Securities Exchange Subsidiaries''); and Amended and Restated Certificate of Incorporation of Bats Global Markets, Inc. (''Bats Certificate''), Article Fifth, Section (b)(i) and (ii) (referencing ''Exchanges'').

[12] ICE Certificate, Article V, Sections A.3(a)(i) and B.3(a)(i).

[13] *See* ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii) and Section A.9.

[14] 15 U.S.C. 78c(a)(3)(A).

[15] *See id.*

[16] 15 U.S.C. 78c(a)(3)(A).

[17] *See* Proposed ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii).

[18] *See* Proposed ICE Certificate, Article V, Section B.3(d).

[19] *See* Proposed ICE Certificate, Article V, Section A.10. For the current definition of ''Related Persons,'' *see* ICE Certificate, Article V, Section A.9.

[20] *See* Bats Certificate, Article Fifth, Sections (a)(ii)(D) and (E) (defining an ''Exchange Member'' as ''a Person that is a registered broker or dealer that has been admitted to membership in any national securities exchange registered under Section 6 of the Act with the Securities and Exchange Commission . . . that is a direct or indirect subsidiary of'' Bats Global Markets, Inc.); and CBOE Certificate, Article Sixth, Sections (a)(ii)(C)(y) and (b)(ii)(D) (defining a ''Trading Permit Holder'' ''as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time'').

• In Article V, Section B.1, the term ''Exchange'' would replace the term ''U.S. Regulated Subsidiary.''

• In Article V, Section B.3(a), the text ''Exchange, Intermediate Holding Company or'' would replace the text ''U.S. Regulated Subsidiaries,''; the text ''ICE Holdings, NYSE Holdings or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''each Exchange'' would replace ''the U.S. Regulated Subsidiaries.''

• In Article V, Section B.3(d), the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''any Exchange''; and the text ''an ETP Holder'' through the end of the paragraph would be replaced with ''a Member of any Exchange.''

• The word ''and'' would be added between Article V, Section B.3(c) and (d); and Article V, Section B.3(e) and (f) would be deleted.

Amendments

In addition to the amendments to Article V, NYSE Arca proposes to amend Article X (Amendments) of the ICE Certificate.

Clause (A) of Article X requires the vote of 80% of all outstanding shares entitled to vote in order to reduce the voting requirement set forth in Section 11.2(b) of the ICE Bylaws. However, Section 11.2(b) of the ICE Bylaws was deleted in 2015 after the sale by ICE of the Euronext business.[21] Accordingly, NYSE Arca proposes to delete the requirement.

Clause (B) of Article X currently requires that, so long as ICE controls any of the U.S. Regulated Subsidiaries, any proposed amendment or repeal of any provision of the ICE Certificate must be submitted to the boards of the NYSE, NYSE Market, NYSE Regulation, NYSE Arca, NYSE Arca Equities, and NYSE MKT for a determination as to whether such amendment or repeal must be filed with the Commission under Section 19 of the Exchange Act.[22] NYSE Arca proposes that, in Clause (B) of Article X, the text ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange''; and ''New York Stock Exchange, NYSE Market, NYSE Regulation, Inc., NYSE Arca, NYSE Arca Equities and NYSE MKT'' would be replaced with ''each Exchange.'' NYSE Arca believes that the use of ''Exchange'' is appropriate for the reasons discussed above.

Additional Changes

The ICE Certificate includes references to NYSE Market (DE), Inc., defined as ''NYSE Market,'' and NYSE Regulation, Inc. (''NYSE Regulation''). NYSE Market and NYSE Regulation were previously parties to a Delegation Agreement whereby the NYSE delegated certain regulatory functions to NYSE Regulation and certain market functions to NYSE Market. The Delegation Agreement was terminated when the NYSE re-integrated its regulatory and market functions. As a result, the two entities ceased being regulated subsidiaries.[23] NYSE Regulation was subsequently merged out of existence. The proposed changes described above would delete all references to NYSE Market and NYSE Regulation from the ICE Certificate.[24]

Finally, conforming changes would be made to the title, recitals and signature line of the ICE Certificate.

ICE Bylaws

The Exchange proposes to make certain amendments to the ICE Bylaws to correspond to the proposed amendments to the ICE Certificate. In addition, the Exchange proposes to amend the ICE Bylaws to make certain changes relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders. Finally, it proposes to replace obsolete references to the Vice Chair with references to the lead independent director.

Changes Corresponding to the Proposed Amendments to the ICE Certificate

The Exchange proposes to make changes to the ICE Bylaws corresponding to the proposed amendments to the ICE Certificate, as described above.

First, NYSE Arca proposes to use ''Exchanges'' in place of ''U.S. Regulated Subsidiaries,'' as in the proposed changes to the ICE Certificate. Accordingly, it proposes to make the following changes:

• The definition of ''U.S. Regulated Subsidiary'' in Section 3.15 would be deleted and replaced with a definition of ''Exchange'' that is the same as the definition in the proposed amended ICE Certificate.

• In Section 3.14(a)(2), the text ''U.S. Regulated Subsidiaries, NYSE Group, Inc. (''NYSE Group'') (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC (''NYSE Holdings''), Intercontinental Exchange Holdings, Inc. ('ICE Holdings')'' would be replaced with ''Exchanges, any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company')''; and the text ''U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings, ICE Holdings'' would be replaced with ''Exchanges, Intermediate Holding Companies.''

• In Section 3.14(b)(3), the text ''the U.S. Regulated Subsidiaries'' and ''their'' would be replaced with ''each Exchange'' and ''its,'' respectively.

• In Article VII, ''the U.S. Regulated Subsidiaries'' would be replaced with ''any Exchange.''

• In Sections 3.14(a)(1), 8.1, 8.2, 8.3(b), 8.4, 9.1, 9.2, 9.3 and 11.3, the text ''U.S. Regulated Subsidiary'' and ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange'' and the text ''U.S. Regulated Subsidiaries'' would be replaced with ''Exchanges.''

• In Sections 8.2(b), 8.4, 9.1, and 9.3, the text ''the U.S. Regulated Subsidiaries'' and ''U.S. Regulated Subsidiaries'' would be replaced with ''an Exchange.''

• In Section 9.3, the text ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange''; ''U.S. Regulated Subsidiary's'' would be replaced with ''Exchange's''; and ''their respective'' would be replaced with ''its.''

• In Section 8.1, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or their successors'' would be replaced with ''any Exchange.'' Similarly, in Section 11.3, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or the boards of directors of their successors'' would be replaced with ''each Exchange.''

• In Sections 8.1 and 8.2, the defined term ''U.S. Subsidiaries' Confidential Information'' would be replaced with ''Exchange Confidential Information,'' with the same meaning except limited to Exchanges.

• In Section 8.3(b), the text ''U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight'' would

[21] *See* Securities Exchange Act Release No. 74929 (May 12, 2015), 80 FR 28311 (May 18, 2015) (SR–NYSEArca–2015–33).

[22] 15 U.S.C. 78s.

[23] *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837 (October 2, 2015 (SR–NYSE–2015–27).

[24] *See* ICE Certificate Article V, Sections A.3(c)(iii) and (d)(iii) and Section B.3(e), and Article X, clause (B).

be replaced with ''Exchange.'' The proposed change would remove the current provision that allows any U.S. Regulated Subsidiary to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3.[25] The national securities exchanges NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

Article XII of the ICE Bylaws was added in connection with the acquisition of NYSE National, previously National Stock Exchange, Inc., in 2016.[26] The Exchange proposes to delete Article XII of the ICE Bylaws in its entirety. Because the substance of Article XII would be addressed by the proposed amendments to the ICE Certificate, Article XII would no longer be necessary. Specifically,

- the substance of Section 12.1(a)(1) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(c)(ii) of the ICE Certificate;
- the substance of Section 12.1(a)(2) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(d)(ii) of the ICE Certificate;
- the substance of Section 12.1(b) of the ICE Bylaws would be addressed in revised Article V, Section B.3.(d) of the ICE Certificate; and
- the substance of Section 12.2 of the ICE Bylaws would be addressed in revised Article X(B) of the ICE Certificate.

Meetings of Stockholders

In addition to the proposed changes corresponding to the proposed amendments to the ICE Certificate, the Exchange proposes to amend several sections of Article II (Meetings of Stockholders).

The Exchange proposes to simplify Section 2.1 of the ICE Bylaws, which relates to the location of stockholder meetings. The revised provision would provide that, as is true now, the location, if any, as well as the decision to hold a stockholder meeting solely by remote communication, would be determined by the Board of Directors and stated in the notice of meeting. The proposed changes are as follow:

- The first sentence would be revised to remove the text ''for the election of directors'', ''in the City of Atlanta, State of Georgia,'' and ''as may be fixed from time to time by the Board of Directors, or at such other place.'' The text ''as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.'' would be deleted and ''or may'' would be added in its place. The second sentence would be deleted in its entirety.
- In the third sentence, the text ''The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall'' and ''as authorized by law'' would be deleted. The word ''solely'' would be added after ''instead be held'' and the text '', in each case as may be designated by the Board of Directors from time to time and stated in the notice of meeting'' added to the end of the sentence.

Section 2.7 relates to the quorum for stockholder meetings. The Exchange proposes to conform the quorum requirements in the ICE Bylaws to those in the ICE Certificate. To do so, it proposes to delete the first three sentences of Section 2.7 and replace it with the sentence ''Section B of Article IX of the certificate of incorporation sets forth the requirements for establishing a quorum at meetings of stockholders of the Corporation.''

Section 2.13(b) sets forth the advance notice requirements for stockholder proposals. The Exchange proposes to make the following changes to Section 2.13(b).

- In addition to stockholders of record, the ICE Bylaws permit certain beneficial holders (defined as ''Nominee Holders'') to nominate directors or bring other matters for consideration before the Board of Directors meeting. The Exchange proposes to make simplifying wording changes in clause (iii) of the first sentence of Section 2.13(b), as follows:
- In clause (x), the text ''stockholder that holds of record stock of the Corporation'' would be amended so that it read [sic] ''stockholder of record.''
- In clause (y), the following text would be deleted: ''holds such''; '' 'street name' ''; ''of such stock and can demonstrate to''; ''indirect''; ''of, and such Nominee Holder's''; and the comma before ''such stock on such matter.'' The revised clause would read as follows: ''is a person (a 'Nominee Holder') that beneficially owns stock of the Corporation through a nominee or other holder of record and provides the Corporation with proof of such beneficial ownership, including the entitlement to vote such stock on such matter.''
- In the current third and fourth sentences of Section 2.13(b), the term ''indirect ownership'' would be changed to ''beneficial ownership'' for consistency.
- The Exchange proposes to add a new defined term, ''Proponent,'' to capture both stockholders and Nominee Holders. Accordingly:
- A new sentence would be added to Section 2.13(b)(iii) between the first and second sentences, stating that ''Stockholders and Nominee Holders who bring matters before the annual meeting pursuant to Section 2.13(b)(iii) are hereinafter referred to as 'Proponents'.''
- Throughout Section 2.13(b), ''stockholder,'' ''stockholders'' and ''stockholder's'' would be replaced with ''Proponent,'' ''Proponents'' and ''Proponent's,'' respectively.
- Throughout Section 2.13(b), ''Proponent'' would replace the phrases ''stockholder or beneficial owner,'' ''stockholder, by such beneficial owner,'' ''stockholder, such beneficial owner,'' ''stockholder and by such beneficial owner, if any,'' and ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed.'' The word ''Proponent's'' would replace the phrase ''stockholder's or such beneficial owner's.''
- Presently, the requirement for disclosing share ownership appears three times: In the current third sentence, which sets forth the provisions for stockholder notices relating to director nominations, the current fourth sentence, which sets forth the provisions for stockholder notices relating to other matters, and the current fifth sentence, which sets forth the information that a shareholder must include in any stockholder notice. Rather than keep the duplication, Exchange proposes to remove the

[25] NYSE Arca Equities Rule 14.1(b) provides, among other things, that the books and records of NYSE Arca Equities are subject to the oversight of the NYSE Arca pursuant to the Act, and that the books and records of NYSE Arca Equities shall be subject at all times to inspection and copying by NYSE Arca. NYSE Arca Equities Rule 14.3(a) provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca and NYSE Arca Equities for purposes of and subject to oversight pursuant to the Exchange Act. *See also* CBOE Holdings, Inc. Certificate of Incorporation, Article Fifteenth (providing that the books and records of a Regulated Securities Exchange Subsidiary shall be subject at all times to inspection by such subsidiary).

[26] *See* Securities Exchange Act Releases No. 79902 (January 30, 2017) 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16); and 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90, SR–NYSEArca2016–167, SR–NYSEMKT–2016–122).

requirement from the third and fourth sentences and retain the requirement in clause (i) of the fifth sentence. Accordingly, the text ‘‘, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder’’ would be deleted from the current third and fourth sentences.

- In the current fourth sentence, the requirement that a stockholder notice include information regarding any material interest in the matter proposed ‘‘(other than as a stockholder)’’ would be clarified by adding ‘‘or beneficial owner of stock’’ after ‘‘stockholder’’ within the parenthetical, because a Proponent who is a nominee holder is not a stockholder.
- In clause (i) of the current fifth sentence, the text ‘‘such Proponent or’’ would be added before ‘‘any Associated Person.’’
- Clause (i) of the current sixth sentence sets forth the meaning of ‘‘Associated Person.’’ The Exchange proposes to narrow the text to eliminate all beneficial owners of stock held of record or beneficially by the Proponent from the definition, and instead to cover only those beneficial owners on whose behalf the stockholder notice is being delivered. Accordingly, the Exchange proposes to replace the text ‘‘stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed,’’ with ‘‘Proponent’’ and, in clause (i)(x), replace the text ‘‘owned of record or beneficially by such stockholder or by such beneficial owner’’ with ‘‘on whose behalf such Proponent is delivering a Stockholder Notice.’’

Additional Proposed Changes

In addition to the changes proposed above, the Exchange proposes to amend several additional sections of the ICE Bylaws.

The ICE Bylaws refer to a ‘‘Vice Chairman of the Board.’’ However, the Board of Directors of ICE has not had a Vice Chairman since the sale of the Euronext business in 2014. Accordingly, in Sections 2.9, 3.6(b) and 3.8, the Exchange proposes to replace ‘‘Vice Chairman of the Board’’ with ‘‘lead independent director.’’ As a result, the lead independent director would preside over meetings of stockholders in the absence of the Chairman of the Board (Section 2.9), have the authority to call a special meeting of the Board of Directors (Section 3.6(b)) and would preside over meetings of the Board of Directors in the absence of the Chairman of the Board (Section 3.8).

In Section 3.12, relating to the conduct of meetings of committees of the Board of Directors of ICE, a reference to ‘‘Article II of these Bylaws’’ would be corrected to read ‘‘this Article III of these Bylaws.’’

Section 3.14 sets forth considerations directors must take into account in discharging their responsibilities as members of the board of directors. The Exchange proposes to amend the last sentence of Section 3.14(c), which limits claims against directors, officers and employees of ICE and against ICE. The revised text would be expanded in scope to apply to any ‘‘past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,’’ and to protect agents of ICE as well as directors, officers and employees. These changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[27]

Finally, conforming changes would be made to the title and date of the ICE Bylaws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [28] in general, and with Section 6(b)(1) [29] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ‘‘Exchange’’ or the ‘‘Exchanges,’’ as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges in the ICE Certificate and ICE Bylaws. The Exchange Act definition of ‘‘exchange’’ states that ‘‘exchange’’ ‘‘includes the market place and the market facilities maintained by such exchange.’’ [30] Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the ICE Certificate and ICE Bylaws. The Exchange notes that the proposed change would align Article V of the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[31] NYSE Arca, as the national securities exchange, would retain the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.

Similarly, as a result of the proposed use of ‘‘Exchanges’’ instead of ‘‘U.S. Regulated Subsidiaries,’’ ICE Bylaws Section 8.3 would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, adding further clarity and transparency to the Exchange’s rules.[32]

Further, the proposed use of the defined term ‘‘Member’’ in place of the lists of categories of members and permit holders in Article V of the ICE Certificate would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange’s rules and aligning the provision in the ICE Certificate with the voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[33] Similarly, the proposed use of the defined term ‘‘Intermediate Holding Company’’ in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws would

[27] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(1).

[30] 15 U.S.C. 78c(a)(1).

[31] *See* note 11, *supra.*

[32] As noted above, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3. NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other, and so the proposed change would have no effect on those entities' rights.

[33] *See* note 20, *supra.*

simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules.

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act [34] because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate; (2) using ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate; (3) using ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws; and (4) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries in ICE Bylaws Section 8.3 would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange's rules, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to the last sentence of Section 3.14(c) of the ICE Bylaws, which limits claims against directors, officers and employees of ICE and against ICE, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[35]

The Exchange believes that the proposed amendments to remove references to NYSE Market, NYSE Regulation and the Vice Chairman and to remove the cross reference to Section 11.2(b) of the ICE Bylaws from Article X of the ICE Certificate would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would eliminate obsolete references, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency in the ICE Certificate and ICE Bylaws. Such increased clarity and transparency would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to Article II of the ICE Bylaws, regarding meetings of stockholders, would also remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would increase the clarity of the relevant sections of Article II, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency regarding the location of stockholder meetings and advance notice requirements, and the conformance of the quorum requirements with those in the ICE Certificate, and so would more easily navigate and understand the ICE Bylaws.

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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the ICE Certificate and Bylaws, delete obsolete or unnecessary references and make other simplifying or clarifying changes to the ICE governing documents. The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2017–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2017–29. 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

[34] 15 U.S.C. 78f(b)(5).

[35] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

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–NYSEARCA–2017–29 and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07531 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80420; File No. SR–NYSE–2017–13]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Amending the Certificate of Incorporation and Bylaws of Its Ultimate Parent Company, Intercontinental Exchange, Inc.

April 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 28, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 6, 2017, the Exchange filed Amendment No. 1 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the certificate of incorporation and bylaws of its ultimate parent company, Intercontinental Exchange, Inc. (''ICE''), to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in ICE's certificate of incorporation to its bylaws and make a technical correction to a cross-reference within the bylaws; (3) make certain simplifying or clarifying changes in ICE's bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the bylaws to the Vice Chair with references to the lead independent director. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[4] Amendment No. 1 clarifies that the word ''indirect'' is proposed to be deleted from clause (iii)(y) of the first sentence of Section 2.13(b) of ICE's bylaws.

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 ICE's Third Amended and Restated Certificate of Incorporation (the ''ICE Certificate'') and Seventh Amended and Restated Bylaws (the ''ICE Bylaws'') to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in the ICE Certificate to the ICE Bylaws and make a technical correction to a cross-reference within the ICE Bylaws; (3) make certain simplifying or clarifying changes in the ICE Bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the ICE Bylaws to the Vice Chair with references to the lead independent director.

ICE owns 100% of the equity interest in Intercontinental Exchange Holdings, Inc. (''ICE Holdings''), which in turn owns 100% of the equity interest in NYSE Holdings LLC (''NYSE Holdings''). NYSE Holdings owns 100% of the equity interest of NYSE Group, Inc. (''NYSE Group''), which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, NYSE Arca, Inc. (''NYSE Arca''), NYSE MKT LLC (''NYSE MKT'') and NYSE National, Inc. (''NYSE National'').[5]

ICE Certificate

The Exchange proposes to amend the limitations on voting and ownership in Article V of the ICE Certificate to update and streamline references to ICE subsidiaries that are national securities exchanges or that control national securities exchanges, as well as to delete references to other subsidiaries of ICE. In addition, it proposes to revise the amendment provision in Article X of the ICE Certificate to remove an obsolete reference.

Limitations on Voting and Ownership

Article V of the ICE Certificate establishes voting limitations and

[5] ICE is a publicly traded company listed on the Exchange. The Exchange's affiliates NYSE MKT, NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSEMKT–2017–17, SR–NYSEArca–2017–29, and SR–NYSENAT–2017–01.

ownership concentration limitations on owners of ICE common stock above certain thresholds for so long as ICE owns any U.S. Regulated Subsidiary. By reference to the ICE Bylaws, ''U.S. Regulated Subsidiaries'' is defined to mean the four national securities exchanges owned by ICE (the Exchange, NYSE Arca, NYSE MKT, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by ICE.[6]

Article V of the ICE Certificate also authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations. Those include determinations that such an exception would not impair the ability of ICE, the U.S. Regulated Subsidiaries, ICE Holdings, NYSE Holdings, and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder, and that such an exception is otherwise in the best interests of ICE, its stockholders and the U.S. Regulated Subsidiaries.

The NYSE proposes to amend Article V to replace references to the U.S. Regulated Subsidiaries with references to the ''Exchanges.'' An ''Exchange'' would be defined as a national securities exchange registered under Section 6 of the Exchange Act[7] that is directly or indirectly controlled by ICE.[8] Accordingly, Article V would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. The NYSE believes omitting such entities is appropriate because the Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.''[9] In addition, NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.[10] Moreover, the proposed change would align Article V with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[11]

As noted above, Article V of the ICE Certificate authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if it makes certain determinations. Such determinations include that the proposed exception would not impair the ability of ICE Holdings, NYSE Holdings and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder.[12] The NYSE proposes to amend Article V to replace the references to ICE Holdings, NYSE Holdings and NYSE Group with the defined term ''Intermediate Holding Companies.''

Finally, Article V includes lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE MKT and NYSE Arca.[13] The NYSE proposes to use a new defined term, ''Member,'' to mean a person that is a ''member'' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[14] The NYSE believes that using ''Member'' in place of the list of categories of members and permit holders would simplify the provisions and avoid Exchange-by-Exchange descriptions without substantive change. Each of the categories listed—an ETP Holder of NYSE Arca Equities (as defined in the NYSE Arca Equities rules of NYSE Arca); an OTP Holder or OTP Firm of NYSE Arca (each as defined in the rules of NYSE Arca); a ''member'' or ''member organization'' of NYSE (as defined in the rules of the NYSE) and NYSE MKT[15]—is a ''member'' of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[16]

More specifically, the revised ICE Certificate would require, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the different categories of membership recognized by each Exchange.[17] Similarly, the conditions relating to a person seeking approval to exceed the ownership concentration limitation would be rephrased in the same way.[18] Use of ''Member'' would permit a simplification, without substantive change, of the portion of the definition of the term ''Related Persons'' relating to members and trading permit holders.[19]

The NYSE believes that the use of ''Member'' and the changes to remove the Exchange-by-Exchange lists of categories of Members would be appropriate because it would align the provision in the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[20]

To implement the proposed changes, the NYSE proposes the following amendments to Article V of the ICE Certificate:

- In Article V, Section A.1, the text ''any U.S. Regulated Subsidiary (as defined below)'' would be replaced with ''a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the 'Exchange Act').''
- In Article V, Section A.2, the text ''Securities Exchange Act of 1934, as amended (the 'Exchange Act'),'' would be replaced with ''Exchange Act.''
- In Article V, Section A.3(a), the text ''U.S. Regulated Subsidiary'' would be replaced with the text ''national securities exchange registered under Section 6 of the Exchange Act that is

[6] ICE Certificate, Article V, Section A.10; ICE Bylaws, Article III, Section 3.15. NYSE Arca, LLC, is a subsidiary of NYSE Group, and NYSE Arca Equities is a subsidiary of NYSE Arca.

[7] 15 U.S.C. 78f.

[8] *See* proposed Fourth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. (''Proposed ICE Certificate''), Article V, Section A.3(a).

[9] 15 U.S.C. 78c(a)(1).

[10] *See* NYSE Arca Equities Rule 3.4 (''The NYSE Arca, Inc. ('NYSE Arca Parent'), as a self-regulatory organization registered with the Securities and Exchange Commission pursuant to Section 6 of the Exchange Act, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary, NYSE Arca Equities, Inc. ('Corporation')''). *See also* NYSE Arca Equities Rule 14.1.

[11] *See* Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (''CBOE Certificate''), Article Sixth, Sections (a)(ii)(A) and (b)(ii)(A) (referencing ''Regulated Securities Exchange Subsidiaries''); and Amended and Restated Certificate of Incorporation of Bats Global Markets, Inc. (''Bats Certificate''), Article Fifth, Section (b)(i) and (ii) (referencing ''Exchanges'').

[12] ICE Certificate, Article V, Sections A.3(a)(i) and B.3(a)(i).

[13] *See* ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii) and Section A.9.

[14] 15 U.S.C. 78c(a)(3)(A).

[15] *See id.*

[16] 15 U.S.C. 78c(a)(3)(A).

[17] *See* Proposed ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii).

[18] *See* Proposed ICE Certificate, Article V, Section B.3(d).

[19] *See* Proposed ICE Certificate, Article V, Section A.10. For the current definition of ''Related Persons,'' *see* ICE Certificate, Article V, Section A.9.

[20] *See* Bats Certificate, Article Fifth, Sections (a)(ii)(D) and (E) (defining an ''Exchange Member'' as ''a Person that is a registered broker or dealer that has been admitted to membership in any national securities exchange registered under Section 6 of the Act with the Securities and Exchange Commission . . . that is a direct or indirect subsidiary of'' Bats Global Markets, Inc.); and CBOE Certificate, Article Sixth, Sections (a)(ii)(C)(y) and (b)(ii)(D) (defining a ''Trading Permit Holder'' ''as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time'').

directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an 'Exchange'), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company') or''; the text '', Intercontinental Exchange Holdings, Inc. ('ICE Holdings'), NYSE Holdings LLC ('NYSE Holdings') or NYSE Group, Inc. ('NYSE Group') (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange.''

• In Article V, Section A.3(c), ''and'' would be added between (i) and (ii); the text ''NYSE Arca, Inc. ('NYSE Arca') or NYSE Arca Equities, Inc. ('NYSE Arca Equities') or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member (as defined below) of any Exchange'' would replace the text from ''an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca'' through the end of the paragraph.

• In Article V, Section A.3(d), ''and'' would be added between (i) and (ii); the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member of any Exchange'' would replace the text from ''an ETP Holder'' through the end of the paragraph.

• The definition of ''Member'' would be added as new Article V, Section A.8, defined to ''mean a Person that is a 'member' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.'' Article V, Sections A.8 and A.9 would be renumbered as Sections A.9 and A.10, respectively.

• In Article V, Section A.9 (which would be renumbered A.10), the definition of the term ''Related Person'' would be simplified to eliminate the Exchange-by-Exchange definition, as follows:

• In Section A.10(d), the text '' 'member organization' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any 'member' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)'' would be replaced with ''Member, any Person'';

• In Section A.10(e), the text ''an OTP Firm, any OTP Holder that is associated with such Person'' would be replaced with ''natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated'';

• ''and'' would be added between Sections A.10(g) and (h); and

• Sections A.10(i) through (l) would be deleted.

• The definition of ''U.S. Regulated Subsidiary'' and ''U.S. Regulated Subsidiaries'' in Article V, Section A.10 would be deleted.

• In Article V, Section B.1, the term ''Exchange'' would replace the term ''U.S. Regulated Subsidiary.''

• In Article V, Section B.3(a), the text ''Exchange, Intermediate Holding Company or'' would replace the text ''U.S. Regulated Subsidiaries,''; the text ''ICE Holdings, NYSE Holdings or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''each Exchange'' would replace ''the U.S. Regulated Subsidiaries.''

• In Article V, Section B.3(d), the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''any Exchange''; and the text ''an ETP Holder'' through the end of the paragraph would be replaced with ''a Member of any Exchange.''

• The word ''and'' would be added between Article V, Section B.3(c) and (d); and Article V, Section B.3(e) and (f) would be deleted.

Amendments

In addition to the amendments to Article V, the NYSE proposes to amend Article X (Amendments) of the ICE Certificate.

Clause (A) of Article X requires the vote of 80% of all outstanding shares entitled to vote in order to reduce the voting requirement set forth in Section 11.2(b) of the ICE Bylaws. However, Section 11.2(b) of the ICE Bylaws was deleted in 2015 after the sale by ICE of the Euronext business.[21] Accordingly, the NYSE proposes to delete the requirement.

Clause (B) of Article X currently requires that, so long as ICE controls any of the U.S. Regulated Subsidiaries, any proposed amendment or repeal of any provision of the ICE Certificate must be submitted to the boards of the NYSE, NYSE Market, NYSE Regulation, NYSE Arca, NYSE Arca Equities, and NYSE MKT for a determination as to whether such amendment or repeal must be filed with the Commission under Section 19 of the Exchange Act.[22] The NYSE proposes that, in Clause (B) of Article X, the text ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange''; and ''New York Stock Exchange, NYSE Market, NYSE Regulation, Inc., NYSE Arca, NYSE Arca Equities and NYSE MKT'' would be replaced with ''each Exchange.'' The NYSE believes that the use of ''Exchange'' is appropriate for the reasons discussed above.

Additional Changes

The ICE Certificate includes references to NYSE Market (DE), Inc., defined as ''NYSE Market,'' and NYSE Regulation, Inc. (''NYSE Regulation''). NYSE Market and NYSE Regulation were previously parties to a Delegation Agreement whereby the NYSE delegated certain regulatory functions to NYSE Regulation and certain market functions to NYSE Market. The Delegation Agreement was terminated when the NYSE re-integrated its regulatory and market functions. As a result, the two entities ceased being regulated subsidiaries.[23] NYSE Regulation was subsequently merged out of existence. The proposed changes described above would delete all references to NYSE Market and NYSE Regulation from the ICE Certificate.[24]

Finally, conforming changes would be made to the title, recitals and signature line of the ICE Certificate.

ICE Bylaws

The Exchange proposes to make certain amendments to the ICE Bylaws to correspond to the proposed amendments to the ICE Certificate. In addition, the Exchange proposes to amend the ICE Bylaws to make certain changes relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders. Finally, it proposes to replace obsolete references to the Vice Chair with references to the lead independent director.

Changes Corresponding to the Proposed Amendments to the ICE Certificate

The Exchange proposes to make changes to the ICE Bylaws corresponding to the proposed amendments to the ICE Certificate, as described above.

First, the NYSE proposes to use ''Exchanges'' in place of ''U.S. Regulated Subsidiaries,'' as in the proposed changes to the ICE Certificate.

[21] *See* Securities Exchange Act Release No. 74928 (May 12, 2015), 80 FR 28331 (May 18, 2015) (SR–NYSE–2015–18).

[22] 15 U.S.C. 78s.

[23] *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837 (October 2, 2015 (SR–NYSE–2015–27).

[24] *See* ICE Certificate Article V, Sections A.3(c)(iii) and (d)(iii) and Section B.3(e), and Article X, clause (B).

Accordingly, it proposes to make the following changes:

• The definition of ''U.S. Regulated Subsidiary'' in Section 3.15 would be deleted and replaced with a definition of ''Exchange'' that is the same as the definition in the proposed amended ICE Certificate.

• In Section 3.14(a)(2), the text ''U.S. Regulated Subsidiaries, NYSE Group, Inc. (''NYSE Group'') (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC (''NYSE Holdings''), Intercontinental Exchange Holdings, Inc. ('ICE Holdings')'' would be replaced with ''Exchanges, any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company')''; and the text ''U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings, ICE Holdings'' would be replaced with ''Exchanges, Intermediate Holding Companies.''

• In Section 3.14(b)(3), the text ''the U.S. Regulated Subsidiaries'' and ''their'' would be replaced with ''each Exchange'' and ''its,'' respectively.

• In Article VII, ''the U.S. Regulated Subsidiaries'' would be replaced with ''any Exchange.''

• In Sections 3.14(a)(1), 8.1, 8.2, 8.3(b), 8.4, 9.1, 9.2, 9.3 and 11.3, the text ''U.S. Regulated Subsidiary'' and ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange'' and the text ''U.S. Regulated Subsidiaries'' would be replaced with ''Exchanges.''

• In Sections 8.2(b), 8.4, 9.1, and 9.3, the text ''the U.S. Regulated Subsidiaries'' and ''U.S. Regulated Subsidiaries'' would be replaced with ''an Exchange.''

• In Section 9.3, the text ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange''; ''U.S. Regulated Subsidiary's'' would be replaced with ''Exchange's''; and ''their respective'' would be replaced with ''its.''

• In Section 8.1, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or their successors'' would be replaced with ''any Exchange.'' Similarly, in Section 11.3, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or the boards of directors of their successors'' would be replaced with ''each Exchange.''

• In Sections 8.1 and 8.2, the defined term ''U.S. Subsidiaries' Confidential Information'' would be replaced with ''Exchange Confidential Information,'' with the same meaning except limited to Exchanges.

• In Section 8.3(b), the text ''U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight'' would be replaced with ''Exchange.'' The proposed change would remove the current provision that allows any U.S. Regulated Subsidiary to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3.[25] The national securities exchanges NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

Article XII of the ICE Bylaws was added in connection with the acquisition of NYSE National, previously National Stock Exchange, Inc., in 2016.[26] The Exchange proposes to delete Article XII of the ICE Bylaws in its entirety. Because the substance of Article XII would be addressed by the proposed amendments to the ICE Certificate, Article XII would no longer be necessary. Specifically,

• the substance of Section 12.1(a)(1) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(c)(ii) of the ICE Certificate;

• the substance of Section 12.1(a)(2) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(d)(ii) of the ICE Certificate;

• the substance of Section 12.1(b) of the ICE Bylaws would be addressed in revised Article V, Section B.3.(d) of the ICE Certificate; and

• the substance of Section 12.2 of the ICE Bylaws would be addressed in revised Article X(B) of the ICE Certificate.

Meetings of Stockholders

In addition to the proposed changes corresponding to the proposed amendments to the ICE Certificate, the Exchange proposes to amend several sections of Article II (Meetings of Stockholders).

The Exchange proposes to simplify Section 2.1 of the ICE Bylaws, which relates to the location of stockholder meetings. The revised provision would provide that, as is true now, the location, if any, as well as the decision to hold a stockholder meeting solely by remote communication, would be determined by the Board of Directors and stated in the notice of meeting. The proposed changes are as follow:

• The first sentence would be revised to remove the text ''for the election of directors'', ''in the City of Atlanta, State of Georgia,'' and ''as may be fixed from time to time by the Board of Directors, or at such other place.'' The text ''as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.'' would be deleted and ''or may'' would be added in its place. The second sentence would be deleted in its entirety.

• In the third sentence, the text ''The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall'' and ''as authorized by law'' would be deleted. The word ''solely'' would be added after ''instead be held'' and the text '', in each case as may be designated by the Board of Directors from time to time and stated in the notice of meeting'' added to the end of the sentence.

Section 2.7 relates to the quorum for stockholder meetings. The Exchange proposes to conform the quorum requirements in the ICE Bylaws to those in the ICE Certificate. To do so, it proposes to delete the first three sentences of Section 2.7 and replace it with the sentence ''Section B of Article IX of the certificate of incorporation sets forth the requirements for establishing a quorum at meetings of stockholders of the Corporation.''

Section 2.13(b) sets forth the advance notice requirements for stockholder proposals. The Exchange proposes to make the following changes to Section 2.13(b).

• In addition to stockholders of record, the ICE Bylaws permit certain beneficial holders (defined as ''Nominee Holders'') to nominate directors or bring

[25] NYSE Arca Equities Rule 14.1(b) provides, among other things, that the books and records of NYSE Arca Equities are subject to the oversight of the NYSE Arca pursuant to the Act, and that the books and records of NYSE Arca Equities shall be subject at all times to inspection and copying by NYSE Arca. NYSE Arca Equities Rule 14.3(a) provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca and NYSE Arca Equities for purposes of and subject to oversight pursuant to the Exchange Act. *See also* CBOE Holdings, Inc. Certificate of Incorporation, Article Fifteenth (providing that the books and records of a Regulated Securities Exchange Subsidiary shall be subject at all times to inspection by such subsidiary).

[26] *See* Securities Exchange Act Releases No. 79902 (January 30, 2017) 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16); and 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90, SR–NYSEArca2016–167, SR–NYSEMKT–2016–122).

other matters for consideration before the Board of Directors meeting. The Exchange proposes to make simplifying wording changes in clause (iii) of the first sentence of Section 2.13(b), as follows:

• In clause (x), the text ''stockholder that holds of record stock of the Corporation'' would be amended so that it read [sic] ''stockholder of record.''

• In clause (y), the following text would be deleted: ''holds such''; '' 'street name' ''; ''of such stock and can demonstrate to''; ''indirect''; ''of, and such Nominee Holder's''; and the comma before ''such stock on such matter.'' The revised clause would read as follows: ''is a person (a 'Nominee Holder') that beneficially owns stock of the Corporation through a nominee or other holder of record and provides the Corporation with proof of such beneficial ownership, including the entitlement to vote such stock on such matter.''

• In the current third and fourth sentences of Section 2.13(b), the term ''indirect ownership'' would be changed to ''beneficial ownership'' for consistency.

• The Exchange proposes to add a new defined term, ''Proponent,'' to capture both stockholders and Nominee Holders. Accordingly:

• A new sentence would be added to Section 2.13(b)(iii) between the first and second sentences, stating that ''Stockholders and Nominee Holders who bring matters before the annual meeting pursuant to Section 2.13(b)(iii) are hereinafter referred to as 'Proponents'.''

• Throughout Section 2.13(b), ''stockholder,'' ''stockholders'' and ''stockholder's'' would be replaced with ''Proponent,'' ''Proponents'' and ''Proponent's,'' respectively.

• Throughout Section 2.13(b), ''Proponent'' would replace the phrases ''stockholder or beneficial owner,'' ''stockholder, by such beneficial owner,'' ''stockholder, such beneficial owner,'' ''stockholder and by such beneficial owner, if any,'' and ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed.'' The word ''Proponent's'' would replace the phrase ''stockholder's or such beneficial owner's.''

• Presently, the requirement for disclosing share ownership appears three times: In the current third sentence, which sets forth the provisions for stockholder notices relating to director nominations, the current fourth sentence, which sets forth the provisions for stockholder notices relating to other matters, and the current fifth sentence, which sets forth the information that a shareholder must include in any stockholder notice. Rather than keep the duplication, Exchange proposes to remove the requirement from the third and fourth sentences and retain the requirement in clause (i) of the fifth sentence. Accordingly, the text '', the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder'' would be deleted from the current third and fourth sentences.

• In the current fourth sentence, the requirement that a stockholder notice include information regarding any material interest in the matter proposed ''(other than as a stockholder)'' would be clarified by adding ''or beneficial owner of stock'' after ''stockholder'' within the parenthetical, because a Proponent who is a nominee holder is not a stockholder.

• In clause (i) of the current fifth sentence, the text ''such Proponent or'' would be added before ''any Associated Person.''

• Clause (i) of the current sixth sentence sets forth the meaning of ''Associated Person.'' The Exchange proposes to narrow the text to eliminate all beneficial owners of stock held of record or beneficially by the Proponent from the definition, and instead to cover only those beneficial owners on whose behalf the stockholder notice is being delivered. Accordingly, the Exchange proposes to replace the text ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed,'' with ''Proponent'' and, in clause (i)(x), replace the text ''owned of record or beneficially by such stockholder or by such beneficial owner'' with ''on whose behalf such Proponent is delivering a Stockholder Notice.''

Additional Proposed Changes

In addition to the changes proposed above, the Exchange proposes to amend several additional sections of the ICE Bylaws.

The ICE Bylaws refer to a ''Vice Chairman of the Board.'' However, the Board of Directors of ICE has not had a Vice Chairman since the sale of the Euronext business in 2014. Accordingly, in Sections 2.9, 3.6(b) and 3.8, the Exchange proposes to replace ''Vice Chairman of the Board'' with ''lead independent director.'' As a result, the lead independent director would preside over meetings of stockholders in the absence of the Chairman of the Board (Section 2.9), have the authority to call a special meeting of the Board of Directors (Section 3.6(b)) and would preside over meetings of the Board of Directors in the absence of the Chairman of the Board (Section 3.8).

In Section 3.12, relating to the conduct of meetings of committees of the Board of Directors of ICE, a reference to ''Article II of these Bylaws'' would be corrected to read ''this Article III of these Bylaws.''

Section 3.14 sets forth considerations directors must take into account in discharging their responsibilities as members of the board of directors. The Exchange proposes to amend the last sentence of Section 3.14(c), which limits claims against directors, officers and employees of ICE and against ICE. The revised text would be expanded in scope to apply to any ''past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,'' and to protect agents of ICE as well as directors, officers and employees. These changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[27]

Finally, conforming changes would be made to the title and date of the ICE Bylaws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [28] in general, and with Section 6(b)(1) [29] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate, would contribute to the orderly operation of the Exchange by

[27] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(1).

adding clarity and transparency to the Exchange's rules by eliminating references to entities that are not national securities exchanges in the ICE Certificate and ICE Bylaws. The Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.'' [30] Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the ICE Certificate and ICE Bylaws. The Exchange notes that the proposed change would align Article V of the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[31] NYSE Arca, as the national securities exchange, would retain the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.

Similarly, as a result of the proposed use of ''Exchanges'' instead of ''U.S. Regulated Subsidiaries,'' ICE Bylaws Section 8.3 would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, adding further clarity and transparency to the Exchange's rules.[32]

Further, the proposed use of the defined term ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules and aligning the provision in the ICE Certificate with the voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[33] Similarly, the proposed use of the defined term ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules.

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act [34] because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate; (2) using ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate; (3) using ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws; and (4) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries in ICE Bylaws Section 8.3 would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange's rules, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to the last sentence of Section 3.14(c) of the ICE Bylaws, which limits claims against directors, officers and employees of ICE and against ICE, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[35]

The Exchange believes that the proposed amendments to remove references to NYSE Market, NYSE Regulation and the Vice Chairman and to remove the cross reference to Section 11.2(b) of the ICE Bylaws from Article X of the ICE Certificate would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would eliminate obsolete references, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency in the ICE Certificate and ICE Bylaws. Such increased clarity and transparency would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to Article II of the ICE Bylaws, regarding meetings of stockholders, would also remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would increase the clarity of the relevant sections of Article II, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency regarding the location of stockholder meetings and advance notice requirements, and the conformance of the quorum requirements with those in the ICE Certificate, and so would more easily navigate and understand the ICE Bylaws.

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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline

[30] 15 U.S.C. 78c(a)(1).

[31] *See* note 11, *supra*.

[32] As noted above, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3. NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other, and so the proposed change would have no effect on those entities' rights.

[33] *See* note 20, *supra*.

[34] 15 U.S.C. 78f(b)(5).

[35] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

the ICE Certificate and Bylaws, delete obsolete or unnecessary references and make other simplifying or clarifying changes to the ICE governing documents. The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2017–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–13 and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07533 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80422; File No SR–CBOE–2017–023]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate Obsolete References in the Fees Schedule

April 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 3, 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 proposes to eliminate obsolete references in the Fees Schedule. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule. Specifically, the Exchange proposes to eliminate references to (i) mini-options, (ii) SPX Range Options (''SROs''), (iii) Floor Broker Workstation (''FBW'') and (iv) Livevol X (''LVX'') Fees.

First, the Exchange notes it no longer lists mini-options or SROs. As such, the Exchange proposes to delete from the Fees Schedule references to mini-options and SROs, as such references are no longer necessary and obsolete.

Next, the Exchange proposes to eliminate all references to FBW in the Fees Schedule. The Exchange no longer offers FBW. As such, all references to FBW will be eliminated from the Fees Schedule as it is unnecessary to maintain and is now obsolete.

Lastly, the Exchange proposes to eliminate the Livevol X (LVX) section of the Livevol Fees table. The Exchange notes that LVX has been sold to another party and as such it will no longer assesses any LVX related fees. The

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[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange therefore proposes to eliminate the LVX section of the Fees Schedule (*i.e.,* the Application fees for Standard and Enterprise Users and the LV Routing Intermediary Fee). The Exchange believes eliminating fees from the Fees Schedule that are no longer charged by the Exchange will eliminate confusion.

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.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] 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.

The Exchange believes eliminating references to (i) classes that are no longer listed on the Exchange, (ii) functionality that is no longer offered at the Exchange and (iii) fees that will no longer be assessed due to the sale of LVX to a third party, will help to avoid confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system. Additionally, the Exchange notes that no substantive changes are being made by the proposed rule change.

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 intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change to eliminate obsolete references to delisted options and fees and functionality no longer offered will alleviate confusion and is not intended for competitive reasons and only applies to CBOE. The Exchange also notes that no rights or obligations of Permit Holders are affected by the change.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[5] and paragraph (f) of Rule 19b–4[6] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–023 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–CBOE–2017–023. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–023 and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07535 Filed 4–13–17; 8:45 am]

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[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(f).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80423; File No. SR–PEARL–2017–15]

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'')

April 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'') by establishing an Options Regulatory Fee (''ORF'').

The Exchange initially filed the proposal on February 3, 2017 (SR–PEARL–2017–09).[3] That filing was withdrawn and replaced with the current filing (SR–PEARL–2017–15).

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 cleared or ultimately cleared by the Member which are cleared by the Options Clearing Corporation (''OCC'') in the ''customer'' range, regardless of the exchange on which the transaction occurs. The ORF will be collected either directly from Members or indirectly from non-Members that ultimately clear the transaction that is subject to the ORF through their clearing firms by OCC on behalf of MIAX PEARL.

To illustrate how the ORF is assessed and collected, the Exchange provides the following set of examples. In the case where the transaction is executed on the Exchange, the ORF will be assessed to, and collected from, the Member who clears the transaction. This is the case whether the transaction is (i) both executed and cleared by the same Member, or (ii) only cleared by the Member (that is, the executing firm is not self-clearing and thus clears through another Exchange clearing Member). In the case where the transaction is executed on an away exchange, if the transaction is cleared by a Member of the Exchange, the ORF will be assessed to, and collected from, the Member who clears the transaction. In the case where the transaction is executed on an away exchange, if the transaction is cleared by a non-Member of the Exchange and such non-Member then subsequently ''gives-up'' or ''CMTAs'' the transaction to a Member of the Exchange (who ultimately clears the transaction), the ORF will be assessed to, and collected from, the Member who ultimately clears the transaction. Further, under certain circumstances, a transaction that is subject to the ORF can result in the ORF being collected from a non-Member of the Exchange. For example, in the circumstance in which a Member 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 that ultimately cleared that transaction. However, for the avoidance of doubt, in the case where the transaction is executed on an away exchange, the Exchange does not assess or collect the ORF when neither the clearing firm nor the ultimate clearing firm is a Member (even if a Member is ''given-up'' or ''CMTAed'' and then such Member subsequently ''gives-up'' or ''CMTAs'' the transaction to another non-Member via a CMTA reversal). 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 is 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 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,

[3] *See* Securities Exchange Act Release No. 80035 (February 14, 2017), 82 FR 11272 (February 21, 2017)(SR–PEARL–2017–09).

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'')[4] 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''),[5] 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.[6]

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.[7]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRAs Trading Activity Fee[8] 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[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable 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[11] 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-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

[4] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

[5] 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.

[6] *See* Section 6(h)(3)(I) of the Act.

[7] 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)).

[8] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (SR–NASD–2002–148).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78f(b)(5).

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.

The Exchange believes that the proposal to collect the ORF from non-Members under certain circumstances when the transaction that is subject to the ORF is executed at an away exchange is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. If the transaction is subject to the ORF, the Exchange believes that, under certain circumstances, it is reasonable and appropriate to collect the ORF from non-Members (noting that, as described above, such transaction always involves a Member of the Exchange that clears or ultimately clears the trade), based on the back office clearing processes of OCC.

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,[12] and Rule 19b–4(f)(2) [13] 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–2017–15 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–2017–15. 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–2017–15, and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07536 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80421; File No. SR–CBOE–2017–029]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to the Automated Improvement Mechanism and the Solicitation Auction Mechanism

April 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''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 the Substance of the Proposed Rule Change

The Exchange proposes to reduce the order handling and exposure periods of the Exchange's Automated Improvement Mechanism (''AIM'') and Solicitation Auction Mechanism (''SAM''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to reduce the order handling and exposure periods contained in Rules 6.74A and 6.74B from 1 second to a time period designated by the Exchange of no less than 100 milliseconds and no more than 1 second.

Rule 6.74A contains the requirements applicable to the execution of orders using AIM. AIM allows the Exchange's Trading Permit Holders (''TPHs'') to electronically cross orders on the Exchange's Hybrid Trading System (''Hybrid''). Specifically, AIM allows TPHs to designate certain customer orders for price improvements and submit such orders into AIM with a matching facilitated or solicited contra order. Once the order is properly submitted, the Exchange commences an auction by broadcasting a message to all TPHs who have elected to receive AIM Request for Responses (''RFRs''). The RFR includes size and side of the order. Orders entered into AIM are currently exposed for a period of 1 second, giving an opportunity for additional trading interest to be entered before the orders are automatically executed. Agency orders entered into AIM must be for 50 standard contracts or 500 mini-option contracts or more.

Rule 6.74B contains the requirements applicable to the execution of orders using SAM. SAM allows TPHs to cross large all-or-none orders on Hybrid. Specifically, SAM allows TPHs to designate certain customer orders as all-or-none for price improvements and submit such orders into SAM with a matching solicited contra order. Once the order is properly submitted, the Exchange commences an auction by broadcasting a message to all TPHs who have elected to receive SAM RFRs. The RFR includes size and side of the order. Orders entered into SAM are currently exposed for a period of 1 second, giving an opportunity for additional trading interest to be entered before the orders are automatically executed. Agency orders entered into SAM must be for 500 standard contracts or 5000 mini-option contracts or more.

Under the proposal, the Exchange could reduce the exposure period for AIM and SAM to no less than 100 milliseconds (but no more than 1 second) consistent with the exposure periods permitted on other Exchanges such as NASDAQ BX (''BX''), NASDAQ PHLX (''Phlx'') and the International Securities Exchange (''ISE'').[3]

In adopting the current 1-second exposure period for both AIM and SAM, the Exchange recognized that TPHs had become automated to the point that they could react to these orders electronically within that timeframe. In this context, the Exchange recognizes that it is in all TPHs' best interest to minimize the exposure period to a time frame that continues to allow adequate time for the TPHs to electronically respond, as both the order being exposed and the TPHs responding are subject to market risk during the exposure period. In this respect, our experience with the 1 second exposure period indicates that 100 milliseconds would provide an adequate response time.[4] Indeed, most TPHs either respond to RFRs within a much smaller time window. This is best evidenced by a review of responses to the Exchange's HAL auction, which awards the trade to the first responder at the NBBO price. Within HAL, 99.8% of the traded responses are received in 3 milliseconds or less. The COA auction is also configured with an auction timer of 100 milliseconds, meaning that all traded responses are received during that interval. Accordingly, the Exchange does not believe it is necessary or beneficial to the orders being exposed to continue to subject them to market risk for a full second.

TPHs who initiate AIM or SAM auctions (''Initiating TPH'') are required to guarantee an execution at the National Best Bid/Offer (''NBBO'') or a better price and are subject to market risk while the order is exposed in AIM or SAM. While responding TPHs are also subject to market risk, the Initiating TPH is the most exposed because the market can move against them during the entire auction period and they have guaranteed the customer an execution at the NBBO or better based on market prices prior to the commencement of the auction. In today's fast paced markets, large price changes can occur in 1 second or less, leaving Initiating TPHs vulnerable to trading losses as a result of their choice to seek price improvement for their customer. The Initiating TPH acts in a critical role in the price improvement process, and its willingness to guarantee the customer an execution at the NBBO or better price is essential to the customer order

[3] See Securities Exchange Act Release No. 76301 (October 29, 2015), 80 FR 68347 (November 4, 2015) (SR–BX–2015–032); Securities Exchange Act Release No. 77557 (April 7, 2016), 81 FR 21935 (April 13, 2016) (SR–PHLX–2016–40) and Securities Exchange Act Release No. 79733 (January 4, 2017), 82 FR 3055 (January 10, 2017) (SR–ISE–2016–26).

[4] The Exchange has numerous TPHs that have the capability and do opt to respond within a 100 millisecond exposure period or less on its Hybrid trading platform. In this regard, the Exchange notes that it has other Hybrid electronic exposure mechanisms for which the applicable timers are currently set at 100 milliseconds or less and provide for an adequate response time. For example, the response timer for the Exchange's Hybrid Agency Liaison (''HAL''), Complex Order Auction (''COA''), and Simple Auction Liaison (''SAL'') mechanisms are currently set at 100 milliseconds or less and numerous TPHs can and do opt to respond to HAL, SAL, and COA messages within these time frames. The Exchange believes that our experience with the HAL, SAL, and COA mechanisms supports our view that 100 milliseconds is sufficient time for TPHs to respond to CBOE's AIM and SAM mechanisms which operate on the Hybrid Trading System and employ the same type of mechanical messaging as the HAL, SAL, and COA mechanisms. The Exchange also notes that any delay or latency associated with submitting responses to an AIM or SAM auction would be the same as responding to HAL, SAL, or COA because all such responses are processed over the same network. Further, CBOE has received no complaints from TPHs concerning the current 100 millisecond timer on the COA mechanism and the current 20 millisecond timers on the HAL and SAL mechanisms.

gaining the opportunity for price improvement.

When approving the existing 1 second order handling and exposure period for AIM and SAM, the Commission concluded that reducing each of the exposure periods from 3 seconds to 1 second could facilitate the prompt execution of orders, while continuing to provide the TPHs in Hybrid with an opportunity to compete for exposed bids and offers.[5] Continuing on that same logic, the Exchange believes that reducing its AIM and SAM order handling and exposure periods from 1 second to no less than 100 milliseconds will benefit TPHs. Since TPHs react to these orders electronically, and often opt to respond at the beginning or the end of the 1 second period, the Exchange believes that having the flexibility to reduce the time periods will continue to provide TPHs with sufficient time to ensure effective interaction with orders.[6] At the same time, this flexibility will allow the Exchange to provide investors and other TPHs with more timely executions, thereby reducing their market risk.

This shortened exposure period is fully consistent with the electronic nature of Hybrid. TPHs have electronic systems available that would allow them to respond in a meaningful way within the proposed timeframe. The Exchange anticipates that TPHs will continue to compete within the proposed auction duration designated by the Exchange.

The Exchange will continue to provide TPHs with sufficient time to respond, compete, and provide price improvement for orders. Although the Exchange currently plans to reduce the time period allowed to respond to AIM and SAM to 100 milliseconds, the Exchange believes it is appropriate to provide the flexibility to choose a response period of up to 1 second as this is consistent with the Rules of other options markets.[7]

To substantiate that TPHs can receive, process and communicate a response to an auction broadcast within 100 milliseconds, the Exchange surveyed its top 15 AIM and SAM responders. The Exchange received responses from all of the TPHs surveyed and each TPH confirmed that they can receive, process and communicate a response back to the Exchange within 100 milliseconds.

Also in consideration of this proposed rule change, the Exchange reviewed all responses that resulted in traded orders in December 2016. This review of both AIM and SAM responses indicated that approximately 63% of AIM responses and 63% of SAM responses that resulted in price improving executions at the conclusion of the auction occurred within 100 milliseconds of the initial order. In addition to the 63% of AIM responses and 63% of SAM responses that occur within 100 milliseconds of the initial order, approximately 20% of AIM responses and 15% of SAM responses that resulted in price improving executions at the conclusion of the auction occurred in the final 800–1000 milliseconds (*i.e.* within 200 milliseconds of the end of the RFR). The timing of these responses indicates that TPHs have configured their trading systems to either respond immediately to an AIM or SAM auction or to wait until the end of an auction period to reduce the risk of the market moving.

Accordingly, the Exchange believes that an auction time as low as 100 milliseconds will continue to provide TPHs with sufficient time to respond to, compete for, and provide price improvement for orders, and will provide investors and other market participants with more timely executions, and reduce their market risk. Moreover, Rule 6.74A(b) provides that only one AIM auction may be ongoing at any given time in a series and auctions in the same series may not queue or overlap in any manner. As a result, TPHs may be unable to initiate AIM auctions on behalf of their customers. Reducing the auction time to 100 milliseconds will decrease the likelihood that an auction is underway when a customer order is received. Accordingly, the Exchange believes it is less likely that an auction attempt would be blocked due to another auction being in progress if the timer were to be reduced.

The Exchange believes that the information outlined above regarding price improving transactions in AIM and SAM and the feedback provided by TPHs provides substantial support for its assertion that reducing the auction 1 second to as low as 100 milliseconds will continue to provide TPHs with sufficient time to ensure competition for orders entered into AIM and SAM and could provide customers with additional opportunities for price improvements.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it has the necessary systems capacity to handle the potential additional traffic associated with the additional transactions that may occur with the implementation of the proposed reduction in the AIM and SAM duration to no less than 100 milliseconds. Additionally, the Exchange represents that its systems will be able to sufficiently maintain an audit trail for order and trade information with the reduction in the AIM and SAM duration.

Upon effectiveness of the proposed rule change, and at least six weeks prior to implementation of the proposed rule change, the Exchange will issue a circular to TPHs, informing them of the implementation date of the reduction of the AIM and SAM duration from 1 second to the auction time designated by the Exchange to allow TPHs to perform any necessary systems changes. The Exchange also represents that it will issue a circular at least four weeks prior to any future changes, as permitted by its rules, to the auction time.

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.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[9] 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)[10] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change will provide investors with more timely execution of their options orders, while ensuring there is adequate exposure of orders in AIM. Additionally, the proposed rule change

[5] *See* Securities Exchange Act Release No. 58088 (July 2, 2008), 73 FR 39747 (July 10, 2008) (SR–CBOE–2008–016).

[6] The Exchange believes that the proposed timeframe would give TPHs sufficient time to respond, compete and provide price improvement for orders. The Exchange also notes that electronic systems are readily available to, if not already in place for, TPHs that allow them to respond in a meaningful way within the proposed timeframe.

[7] *See supra* note 1.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *Id.*

will allow more investors the opportunity to receive price improvement through AIM and SAM, and will reduce the market risk for TPHs using AIM and SAM. Finally, as mentioned above, other options exchanges, such as the BX, Phlx, and ISE, have already amended their rules to permit response times consistent with those proposed here.[11] As such, the Exchange believes the proposed rule change would help perfect the mechanism for a free and open national market system and generally help protect investors' and the public's interest.

The Exchange believes the proposed rule change is not unfairly discriminatory because the AIM and SAM duration would be the same for all TPHs. All TPHs who have elected to participate in AIM and SAM auctions have today, and will continue to have, an equal opportunity to receive and respond to AIM and SAM messages. Additionally, CBOE believes the reduction in the AIM and SAM duration reduces the market risk for all TPHs using AIM and SAM. The reduction in time period reduces the market risk for the Initiating TPH as well as any TPHs providing orders in response to an AIM and SAM auction. Moreover, based on the feedback the Exchange received from its TPHs, the Exchange believes that a reduction in the RFR period to a minimum of 100 milliseconds would not impair TPHs' ability to compete in the AIM and SAM. The Exchange believes these results support the assertion that a reduction in the AIM and SAM duration would not be unfairly discriminatory and would benefit investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, but instead would continue to provide market participants with sufficient time to respond, compete, and provide price improvement for orders entered into AIM and SAM. The proposed rule also provides investors and other market participants with more timely executions, thereby reducing their market risk. As proposed, the rule does not impose an undue burden on competition because TPHs who elect to participate in AIM and SAM are capable of responding to the RFR in under 100 milliseconds (based on the recent TPH survey, review of auction responses, and shorter response periods in other auction mechanisms available on the Exchange, as discussed above). Finally, the proposed rule change offers the same exposure period to all TPHs and would not impose a competitive burden on any particular participant.

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–2017–029 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–2017–029. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–029, and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

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[11] *See* note 1 supra.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80419; File No. SR–NYSEMKT–2017–17]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Amending the Certificate of Incorporation and Bylaws of Its Ultimate Parent Company, Intercontinental Exchange, Inc.

April 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 28, 2017, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 6,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

2017, the Exchange filed Amendment No. 1 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the certificate of incorporation and bylaws of its ultimate parent company, Intercontinental Exchange, Inc. (''ICE''), to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in ICE's certificate of incorporation to its bylaws and make a technical correction to a cross-reference within the bylaws; (3) make certain simplifying or clarifying changes in ICE's bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the bylaws to the Vice Chair with references to the lead independent director. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ICE's Third Amended and Restated Certificate of Incorporation (the ''ICE Certificate'') and Seventh Amended and Restated Bylaws (the ''ICE Bylaws'') to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in the ICE Certificate to the ICE Bylaws and make a technical correction to a cross-reference within the ICE Bylaws; (3) make certain simplifying or clarifying changes in the ICE Bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the ICE Bylaws to the Vice Chair with references to the lead independent director.

ICE owns 100% of the equity interest in Intercontinental Exchange Holdings, Inc. (''ICE Holdings''), which in turn owns 100% of the equity interest in NYSE Holdings LLC (''NYSE Holdings''). NYSE Holdings owns 100% of the equity interest of NYSE Group, Inc. (''NYSE Group''), which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca'') and NYSE National, Inc. (''NYSE National'').[5]

ICE Certificate

The Exchange proposes to amend the limitations on voting and ownership in Article V of the ICE Certificate to update and streamline references to ICE subsidiaries that are national securities exchanges or that control national securities exchanges, as well as to delete references to other subsidiaries of ICE. In addition, it proposes to revise the amendment provision in Article X of the ICE Certificate to remove an obsolete reference.

Limitations on Voting and Ownership

Article V of the ICE Certificate establishes voting limitations and ownership concentration limitations on owners of ICE common stock above certain thresholds for so long as ICE owns any U.S. Regulated Subsidiary. By reference to the ICE Bylaws, ''U.S. Regulated Subsidiaries'' is defined to mean the four national securities exchanges owned by ICE (the Exchange, NYSE, NYSE Arca, and NYSE National), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by ICE.[6]

Article V of the ICE Certificate also authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations. Those include determinations that such an exception would not impair the ability of ICE, the U.S. Regulated Subsidiaries, ICE Holdings, NYSE Holdings, and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder, and that such an exception is otherwise in the best interests of ICE, its stockholders and the U.S. Regulated Subsidiaries.

NYSE MKT proposes to amend Article V to replace references to the U.S. Regulated Subsidiaries with references to the ''Exchanges.'' An ''Exchange'' would be defined as a national securities exchange registered under Section 6 of the Exchange Act[7] that is directly or indirectly controlled by ICE.[8] Accordingly, Article V would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. NYSE MKT believes omitting such entities is appropriate because the Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.''[9] In addition, NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.[10] Moreover, the proposed change would align Article V with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges,

[4] Amendment No. 1 clarifies that ICE is a public company listed on the NYSE and that the word ''indirect'' is proposed to be deleted from clause (iii)(y) of the first sentence of Section 2.13(b) of ICE's bylaws.

[5] ICE is a publicly traded company listed on the NYSE. The Exchange's affiliates NYSE, NYSE Arca, and NYSE National have each submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2017–13, SR–NYSEArca–2017–29, and SR–NYSENAT–2017–01.

[6] ICE Certificate, Article V, Section A.10; ICE Bylaws, Article III, Section 3.15. NYSE Arca, LLC, is a subsidiary of NYSE Group, and NYSE Arca Equities is a subsidiary of NYSE Arca.

[7] 15 U.S.C. 78f.

[8] *See* proposed Fourth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. (''Proposed ICE Certificate''), Article V, Section A.3(a).

[9] 15 U.S.C. 78c(a)(1).

[10] *See* NYSE Arca Equities Rule 3.4 (''The NYSE Arca, Inc. ('NYSE Arca Parent'), as a self-regulatory organization registered with the Securities and Exchange Commission pursuant to Section 6 of the Exchange Act, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary, NYSE Arca Equities, Inc. ('Corporation')''). *See also* NYSE Arca Equities Rule 14.1.

which do not include references to subsidiaries other than national securities exchanges.[11]

As noted above, Article V of the ICE Certificate authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if it makes certain determinations. Such determinations include that the proposed exception would not impair the ability of ICE Holdings, NYSE Holdings and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder.[12] NYSE MKT proposes to amend Article V to replace the references to ICE Holdings, NYSE Holdings and NYSE Group with the defined term ''Intermediate Holding Companies.''

Finally, Article V includes lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE MKT and NYSE Arca.[13] NYSE MKT proposes to use a new defined term, ''Member,'' to mean a person that is a ''member'' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[14] NYSE MKT believes that using ''Member'' in place of the list of categories of members and permit holders would simplify the provisions and avoid Exchange-by-Exchange descriptions without substantive change. Each of the categories listed—an ETP Holder of NYSE Arca Equities (as defined in the NYSE Arca Equities rules of NYSE Arca); an OTP Holder or OTP Firm of NYSE Arca (each as defined in the rules of NYSE Arca); a ''member'' or ''member organization'' of NYSE (as defined in the rules of the NYSE) and NYSE MKT[15]—is a ''member'' of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[16]

More specifically, the revised ICE Certificate would require, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the different categories of membership recognized by each Exchange.[17] Similarly, the conditions relating to a person seeking approval to exceed the ownership concentration limitation would be rephrased in the same way.[18] Use of ''Member'' would permit a simplification, without substantive change, of the portion of the definition of the term ''Related Persons'' relating to members and trading permit holders.[19]

NYSE MKT believes that the use of ''Member'' and the changes to remove the Exchange-by-Exchange lists of categories of Members would be appropriate because it would align the provision in the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[20]

To implement the proposed changes, NYSE MKT proposes the following amendments to Article V of the ICE Certificate:

- In Article V, Section A.1, the text ''any U.S. Regulated Subsidiary (as defined below)'' would be replaced with ''a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the 'Exchange Act').''
- In Article V, Section A.2, the text ''Securities Exchange Act of 1934, as amended (the 'Exchange Act'),'' would be replaced with ''Exchange Act.''
- In Article V, Section A.3(a), the text ''U.S. Regulated Subsidiary'' would be replaced with the text ''national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an 'Exchange'), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company') or''; the text '', Intercontinental Exchange Holdings, Inc. ('ICE Holdings'), NYSE Holdings LLC ('NYSE Holdings') or NYSE Group, Inc. ('NYSE Group') (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange.''
- In Article V, Section A.3(c), ''and'' would be added between (i) and (ii); the text ''NYSE Arca, Inc. ('NYSE Arca') or NYSE Arca Equities, Inc. ('NYSE Arca Equities') or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member (as defined below) of any Exchange'' would replace the text from ''an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca'' through the end of the paragraph.
- In Article V, Section A.3(d), ''and'' would be added between (i) and (ii); the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member of any Exchange'' would replace the text from ''an ETP Holder'' through the end of the paragraph.
- The definition of ''Member'' would be added as new Article V, Section A.8, defined to ''mean a Person that is a 'member' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.'' Article V, Sections A.8 and A.9 would be renumbered as Sections A.9 and A.10, respectively.
- In Article V, Section A.9 (which would be renumbered A.10), the definition of the term ''Related Person'' would be simplified to eliminate the Exchange-by-Exchange definition, as follows:
- In Section A.10(d), the text '' 'member organization' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any 'member' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)'' would be replaced with ''Member, any Person'';
- In Section A.10(e), the text ''an OTP Firm, any OTP Holder that is associated with such Person'' would be replaced with ''natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated'';
- ''and'' would be added between Sections A.10(g) and (h); and
- Sections A.10(i) through (l) would be deleted.
- The definition of ''U.S. Regulated Subsidiary'' and ''U.S. Regulated Subsidiaries'' in Article V, Section A.10 would be deleted.

[11] *See* Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (''CBOE Certificate''), Article Sixth, Sections (a)(ii)(A) and (b)(ii)(A) (referencing ''Regulated Securities Exchange Subsidiaries''); and Amended and Restated Certificate of Incorporation of Bats Global Markets, Inc. (''Bats Certificate''), Article Fifth, Section (b)(i) and (ii) (referencing ''Exchanges'').

[12] ICE Certificate, Article V, Sections A.3(a)(i) and B.3(a)(i).

[13] *See* ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii) and Section A.9.

[14] 15 U.S.C. 78c(a)(3)(A).

[15] *See id.*

[16] 15 U.S.C. 78c(a)(3)(A).

[17] *See* Proposed ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii).

[18] *See* Proposed ICE Certificate, Article V, Section B.3(d).

[19] *See* Proposed ICE Certificate, Article V, Section A.10. For the current definition of ''Related Persons,'' *see* ICE Certificate, Article V, Section A.9.

[20] *See* Bats Certificate, Article Fifth, Sections (a)(ii)(D) and (E) (defining an ''Exchange Member'' as ''a Person that is a registered broker or dealer that has been admitted to membership in any national securities exchange registered under Section 6 of the Act with the Securities and Exchange Commission . . . that is a direct or indirect subsidiary of'' Bats Global Markets, Inc.); and CBOE Certificate, Article Sixth, Sections (a)(ii)(C)(y) and (b)(ii)(D) (defining a ''Trading Permit Holder'' ''as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time'').

• In Article V, Section B.1, the term ''Exchange'' would replace the term ''U.S. Regulated Subsidiary.''

• In Article V, Section B.3(a), the text ''Exchange, Intermediate Holding Company or'' would replace the text ''U.S. Regulated Subsidiaries,''; the text ''ICE Holdings, NYSE Holdings or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''each Exchange'' would replace ''the U.S. Regulated Subsidiaries.''

• In Article V, Section B.3(d), the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''any Exchange''; and the text ''an ETP Holder'' through the end of the paragraph would be replaced with ''a Member of any Exchange.''

• The word ''and'' would be added between Article V, Section B.3(c) and (d); and Article V, Section B.3(e) and (f) would be deleted.

Amendments

In addition to the amendments to Article V, NYSE MKT proposes to amend Article X (Amendments) of the ICE Certificate.

Clause (A) of Article X requires the vote of 80% of all outstanding shares entitled to vote in order to reduce the voting requirement set forth in Section 11.2(b) of the ICE Bylaws. However, Section 11.2(b) of the ICE Bylaws was deleted in 2015 after the sale by ICE of the Euronext business.[21] Accordingly, NYSE MKT proposes to delete the requirement.

Clause (B) of Article X currently requires that, so long as ICE controls any of the U.S. Regulated Subsidiaries, any proposed amendment or repeal of any provision of the ICE Certificate must be submitted to the boards of the NYSE, NYSE Market, NYSE Regulation, NYSE Arca, NYSE Arca Equities, and NYSE MKT for a determination as to whether such amendment or repeal must be filed with the Commission under Section 19 of the Exchange Act.[22] NYSE MKT proposes that, in Clause (B) of Article X, the text ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange''; and ''New York Stock Exchange, NYSE Market, NYSE Regulation, Inc., NYSE Arca, NYSE Arca Equities and NYSE MKT'' would be replaced with ''each Exchange.'' NYSE MKT believes that the use of ''Exchange'' is appropriate for the reasons discussed above.

Additional Changes

The ICE Certificate includes references to NYSE Market (DE), Inc., defined as ''NYSE Market,'' and NYSE Regulation, Inc. (''NYSE Regulation''). NYSE Market and NYSE Regulation were previously parties to a Delegation Agreement whereby the NYSE delegated certain regulatory functions to NYSE Regulation and certain market functions to NYSE Market. The Delegation Agreement was terminated when the NYSE re-integrated its regulatory and market functions. As a result, the two entities ceased being regulated subsidiaries.[23] NYSE Regulation was subsequently merged out of existence. The proposed changes described above would delete all references to NYSE Market and NYSE Regulation from the ICE Certificate.[24]

Finally, conforming changes would be made to the title, recitals and signature line of the ICE Certificate.

ICE Bylaws

The Exchange proposes to make certain amendments to the ICE Bylaws to correspond to the proposed amendments to the ICE Certificate. In addition, the Exchange proposes to amend the ICE Bylaws to make certain changes relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders. Finally, it proposes to replace obsolete references to the Vice Chair with references to the lead independent director.

Changes Corresponding to the Proposed Amendments to the ICE Certificate

The Exchange proposes to make changes to the ICE Bylaws corresponding to the proposed amendments to the ICE Certificate, as described above.

First, NYSE MKT proposes to use ''Exchanges'' in place of ''U.S. Regulated Subsidiaries,'' as in the proposed changes to the ICE Certificate. Accordingly, it proposes to make the following changes:

• The definition of ''U.S. Regulated Subsidiary'' in Section 3.15 would be deleted and replaced with a definition of ''Exchange'' that is the same as the definition in the proposed amended ICE Certificate.

• In Section 3.14(a)(2), the text ''U.S. Regulated Subsidiaries, NYSE Group, Inc. (''NYSE Group'') (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC (''NYSE Holdings''), Intercontinental Exchange Holdings, Inc. ('ICE Holdings')'' would be replaced with ''Exchanges, any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company')''; and the text ''U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings, ICE Holdings'' would be replaced with ''Exchanges, Intermediate Holding Companies.''

• In Section 3.14(b)(3), the text ''the U.S. Regulated Subsidiaries'' and ''their'' would be replaced with ''each Exchange'' and ''its,'' respectively.

• In Article VII, ''the U.S. Regulated Subsidiaries'' would be replaced with ''any Exchange.''

• In Sections 3.14(a)(1), 8.1, 8.2, 8.3(b), 8.4, 9.1, 9.2, 9.3 and 11.3, the text ''U.S. Regulated Subsidiary'' and ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange'' and the text ''U.S. Regulated Subsidiaries'' would be replaced with ''Exchanges.''

• In Sections 8.2(b), 8.4, 9.1, and 9.3, the text ''the U.S. Regulated Subsidiaries'' and ''U.S. Regulated Subsidiaries'' would be replaced with ''an Exchange.''

• In Section 9.3, the text ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange''; ''U.S. Regulated Subsidiary's'' would be replaced with ''Exchange's''; and ''their respective'' would be replaced with ''its.''

• In Section 8.1, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or their successors'' would be replaced with ''any Exchange.'' Similarly, in Section 11.3, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or the boards of directors of their successors'' would be replaced with ''each Exchange.''

• In Sections 8.1 and 8.2, the defined term ''U.S. Subsidiaries' Confidential Information'' would be replaced with ''Exchange Confidential Information,'' with the same meaning except limited to Exchanges.

• In Section 8.3(b), the text ''U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight'' would

[21] *See* Securities Exchange Act Release No. 74930 (May 12, 2015), 80 FR 28315 (May 18, 2015) (SR–NYSEMKT–2015–32).

[22] 15 U.S.C. 78s.

[23] *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837 (October 2, 2015 (SR–NYSE–2015–27).

[24] *See* ICE Certificate Article V, Sections A.3(c)(iii) and (d)(iii) and Section B.3(e), and Article X, clause (B).

be replaced with ''Exchange.'' The proposed change would remove the current provision that allows any U.S. Regulated Subsidiary to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3.[25] The national securities exchanges NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

Article XII of the ICE Bylaws was added in connection with the acquisition of NYSE National, previously National Stock Exchange, Inc., in 2016.[26] The Exchange proposes to delete Article XII of the ICE Bylaws in its entirety. Because the substance of Article XII would be addressed by the proposed amendments to the ICE Certificate, Article XII would no longer be necessary. Specifically,

- the substance of Section 12.1(a)(1) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(c)(ii) of the ICE Certificate;
- the substance of Section 12.1(a)(2) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(d)(ii) of the ICE Certificate;
- the substance of Section 12.1(b) of the ICE Bylaws would be addressed in revised Article V, Section B.3.(d) of the ICE Certificate; and
- the substance of Section 12.2 of the ICE Bylaws would be addressed in revised Article X(B) of the ICE Certificate.

Meetings of Stockholders

In addition to the proposed changes corresponding to the proposed amendments to the ICE Certificate, the Exchange proposes to amend several sections of Article II (Meetings of Stockholders).

The Exchange proposes to simplify Section 2.1 of the ICE Bylaws, which relates to the location of stockholder meetings. The revised provision would provide that, as is true now, the location, if any, as well as the decision to hold a stockholder meeting solely by remote communication, would be determined by the Board of Directors and stated in the notice of meeting. The proposed changes are as follow:

- The first sentence would be revised to remove the text ''for the election of directors'', ''in the City of Atlanta, State of Georgia,'' and ''as may be fixed from time to time by the Board of Directors, or at such other place.'' The text ''as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.'' would be deleted and ''or may'' would be added in its place. The second sentence would be deleted in its entirety.
- In the third sentence, the text ''The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall'' and ''as authorized by law'' would be deleted. The word ''solely'' would be added after ''instead be held'' and the text '', in each case as may be designated by the Board of Directors from time to time and stated in the notice of meeting'' added to the end of the sentence.

Section 2.7 relates to the quorum for stockholder meetings. The Exchange proposes to conform the quorum requirements in the ICE Bylaws to those in the ICE Certificate. To do so, it proposes to delete the first three sentences of Section 2.7 and replace it with the sentence ''Section B of Article IX of the certificate of incorporation sets forth the requirements for establishing a quorum at meetings of stockholders of the Corporation.''

Section 2.13(b) sets forth the advance notice requirements for stockholder proposals. The Exchange proposes to make the following changes to Section 2.13(b).

- In addition to stockholders of record, the ICE Bylaws permit certain beneficial holders (defined as ''Nominee Holders'') to nominate directors or bring other matters for consideration before the Board of Directors meeting. The Exchange proposes to make simplifying wording changes in clause (iii) of the first sentence of Section 2.13(b), as follows:
- In clause (x), the text ''stockholder that holds of record stock of the Corporation'' would be amended so that it read [sic] ''stockholder of record.''
- In clause (y), the following text would be deleted: ''holds such''; '' 'street name' ''; ''of such stock and can demonstrate to''; ''indirect''; ''of, and such Nominee Holder's''; and the comma before ''such stock on such matter.'' The revised clause would read as follows: ''is a person (a 'Nominee Holder') that beneficially owns stock of the Corporation through a nominee or other holder of record and provides the Corporation with proof of such beneficial ownership, including the entitlement to vote such stock on such matter.''
- In the current third and fourth sentences of Section 2.13(b), the term ''indirect ownership'' would be changed to ''beneficial ownership'' for consistency.
- The Exchange proposes to add a new defined term, ''Proponent,'' to capture both stockholders and Nominee Holders. Accordingly:
- A new sentence would be added to Section 2.13(b)(iii) between the first and second sentences, stating that ''Stockholders and Nominee Holders who bring matters before the annual meeting pursuant to Section 2.13(b)(iii) are hereinafter referred to as 'Proponents'.''
- Throughout Section 2.13(b), ''stockholder,'' ''stockholders'' and ''stockholder's'' would be replaced with ''Proponent,'' ''Proponents'' and ''Proponent's,'' respectively.
- Throughout Section 2.13(b), ''Proponent'' would replace the phrases ''stockholder or beneficial owner,'' ''stockholder, by such beneficial owner,'' ''stockholder, such beneficial owner,'' ''stockholder and by such beneficial owner, if any,'' and ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed.'' The word ''Proponent's'' would replace the phrase ''stockholder's or such beneficial owner's.''
- Presently, the requirement for disclosing share ownership appears three times: In the current third sentence, which sets forth the provisions for stockholder notices relating to director nominations, the current fourth sentence, which sets forth the provisions for stockholder notices relating to other matters, and the current fifth sentence, which sets forth the information that a shareholder must include in any stockholder notice. Rather than keep the duplication, Exchange proposes to remove the

[25] NYSE Arca Equities Rule 14.1(b) provides, among other things, that the books and records of NYSE Arca Equities are subject to the oversight of the NYSE Arca pursuant to the Act, and that the books and records of NYSE Arca Equities shall be subject at all times to inspection and copying by NYSE Arca. NYSE Arca Equities Rule 14.3(a) provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca and NYSE Arca Equities for purposes of and subject to oversight pursuant to the Exchange Act. *See also* CBOE Holdings, Inc. Certificate of Incorporation, Article Fifteenth (providing that the books and records of a Regulated Securities Exchange Subsidiary shall be subject at all times to inspection by such subsidiary).

[26] *See* Securities Exchange Act Releases No. 79902 (January 30, 2017) 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16); and 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90, SR–NYSEArca2016–167, SR–NYSEMKT–2016–122).

requirement from the third and fourth sentences and retain the requirement in clause (i) of the fifth sentence. Accordingly, the text ‘‘, the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder’’ would be deleted from the current third and fourth sentences.

- In the current fourth sentence, the requirement that a stockholder notice include information regarding any material interest in the matter proposed ‘‘(other than as a stockholder)’’ would be clarified by adding ‘‘or beneficial owner of stock’’ after ‘‘stockholder’’ within the parenthetical, because a Proponent who is a nominee holder is not a stockholder.
- In clause (i) of the current fifth sentence, the text ‘‘such Proponent or’’ would be added before ‘‘any Associated Person.’’
- Clause (i) of the current sixth sentence sets forth the meaning of ‘‘Associated Person.’’ The Exchange proposes to narrow the text to eliminate all beneficial owners of stock held of record or beneficially by the Proponent from the definition, and instead to cover only those beneficial owners on whose behalf the stockholder notice is being delivered. Accordingly, the Exchange proposes to replace the text ‘‘stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed,’’ with ‘‘Proponent’’ and, in clause (i)(x), replace the text ‘‘owned of record or beneficially by such stockholder or by such beneficial owner’’ with ‘‘on whose behalf such Proponent is delivering a Stockholder Notice.’’

Additional Proposed Changes

In addition to the changes proposed above, the Exchange proposes to amend several additional sections of the ICE Bylaws.

The ICE Bylaws refer to a ‘‘Vice Chairman of the Board.’’ However, the Board of Directors of ICE has not had a Vice Chairman since the sale of the Euronext business in 2014. Accordingly, in Sections 2.9, 3.6(b) and 3.8, the Exchange proposes to replace ‘‘Vice Chairman of the Board’’ with ‘‘lead independent director.’’ As a result, the lead independent director would preside over meetings of stockholders in the absence of the Chairman of the Board (Section 2.9), have the authority to call a special meeting of the Board of Directors (Section 3.6(b)) and would preside over meetings of the Board of Directors in the absence of the Chairman of the Board (Section 3.8).

In Section 3.12, relating to the conduct of meetings of committees of the Board of Directors of ICE, a reference to ‘‘Article II of these Bylaws’’ would be corrected to read ‘‘this Article III of these Bylaws.’’

Section 3.14 sets forth considerations directors must take into account in discharging their responsibilities as members of the board of directors. The Exchange proposes to amend the last sentence of Section 3.14(c), which limits claims against directors, officers and employees of ICE and against ICE. The revised text would be expanded in scope to apply to any ‘‘past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,’’ and to protect agents of ICE as well as directors, officers and employees. These changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[27]

Finally, conforming changes would be made to the title and date of the ICE Bylaws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [28] in general, and with Section 6(b)(1) [29] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ‘‘Exchange’’ or the ‘‘Exchanges,’’ as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange’s rules by eliminating references to entities that are not national securities exchanges in the ICE Certificate and ICE Bylaws. The Exchange Act definition of ‘‘exchange’’ states that ‘‘exchange’’ ‘‘includes the market place and the market facilities maintained by such exchange.’’ [30] Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the ICE Certificate and ICE Bylaws. The Exchange notes that the proposed change would align Article V of the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[31] NYSE Arca, as the national securities exchange, would retain the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.

Similarly, as a result of the proposed use of ‘‘Exchanges’’ instead of ‘‘U.S. Regulated Subsidiaries,’’ ICE Bylaws Section 8.3 would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, adding further clarity and transparency to the Exchange’s rules.[32]

Further, the proposed use of the defined term ‘‘Member’’ in place of the lists of categories of members and permit holders in Article V of the ICE Certificate would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange’s rules and aligning the provision in the ICE Certificate with the voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[33] Similarly, the proposed use of the defined term ‘‘Intermediate Holding Company’’ in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws would

[27] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(1).

[30] 15 U.S.C. 78c(a)(1).

[31] *See* note 11, *supra.*

[32] As noted above, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3. NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other, and so the proposed change would have no effect on those entities' rights.

[33] *See* note 20, *supra.*

simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules.

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act [34] because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate; (2) using ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate; (3) using ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws; and (4) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries in ICE Bylaws Section 8.3 would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange's rules, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to the last sentence of Section 3.14(c) of the ICE Bylaws, which limits claims against directors, officers and employees of ICE and against ICE, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[35]

The Exchange believes that the proposed amendments to remove references to NYSE Market, NYSE Regulation and the Vice Chairman and to remove the cross reference to Section 11.2(b) of the ICE Bylaws from Article X of the ICE Certificate would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would eliminate obsolete references, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency in the ICE Certificate and ICE Bylaws. Such increased clarity and transparency would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to Article II of the ICE Bylaws, regarding meetings of stockholders, would also remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would increase the clarity of the relevant sections of Article II, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency regarding the location of stockholder meetings and advance notice requirements, and the conformance of the quorum requirements with those in the ICE Certificate, and so would more easily navigate and understand the ICE Bylaws.

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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the ICE Certificate and Bylaws, delete obsolete or unnecessary references and make other simplifying or clarifying changes to the ICE governing documents. The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2017–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2017–17. 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/*

[34] 15 U.S.C. 78f(b)(5).

[35] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

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–NYSEMKT–2017–17 and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07532 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80427; File No. SR–NYSEArca–2016–173]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendments No. 2 and No. 3 Thereto, To List and Trade Shares of the United States 3x Oil Fund and United States 3x Short Oil Fund Under NYSE Arca Equities Rule 8.200, Commentary .02

April 11, 2017.

I. Introduction

On December 23, 2016, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to list and trade shares (''Shares'') of the United States 3x Oil Fund (''Oil Fund'') and United States 3x Short Oil Fund (''Short Oil Fund,'' and together with the Oil Fund, ''Funds'') under NYSE Arca Equities Rule 8.200, Commentary .02. The proposed rule change was published for comment in the **Federal Register** on January 11, 2017.[4] On February 22, 2017, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change,[5] pursuant to Section 19(b)(2) of the Act.[6] On March 13, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. On March 29, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change as modified by Amendment No. 1.[7] On April 7, 2017, the Exchange filed Amendment No. 3 to the proposed rule change.[8] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendments No. 2 and No. 3.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 79742 (January 5, 2017), 82 FR 3366.

[5] *See* Securities Exchange Act Release No. 80079 (February 27, 2017), 82 FR 11955 (designating April 11, 2017 as the date by which the Commission would approve the proposal, disapprove the proposal, or institute proceedings to approve or disapprove the proposal).

[6] 15 U.S.C. 78s(b)(2).

[7] *In Amendment No. 2, the Exchange:* (1) Provided additional detail regarding the Funds' Benchmark Oil Futures Contract; (2) stated that the CME Group, Inc. (''CME'') is a member of the Intermarket Surveillance Group; (3) provided additional clarification regarding the timing of the daily rebalancing of the Funds' holdings; (4) provided additional clarification and specificity regarding the instruments in which the Funds may invest; (5) provided additional information regarding accountability level requirements applicable to the Funds; (6) supplemented the description of how certain investments will be valued for computing a Fund's net asset value (''NAV''); (7) provided additional clarification regarding the calculation of the Indicative Fund Value (''IFV'') for a Fund; (8) represented that certain aspects of the Funds' creation and redemption procedures will not impact market maker arbitrage opportunities; (9) provided information regarding the availability of the Benchmark Oil Futures Contract trading prices prior to the New York Mercantile Exchange closing time and end of day settlement price once published by the New York Mercantile Exchange after its closing; (10) removed statements regarding the rejection or suspension of redemption orders; (11) provided additional detail regarding the availability of information regarding the Funds and their portfolio holdings; (12) represented that the applicability of Exchange listing rules specified in the proposed rule change shall constitute continued listing requirements for listing the Shares on the Exchange; (13) supplemented its description of the information that the Exchange will provide to Equity Trading Permit Holders in an Information Bulletin; and (14) made other technical amendments. The amendments to the proposed rule change are available at: *https://www.sec.gov/comments/sr-nysearca-2016-173/nysearca2016173.htm.* Amendment No. 2 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

II. Description of the Proposal [9]

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.200, Commentary .02, which governs the listing and trading of Trust Issued Receipts.[10] Each Fund is a series of the USCF Funds Trust (''Trust''), a Delaware statutory trust.[11] The Trust and the Funds are managed and controlled by United States Commodity Funds LLC (''USCF''). USCF is registered as a commodity pool operator with the Commodity Futures Trading Commission and is a member of the National Futures Association. Brown Brothers Harriman & Co. is the custodian, registrar, transfer agent, and administrator for the Funds. ALPS Fund Services, Inc. is the marketing agent for the Funds.

Overview of the Funds

The investment objective of the Oil Fund will be for the daily changes in percentage terms of its Shares' per share NAV to reflect three times (3x) the daily change in percentage terms of the price

[8] *In Amendment No. 3, the Exchange:* (1) Clarified that the futures contracts that trade under the symbol ''CL'' are WTI Crude Oil futures; and (2) stated that the contents of each Fund's portfolio would be disclosed to all market participants at the same time. Amendment No. 3 is not subject to notice and comment because it is a technical amendment that does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[9] A more detailed description of the Funds, the Shares, and the Benchmark Oil Futures Contract, as well as investment risks, creation and redemption procedures, NAV calculation, availability of values and other information regarding the Funds' portfolio holdings, and fees, among other things, is included in the Registration Statements (defined below) and Amendments No. 2 and No. 3, as applicable. *See infra* note 11, and *supra* notes 7 and 8, respectively.

[10] Commentary .02 to NYSE Arca Equities Rule 8.200 applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Equities Rule 8.200, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[11] The Trust is registered under the Securities Act of 1933. The Trust filed with the Commission a registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) relating to the United States 3x Oil Fund (File No. 333–214825) and the United States 3x Short Oil Fund (File No. 333–214881) (each a ''Registration Statement'' and, collectively, ''Registration Statements'') on November 29, 2016 and December 2, 2016, respectively.

of a specified short-term futures contract on light, sweet crude oil (''Benchmark Oil Futures Contract''), less the Fund's expenses. The Benchmark Oil Futures Contract is the futures contract on light, sweet crude oil as traded on the New York Mercantile Exchange (''NYMEX''), which is part of the CME, traded under the trading symbol ''CL'' (for WTI Crude Oil futures), that is the near month contract to expire, except when the near month contract is within two weeks of expiration, in which case it will be measured by the futures contract that is the next month contract to expire.[12]

The investment objective of the Short Oil Fund will be for the daily changes in percentage terms of its shares' per share NAV to reflect three times the inverse (−3x) of the daily change in percentage terms of the price of the Benchmark Oil Futures Contract, less the Fund's expenses.

To achieve these objectives, USCF will endeavor to have the notional value of a Fund's aggregate exposure (in the case of the Oil Fund) or aggregate short exposure (in the case of the Short Oil Fund) to the Benchmark Oil Futures Contract at the close of each trading day approximately equal to 300% of the Fund's NAV. The Funds will not seek to achieve correlation to the Benchmark Oil Futures Contract over a period of time greater than one day.[13]

Investments of the Funds

Each Fund will seek to achieve its investment objective by investing primarily in futures contracts for light, sweet crude oil that are traded on the NYMEX, ICE Futures U.S., or other U.S. and foreign exchanges (collectively, ''Oil Futures Contracts''). The Funds will, to a lesser extent and in view of regulatory requirements and/or market conditions:

(1) Next invest in (a) cleared swaps based on the Benchmark Futures Contract, (b) non-exchange traded (''over-the-counter'' or ''OTC''), negotiated swap contracts that are based on the Benchmark Futures Contract, and (c) forward contracts for oil;

(2) followed by investments in futures contracts for other types of crude oil, diesel-heating oil, gasoline, natural gas, and other petroleum-based fuels, each of which that are traded on the NYMEX, ICE Futures U.S., or other U.S. and foreign exchanges, as well as cleared swaps and OTC swap contracts valued based on the foregoing; and

(3) finally, invest in exchange-traded cash settled options on Oil Futures Contracts.

All such other investments are referred to as ''Other Oil-Related Investments'' (Other Oil-Related Investments, together with Oil Futures Contracts, are referred to collectively as ''Oil Interests''). The Exchange states that regulatory requirements, such as accountability levels or position limits, and market conditions could cause a Fund to invest in Other Oil-Related Investments.[14]

To satisfy their margin, collateral, and other requirements, the Funds may hold short-term obligations of the United States of two years or less (''Treasuries''), cash, and cash equivalents.[15] The Exchange states that approximately 15% to 90% of each Fund's assets will be committed as margin for commodity futures contracts,[16] but that from time to time the percentage of assets committed as margin may be substantially more, or less, than such range. The Funds may hold shares of money market funds and Treasuries with a maturity date of two years or less as investments, rather than just as margin or collateral.

For a Fund to maintain a consistent 300% (in the case of the Oil Fund) or −300% (in the case of the Short Oil Fund) return versus the Benchmark Oil Futures Contract, the Fund's holdings must be rebalanced on a daily basis by buying additional Oil Interests or by selling Oil Interests that the Fund holds. Such rebalancing generally will occur before or at the close of trading of the Shares on the Exchange, at or as near as possible to that day's settlement price, and will be disclosed on the Fund's Web site as pending trades before the opening of trading on the Exchange the next business day and will be taken into account in the Fund's IFV and reflected in the Fund's end of day NAV on that business day.[17]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange 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 modified by Amendments No. 2 and No. 3 thereto, is consistent with Section 6(b)(5) of the Exchange Act,[19] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[20] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities. According to the Exchange, quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association. The intraday, closing prices, and settlement prices of the Oil Futures Contracts will be readily available from the applicable futures exchange Web sites, automated quotation systems, published or other public sources, or major market data vendors. Complete real-time data for the Oil Futures Contracts is available by subscription through on-line information services. ICE Futures U.S. and NYMEX also provide delayed futures information on current and past trading sessions and market news free of

[12] *See* Amendment No. 3, *supra* note 8. The Exchange represents that CME is a member of the Intermarket Surveillance Group (''ISG''). *See* Amendment No. 2, *supra* note 7, at 5 n.7.

[13] The pursuit of daily leveraged investment goals means that the return of a Fund for a period longer than a full trading day may have no resemblance to 300% (in the case of the Oil Fund) or −300% (in the case of the Short Oil Fund) of the return of the Benchmark Oil Futures Contract for a period of longer than a full trading day because the aggregate return of the Fund is the product of the series of each trading day's daily returns. *See* Amendment No. 2, *supra* note 7, at 5 n.6, 9 n.10.

[14] *See id.* at 6–7, 10. The Funds have not limited the size of their offerings and are committed to utilizing substantially all of their proceeds to purchase Oil Interests. If a Fund encounters accountability levels, position limits, or price fluctuation limits for Oil Futures Contracts on the NYMEX or ICE Futures U.S., it may then, if permitted under applicable regulatory requirements, purchase Oil Futures Contracts on other exchanges that trade listed crude oil futures or invest in Other Oil-Related Investments to meet its investment objective. *See id.* at 8, 11.

[15] The Exchange states that cash equivalents are short-term instruments with maturities of less than three months and shall include the following: (i) Certificates of deposit issued against funds deposited in a bank or savings and loan association; (ii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (iii) repurchase agreements and reverse repurchase agreements; (iv) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (v) commercial paper, which are short-term unsecured promissory notes; and (vi) money market funds. *See id.* at 7 n.9.

[16] *See id.* Ongoing margin and collateral payments will generally be required for both exchange-traded and OTC contracts based on changes in the value of the Oil Interests.

[17] *See id.* at 6, 9.

[18] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78k–1(a)(1)(C)(iii).

charge on their respective Web sites. The specific contract specifications for Futures Contracts are also available on the Web sites of those futures exchanges, as well as other financial informational sources. Information regarding exchange-traded cash-settled options and cleared swap contracts will be available from the applicable exchanges and major market data vendors. Information regarding exchange-traded cash-settled options and cleared swap contracts will be available from the applicable exchanges and major market data vendors.

The Funds' Web site, *www.uscfinvestments.com,* will display the applicable end of day closing NAV. The daily holdings of each Fund will be available on the Fund's Web site before 9:30 a.m. Eastern Time (''E.T.'') each day. The Web site disclosure of portfolio holdings will be made daily and will include the following (as applicable): (1) The composite value of the total portfolio, (2) the quantity and type of each holding (including the ticker symbol, maturity date or other identifier, if any) and other descriptive information including, in the case of a swap, the type of swap, its notional value and the underlying instrument, index or asset on which the swap is based and, in the case of an option, its strike price, (3) the value of each Oil Interest (in U.S. dollars), (4) the type (including maturity, ticker symbol, or other identifier) and value of each Treasury security and cash equivalent, and (5) the amount of cash held in each Fund's portfolio.[21]

The trading price of the Benchmark Oil Futures Contract will be disseminated by one or more major market data vendors every 15 seconds during NYSE Arca's Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.). An IFV will be disseminated for each Fund on a per Share basis every 15 seconds during the Exchange's Core Trading Session.[22] The administrator for the Funds will calculate the NAV of each Fund once each NYSE trading day. On a normal trading day, the NAV of each Fund's Shares will be released after 4:00 p.m. E.T. The NAV will be disseminated daily to all market participants at the same time.

The Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Further, the Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark Oil Futures Contract occurs. If the interruption to the dissemination of the IFV or the value of the Benchmark Oil Futures Contract persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Trading in Shares will also be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Moreover, trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[23] Moreover, trading of the Shares will be subject to NYSE Arca Equities Rule 8.200, Commentary .02(e), which sets forth certain requirements to facilitate surveillance of Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in Trust Issued Receipts.

The Commission notes that the Exchange or the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain Oil Futures Contracts with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and certain Oil Futures Contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain Oil Futures Contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA'').[24]

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. In support of this proposal, the Exchange represented that:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.200.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (c) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) how information regarding portfolio holdings is disseminated; (f) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (g) trading information.

(5) For initial and continued listing, the Funds will be in compliance with Rule 10A–3 under the Act,[25] as provided by NYSE Arca Equities Rule 5.3.

(6) The daily holdings of each Fund will be available on the Funds' Web site before 9:30 a.m. E.T. each day, and the daily Web site disclosure of each Fund's portfolio holdings will include the following (as applicable): (a) The composite value of the total portfolio, (b) the quantity and type of each holding (including the ticker symbol, maturity date or other identifier, if any) and other descriptive information including, in the case of a swap, the type of swap, its notional value and the underlying instrument, index or asset on which the swap is based and, in the

[21] *See* Amendment No. 2, *supra* note 7, at 15.

[22] Each IFV will be calculated by using the prior day's closing NAV per Share as a base and updating that value throughout the trading day to reflect changes in the most recently reported trade price for the active light, sweet Oil Futures Contract on the NYMEX. *See id.* at 12.

[23] *See* Amendment No. 2, *supra* note 7, at 18.

[24] For a list of the current members of ISG, *see www.isgportal.org.*

[25] 17 CFR 240.10A–3.

case of an option, its strike price, (c) the value of each Oil Interest (in U.S. dollars), (d) the type (including maturity, ticker symbol, or other identifier) and value of each Treasury security and cash equivalent; and (e) the amount of cash held in each Fund's portfolio.

(7) Not more than 10% of the net assets of a Fund in the aggregate invested in futures contracts shall consist of futures contracts whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA.

(8) Web site disclosure of each Fund's daily holdings will occur at the same time as the disclosure by the Trust of the daily holdings to Authorized Participants so that all market participants are provided daily holdings information at the same time.[26]

(9) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

(10) All statements and representations made in the filing regarding (a) the description of the portfolios of the Funds, (b) limitations on portfolio holdings or reference assets, or (c) applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for listing the Shares on the Exchange.

(11) The issuer has represented to the Exchange that it will advise the Exchange of any failure by a Fund to comply with the continued listing requirements.

(12) Pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[27]

(13) If a Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

This approval order is based on all of the Exchange's statements and representations, including those set forth above and in Amendments No. 2 and No. 3.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 2 and No. 3 thereto, is consistent with Section 6(b)(5) of the Act[28] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[29] that the proposed rule change (SR–NYSEArca–2016–173), as modified by Amendments No. 2 and No. 3 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

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[26] *See* Amendment No. 3, *supra* note 8.

[27] The Commission notes that certain other proposals for the listing and trading of exchange traded products include a representation that the listing exchange will ''surveil'' for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77499 (April 1, 2016), 81 FR 20428 (April 7, 2016) (SR–BATS–2016–04). In the context of this representation, it is the Commission's view that ''monitor'' and ''surveil'' both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view ''monitor'' as a more or less stringent obligation than ''surveil'' with respect to the continued listing requirements.

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78s(b)(2).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80417; File No. SR–NYSENAT–2017–01]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Amending the Certificate of Incorporation and Bylaws of Its Ultimate Parent Company, Intercontinental Exchange, Inc.

April 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 28, 2017, NYSE National, Inc. (the ''Exchange'' or ''NYSE National'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On April 6, 2017, the Exchange filed Amendment No. 1 to the proposal.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 1, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the certificate of incorporation and bylaws of its ultimate parent company, Intercontinental Exchange, Inc. (''ICE''), to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in ICE's certificate of incorporation to its bylaws and make a technical correction to a cross-reference within the bylaws; (3) make certain simplifying or clarifying changes in ICE's bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the bylaws to the Vice Chair with references to the lead independent director. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend ICE's Third Amended and Restated Certificate of Incorporation (the ''ICE Certificate'') and Seventh Amended and Restated Bylaws (the ''ICE Bylaws'') to (1) update and streamline references to ICE subsidiaries that either are or control national securities exchanges and delete references to other subsidiaries of ICE; (2) eliminate an obsolete cross-reference in the ICE

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 clarifies that ICE is a public company listed on the NYSE and that the word ''indirect'' is proposed to be deleted from clause (iii)(y) of the first sentence of Section 2.13(b) of ICE's bylaws.

Certificate to the ICE Bylaws and make a technical correction to a cross-reference within the ICE Bylaws; (3) make certain simplifying or clarifying changes in the ICE Bylaws relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders; and (4) replace obsolete references in the ICE Bylaws to the Vice Chair with references to the lead independent director.

ICE owns 100% of the equity interest in Intercontinental Exchange Holdings, Inc. (''ICE Holdings''), which in turn owns 100% of the equity interest in NYSE Holdings LLC (''NYSE Holdings''). NYSE Holdings owns 100% of the equity interest of NYSE Group, Inc. (''NYSE Group''), which in turn directly owns 100% of the equity interest of the Exchange and its national securities exchange affiliates, the New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''NYSE Arca''), and NYSE MKT LLC (''NYSE MKT'').[5]

ICE Certificate

The Exchange proposes to amend the limitations on voting and ownership in Article V of the ICE Certificate to update and streamline references to ICE subsidiaries that are national securities exchanges or that control national securities exchanges, as well as to delete references to other subsidiaries of ICE. In addition, it proposes to revise the amendment provision in Article X of the ICE Certificate to remove an obsolete reference.

Limitations on Voting and Ownership

Article V of the ICE Certificate establishes voting limitations and ownership concentration limitations on owners of ICE common stock above certain thresholds for so long as ICE owns any U.S. Regulated Subsidiary. By reference to the ICE Bylaws, ''U.S. Regulated Subsidiaries'' is defined to mean the four national securities exchanges owned by ICE (the Exchange, NYSE, NYSE Arca, and NYSE MKT), NYSE Arca, LLC, and NYSE Arca Equities, Inc. (''NYSE Arca Equities''), or their successors, in each case to the extent that such entities continue to be controlled, directly or indirectly, by ICE.[6]

Article V of the ICE Certificate also authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if the Board of Directors makes certain determinations. Those include determinations that such an exception would not impair the ability of ICE, the U.S. Regulated Subsidiaries, ICE Holdings, NYSE Holdings, and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder, and that such an exception is otherwise in the best interests of ICE, its stockholders and the U.S. Regulated Subsidiaries.

NYSE National proposes to amend Article V to replace references to the U.S. Regulated Subsidiaries with references to the ''Exchanges.'' An ''Exchange'' would be defined as a national securities exchange registered under Section 6 of the Exchange Act[7] that is directly or indirectly controlled by ICE.[8] Accordingly, Article V would no longer include references to NYSE Arca, LLC or NYSE Arca Equities. NYSE National believes omitting such entities is appropriate because the Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.''[9] In addition, NYSE Arca, as the national securities exchange, has the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.[10] Moreover, the proposed change would align Article V with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[11]

As noted above, Article V of the ICE Certificate authorizes ICE's Board of Directors to grant exceptions to the voting and ownership concentration limitations if it makes certain determinations. Such determinations include that the proposed exception would not impair the ability of ICE Holdings, NYSE Holdings and NYSE Group to perform their respective responsibilities under the Exchange Act and the rules and regulations thereunder.[12] NYSE National proposes to amend Article V to replace the references to ICE Holdings, NYSE Holdings and NYSE Group with the defined term ''Intermediate Holding Companies.''

Finally, Article V includes lengthy provisions listing the different categories of members and permit holders of each of the NYSE, NYSE MKT and NYSE Arca.[13] NYSE National proposes to use a new defined term, ''Member,'' to mean a person that is a ''member'' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[14] NYSE National believes that using ''Member'' in place of the list of categories of members and permit holders would simplify the provisions and avoid Exchange-by-Exchange descriptions without substantive change. Each of the categories listed—an ETP Holder of NYSE Arca Equities (as defined in the NYSE Arca Equities rules of NYSE Arca); an OTP Holder or OTP Firm of NYSE Arca (each as defined in the rules of NYSE Arca); a ''member'' or ''member organization'' of NYSE (as defined in the rules of the NYSE) and NYSE MKT[15]—is a ''member'' of an exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.[16]

More specifically, the revised ICE Certificate would require, in the case of a person seeking approval to exercise voting rights in excess of 20% of the outstanding votes, that neither such person nor any of its related persons be a Member of an Exchange, instead of referring to the different categories of membership recognized by each Exchange.[17] Similarly, the conditions relating to a person seeking approval to exceed the ownership concentration limitation would be rephrased in the same way.[18] Use of ''Member'' would

[5] ICE is a publicly traded company listed on the NYSE. The Exchange's affiliates NYSE, NYSE MKT, and NYSE Arca have each submitted substantially the same proposed rule change to propose the changes described herein. *See* SR–NYSE–2017–13, SR–NYSEMKT–2017–17, and SR–NYSEArca–2017–29.

[6] ICE Certificate, Article V, Section A.10; ICE Bylaws, Article III, Section 3.15. NYSE Arca, LLC, is a subsidiary of NYSE Group, and NYSE Arca Equities is a subsidiary of NYSE Arca.

[7] 15 U.S.C. 78f.

[8] *See* proposed Fourth Amended and Restated Certificate of Incorporation of Intercontinental Exchange, Inc. (''Proposed ICE Certificate''), Article V, Section A.3(a).

[9] 15 U.S.C. 78c(a)(1).

[10] *See* NYSE Arca Equities Rule 3.4 (''The NYSE Arca, Inc. ('NYSE Arca Parent'), as a self-regulatory organization registered with the Securities and Exchange Commission pursuant to Section 6 of the Exchange Act, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary, NYSE Arca Equities, Inc. ('Corporation')''). *See also* NYSE Arca Equities Rule 14.1.

[11] *See* Second Amended and Restated Certificate of Incorporation of CBOE Holdings, Inc. (''CBOE Certificate''), Article Sixth, Sections (a)(ii)(A) and (b)(ii)(A) (referencing ''Regulated Securities Exchange Subsidiaries''); and Amended and Restated Certificate of Incorporation of Bats Global Markets, Inc. (''Bats Certificate''), Article Fifth, Section (b)(i) and (ii) (referencing ''Exchanges'').

[12] ICE Certificate, Article V, Sections A.3(a)(i) and B.3(a)(i).

[13] *See* ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii) and Section A.9.

[14] 15 U.S.C. 78c(a)(3)(A).

[15] *See id.*

[16] 15 U.S.C. 78c(a)(3)(A).

[17] *See* Proposed ICE Certificate, Article V, Section A.3(c)(ii) and (d)(ii).

[18] *See* Proposed ICE Certificate, Article V, Section B.3(d).

permit a simplification, without substantive change, of the portion of the definition of the term ''Related Persons'' relating to members and trading permit holders.[19]

NYSE National believes that the use of ''Member'' and the changes to remove the Exchange-by-Exchange lists of categories of Members would be appropriate because it would align the provision in the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[20]

To implement the proposed changes, NYSE National proposes the following amendments to Article V of the ICE Certificate:

- In Article V, Section A.1, the text ''any U.S. Regulated Subsidiary (as defined below)'' would be replaced with ''a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the 'Exchange Act').''
- In Article V, Section A.2, the text ''Securities Exchange Act of 1934, as amended (the 'Exchange Act'),'' would be replaced with ''Exchange Act.''
- In Article V, Section A.3(a), the text ''U.S. Regulated Subsidiary'' would be replaced with the text ''national securities exchange registered under Section 6 of the Exchange Act that is directly or indirectly controlled by the Corporation (each such national securities exchange so controlled, an 'Exchange'), any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company') or''; the text '', Intercontinental Exchange Holdings, Inc. ('ICE Holdings'), NYSE Holdings LLC ('NYSE Holdings') or NYSE Group, Inc. ('NYSE Group') (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange.''
- In Article V, Section A.3(c), ''and'' would be added between (i) and (ii); the text ''NYSE Arca, Inc. ('NYSE Arca') or NYSE Arca Equities, Inc. ('NYSE Arca Equities') or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member (as defined below) of any Exchange'' would replace the text from ''an ETP Holder (as defined in the NYSE Arca Equities rules of NYSE Arca'' through the end of the paragraph.
- In Article V, Section A.3(d), ''and'' would be added between (i) and (ii); the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''one or more Exchanges''; and the text ''a Member of any Exchange'' would replace the text from ''an ETP Holder'' through the end of the paragraph.
- The definition of ''Member'' would be added as new Article V, Section A.8, defined to ''mean a Person that is a 'member' of an Exchange within the meaning of Section 3(a)(3)(A) of the Exchange Act.'' Article V, Sections A.8 and A.9 would be renumbered as Sections A.9 and A.10, respectively.
- In Article V, Section A.9 (which would be renumbered A.10), the definition of the term ''Related Person'' would be simplified to eliminate the Exchange-by-Exchange definition, as follows:
  - In Section A.10(d), the text '''member organization' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time), any 'member' (as defined in the rules of New York Stock Exchange, as such rules may be in effect from time to time)'' would be replaced with ''Member, any Person'';
  - In Section A.10(e), the text ''an OTP Firm, any OTP Holder that is associated with such Person'' would be replaced with ''natural person and is a Member, any broker or dealer that is also a Member with which such Person is associated'';
  - ''and'' would be added between Sections A.10(g) and (h); and
  - Sections A.10(i) through (l) would be deleted.
- The definition of ''U.S. Regulated Subsidiary'' and ''U.S. Regulated Subsidiaries'' in Article V, Section A.10 would be deleted.
- In Article V, Section B.1, the term ''Exchange'' would replace the term ''U.S. Regulated Subsidiary.''
- In Article V, Section B.3(a), the text ''Exchange, Intermediate Holding Company or'' would replace the text ''U.S. Regulated Subsidiaries,''; the text ''ICE Holdings, NYSE Holdings or NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity)'' would be deleted; and ''each Exchange'' would replace ''the U.S. Regulated Subsidiaries.''
- In Article V, Section B.3(d), the text ''NYSE Arca or NYSE Arca Equities or any facility of NYSE Arca'' would be replaced with ''any Exchange''; and the text ''an ETP Holder'' through the end of the paragraph would be replaced with ''a Member of any Exchange.''
- The word ''and'' would be added between Article V, Section B.3(c) and (d); and Article V, Section B.3(e) and (f) would be deleted.

Amendments

In addition to the amendments to Article V, NYSE National proposes to amend Article X (Amendments) of the ICE Certificate.

Clause (A) of Article X requires the vote of 80% of all outstanding shares entitled to vote in order to reduce the voting requirement set forth in Section 11.2(b) of the ICE Bylaws. However, Section 11.2(b) of the ICE Bylaws was deleted in 2015 after the sale by ICE of the Euronext business.[21] Accordingly, NYSE National proposes to delete the requirement.

Clause (B) of Article X currently requires that, so long as ICE controls any of the U.S. Regulated Subsidiaries, any proposed amendment or repeal of any provision of the ICE Certificate must be submitted to the boards of the NYSE, NYSE Market, NYSE Regulation, NYSE Arca, NYSE Arca Equities, and NYSE MKT for a determination as to whether such amendment or repeal must be filed with the Commission under Section 19 of the Exchange Act.[22] NYSE National proposes that, in Clause (B) of Article X, the text ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange''; and ''New York Stock Exchange, NYSE Market, NYSE Regulation, Inc., NYSE Arca, NYSE Arca Equities and NYSE MKT'' would be replaced with ''each Exchange.'' NYSE National believes that the use of ''Exchange'' is appropriate for the reasons discussed above.

Additional Changes

The ICE Certificate includes references to NYSE Market (DE), Inc., defined as ''NYSE Market,'' and NYSE Regulation, Inc. (''NYSE Regulation''). NYSE Market and NYSE Regulation were previously parties to a Delegation Agreement whereby the NYSE delegated certain regulatory functions to NYSE Regulation and certain market functions

[19] *See* Proposed ICE Certificate, Article V, Section A.10. For the current definition of ''Related Persons,'' *see* ICE Certificate, Article V, Section A.9.

[20] *See* Bats Certificate, Article Fifth, Sections (a)(ii)(D) and (E) (defining an ''Exchange Member'' as ''a Person that is a registered broker or dealer that has been admitted to membership in any national securities exchange registered under Section 6 of the Act with the Securities and Exchange Commission . . . that is a direct or indirect subsidiary of'' Bats Global Markets, Inc.); and CBOE Certificate, Article Sixth, Sections (a)(ii)(C)(y) and (b)(ii)(D) (defining a ''Trading Permit Holder'' ''as defined in the Bylaws of any Regulated Securities Exchange Subsidiary as they may be amended from time to time'').

[21] *See* Securities Exchange Act Release No. 74928 (May 12, 2015), 80 FR 28331 (May 18, 2015) (SR–NYSE–2015–18).

[22] 15 U.S.C. 78s.

to NYSE Market. The Delegation Agreement was terminated when the NYSE re-integrated its regulatory and market functions. As a result, the two entities ceased being regulated subsidiaries.[23] NYSE Regulation was subsequently merged out of existence. The proposed changes described above would delete all references to NYSE Market and NYSE Regulation from the ICE Certificate.[24]

Finally, conforming changes would be made to the title, recitals and signature line of the ICE Certificate.

ICE Bylaws

The Exchange proposes to make certain amendments to the ICE Bylaws to correspond to the proposed amendments to the ICE Certificate. In addition, the Exchange proposes to amend the ICE Bylaws to make certain changes relating to the location of stockholder meetings, quorum requirements, and requirements applicable to persons entitled to nominate directors or make proposals at a meeting of ICE's stockholders. Finally, it proposes to replace obsolete references to the Vice Chair with references to the lead independent director.

Changes Corresponding to the Proposed Amendments to the ICE Certificate

The Exchange proposes to make changes to the ICE Bylaws corresponding to the proposed amendments to the ICE Certificate, as described above.

First, NYSE National proposes to use ''Exchanges'' in place of ''U.S. Regulated Subsidiaries,'' as in the proposed changes to the ICE Certificate. Accordingly, it proposes to make the following changes:

- The definition of ''U.S. Regulated Subsidiary'' in Section 3.15 would be deleted and replaced with a definition of ''Exchange'' that is the same as the definition in the proposed amended ICE Certificate.
- In Section 3.14(a)(2), the text ''U.S. Regulated Subsidiaries, NYSE Group, Inc. (''NYSE Group'') (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings LLC (''NYSE Holdings''), Intercontinental Exchange Holdings, Inc. ('ICE Holdings')'' would be replaced with ''Exchanges, any entity controlled by the Corporation that is not itself an Exchange but that directly or indirectly controls an Exchange (each such controlling entity, an 'Intermediate Holding Company')''; and the text ''U.S. Regulated Subsidiaries, NYSE Group (if and to the extent that NYSE Group continues to exist as a separate entity), NYSE Holdings, ICE Holdings'' would be replaced with ''Exchanges, Intermediate Holding Companies.''
- In Section 3.14(b)(3), the text ''the U.S. Regulated Subsidiaries'' and ''their'' would be replaced with ''each Exchange'' and ''its,'' respectively.
- In Article VII, ''the U.S. Regulated Subsidiaries'' would be replaced with ''any Exchange.''
- In Sections 3.14(a)(1), 8.1, 8.2, 8.3(b), 8.4, 9.1, 9.2, 9.3 and 11.3, the text ''U.S. Regulated Subsidiary'' and ''of the U.S. Regulated Subsidiaries'' would be replaced with ''Exchange'' and the text ''U.S. Regulated Subsidiaries'' would be replaced with ''Exchanges.''
- In Sections 8.2(b), 8.4, 9.1, and 9.3, the text ''the U.S. Regulated Subsidiaries'' and ''U.S. Regulated Subsidiaries'' would be replaced with ''an Exchange.''
- In Section 9.3, the text ''the U.S. Regulated Subsidiaries'' would be replaced with ''each Exchange''; ''U.S. Regulated Subsidiary's'' would be replaced with ''Exchange's''; and ''their respective'' would be replaced with ''its.''
- In Section 8.1, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or their successors'' would be replaced with ''any Exchange.'' Similarly, in Section 11.3, the text ''New York Stock Exchange LLC, NYSE Arca, Inc., NYSE Arca Equities, Inc., NYSE MKT LLC and NYSE National, Inc. or the boards of directors of their successors'' would be replaced with ''each Exchange.''
- In Sections 8.1 and 8.2, the defined term ''U.S. Subsidiaries' Confidential Information'' would be replaced with ''Exchange Confidential Information,'' with the same meaning except limited to Exchanges.
- In Section 8.3(b), the text ''U.S. Regulated Subsidiary or any other U.S. Regulated Subsidiary over which such U.S. Regulated Subsidiary has regulatory authority or oversight'' would be replaced with ''Exchange.'' The proposed change would remove the current provision that allows any U.S. Regulated Subsidiary to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight. As a result, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3.[25] The national securities exchanges NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other.

Article XII of the ICE Bylaws was added in connection with the acquisition of NYSE National, previously National Stock Exchange, Inc., in 2016.[26] The Exchange proposes to delete Article XII of the ICE Bylaws in its entirety. Because the substance of Article XII would be addressed by the proposed amendments to the ICE Certificate, Article XII would no longer be necessary. Specifically,

- the substance of Section 12.1(a)(1) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(c)(ii) of the ICE Certificate;
- the substance of Section 12.1(a)(2) of the ICE Bylaws would be addressed in revised Article V, Section A.3.(d)(ii) of the ICE Certificate;
- the substance of Section 12.1(b) of the ICE Bylaws would be addressed in revised Article V, Section B.3.(d) of the ICE Certificate; and
- the substance of Section 12.2 of the ICE Bylaws would be addressed in revised Article X(B) of the ICE Certificate.

Meetings of Stockholders

In addition to the proposed changes corresponding to the proposed amendments to the ICE Certificate, the Exchange proposes to amend several sections of Article II (Meetings of Stockholders).

The Exchange proposes to simplify Section 2.1 of the ICE Bylaws, which relates to the location of stockholder meetings. The revised provision would provide that, as is true now, the

[23] *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837 (October 2, 2015 (SR–NYSE–2015–27).

[24] *See* ICE Certificate Article V, Sections A.3(c)(iii) and (d)(iii) and Section B.3(e), and Article X, clause (B).

[25] NYSE Arca Equities Rule 14.1(b) provides, among other things, that the books and records of NYSE Arca Equities are subject to the oversight of the NYSE Arca pursuant to the Act, and that the books and records of NYSE Arca Equities shall be subject at all times to inspection and copying by NYSE Arca. NYSE Arca Equities Rule 14.3(a) provides, among other things, that the books and records of NYSE Arca, LLC are deemed to be the books and records of NYSE Arca and NYSE Arca Equities for purposes of and subject to oversight pursuant to the Exchange Act. *See also* CBOE Holdings, Inc. Certificate of Incorporation, Article Fifteenth (providing that the books and records of a Regulated Securities Exchange Subsidiary shall be subject at all times to inspection by such subsidiary).

[26] *See* Securities Exchange Act Releases No. 79902 (January 30, 2017) 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16); and 79901 (January 30, 2017), 82 FR 9251 (February 3, 2017) (SR–NYSE–2016–90, SR–NYSEArca2016–167, SR–NYSEMKT–2016–122).

location, if any, as well as the decision to hold a stockholder meeting solely by remote communication, would be determined by the Board of Directors and stated in the notice of meeting. The proposed changes are as follow:

• The first sentence would be revised to remove the text ''for the election of directors'', ''in the City of Atlanta, State of Georgia,'' and ''as may be fixed from time to time by the Board of Directors, or at such other place.'' The text ''as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting.'' would be deleted and ''or may'' would be added in its place. The second sentence would be deleted in its entirety.

• In the third sentence, the text ''The Board of Directors may, in its sole discretion, determine that any meeting of stockholders shall'' and ''as authorized by law'' would be deleted. The word ''solely'' would be added after ''instead be held'' and the text '', in each case as may be designated by the Board of Directors from time to time and stated in the notice of meeting'' added to the end of the sentence.

Section 2.7 relates to the quorum for stockholder meetings. The Exchange proposes to conform the quorum requirements in the ICE Bylaws to those in the ICE Certificate. To do so, it proposes to delete the first three sentences of Section 2.7 and replace it with the sentence ''Section B of Article IX of the certificate of incorporation sets forth the requirements for establishing a quorum at meetings of stockholders of the Corporation.''

Section 2.13(b) sets forth the advance notice requirements for stockholder proposals. The Exchange proposes to make the following changes to Section 2.13(b).

• In addition to stockholders of record, the ICE Bylaws permit certain beneficial holders (defined as ''Nominee Holders'') to nominate directors or bring other matters for consideration before the Board of Directors meeting. The Exchange proposes to make simplifying wording changes in clause (iii) of the first sentence of Section 2.13(b), as follows:

○ In clause (x), the text ''stockholder that holds of record stock of the Corporation'' would be amended so that it read [sic] ''stockholder of record.''

○ In clause (y), the following text would be deleted: ''holds such''; "'street name'"; ''of such stock and can demonstrate to''; ''indirect''; ''of, and such Nominee Holder's''; and the comma before ''such stock on such matter.'' The revised clause would read as follows: ''is a person (a 'Nominee Holder') that beneficially owns stock of the Corporation through a nominee or other holder of record and provides the Corporation with proof of such beneficial ownership, including the entitlement to vote such stock on such matter.''

○ In the current third and fourth sentences of Section 2.13(b), the term ''indirect ownership'' would be changed to ''beneficial ownership'' for consistency.

• The Exchange proposes to add a new defined term, ''Proponent,'' to capture both stockholders and Nominee Holders. Accordingly:

○ A new sentence would be added to Section 2.13(b)(iii) between the first and second sentences, stating that ''Stockholders and Nominee Holders who bring matters before the annual meeting pursuant to Section 2.13(b)(iii) are hereinafter referred to as 'Proponents'.''

○ Throughout Section 2.13(b), ''stockholder,'' ''stockholders'' and ''stockholder's'' would be replaced with ''Proponent,'' ''Proponents'' and ''Proponent's,'' respectively.

○ Throughout Section 2.13(b), ''Proponent'' would replace the phrases ''stockholder or beneficial owner,'' ''stockholder, by such beneficial owner,'' ''stockholder, such beneficial owner,'' ''stockholder and by such beneficial owner, if any,'' and ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed.'' The word ''Proponent's'' would replace the phrase ''stockholder's or such beneficial owner's.''

• Presently, the requirement for disclosing share ownership appears three times: in the current third sentence, which sets forth the provisions for stockholder notices relating to director nominations, the current fourth sentence, which sets forth the provisions for stockholder notices relating to other matters, and the current fifth sentence, which sets forth the information that a shareholder must include in any stockholder notice. Rather than keep the duplication, Exchange proposes to remove the requirement from the third and fourth sentences and retain the requirement in clause (i) of the fifth sentence. Accordingly, the text '', the number and class of all shares of each class of stock of the Corporation owned of record and beneficially by such stockholder'' would be deleted from the current third and fourth sentences.

• In the current fourth sentence, the requirement that a stockholder notice include information regarding any material interest in the matter proposed ''(other than as a stockholder)'' would be clarified by adding ''or beneficial owner of stock'' after ''stockholder'' within the parenthetical, because a Proponent who is a nominee holder is not a stockholder.

• In clause (i) of the current fifth sentence, the text ''such Proponent or'' would be added before ''any Associated Person.''

• Clause (i) of the current sixth sentence sets forth the meaning of ''Associated Person.'' The Exchange proposes to narrow the text to eliminate all beneficial owners of stock held of record or beneficially by the Proponent from the definition, and instead to cover only those beneficial owners on whose behalf the stockholder notice is being delivered. Accordingly, the Exchange proposes to replace the text ''stockholder or any beneficial owner on whose behalf a nomination or nominations are being made or business or matter is being proposed,'' with ''Proponent'' and, in clause (i)(x), replace the text ''owned of record or beneficially by such stockholder or by such beneficial owner'' with ''on whose behalf such Proponent is delivering a Stockholder Notice.''

Additional Proposed Changes

In addition to the changes proposed above, the Exchange proposes to amend several additional sections of the ICE Bylaws.

The ICE Bylaws refer to a ''Vice Chairman of the Board.'' However, the Board of Directors of ICE has not had a Vice Chairman since the sale of the Euronext business in 2014. Accordingly, in Sections 2.9, 3.6(b) and 3.8, the Exchange proposes to replace ''Vice Chairman of the Board'' with ''lead independent director.'' As a result, the lead independent director would preside over meetings of stockholders in the absence of the Chairman of the Board (Section 2.9), have the authority to call a special meeting of the Board of Directors (Section 3.6(b)) and would preside over meetings of the Board of Directors in the absence of the Chairman of the Board (Section 3.8).

In Section 3.12, relating to the conduct of meetings of committees of the Board of Directors of ICE, a reference to ''Article II of these Bylaws'' would be corrected to read ''this Article III of these Bylaws.''

Section 3.14 sets forth considerations directors must take into account in discharging their responsibilities as members of the board of directors. The Exchange proposes to amend the last sentence of Section 3.14(c), which limits claims against directors, officers and employees of ICE and against ICE. The

revised text would be expanded in scope to apply to any ''past or present stockholder, employee, beneficiary, agent, customer, creditor, community or regulatory authority or member thereof or other person or entity,'' and to protect agents of ICE as well as directors, officers and employees. These changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[27]

Finally, conforming changes would be made to the title and date of the ICE Bylaws.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [28] in general, and with Section 6(b)(1) [29] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

In particular, the Exchange believes that the proposed amendments to replace references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate, would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Exchange's rules by eliminating references to entities that are not national securities exchanges in the ICE Certificate and ICE Bylaws. The Exchange Act definition of ''exchange'' states that ''exchange'' ''includes the market place and the market facilities maintained by such exchange.'' [30] Accordingly, all market places and market facilities maintained by an Exchange would fall within the definition of Exchange and therefore would fall within the scope of the ICE Certificate and ICE Bylaws. The Exchange notes that the proposed change would align Article V of the ICE Certificate with voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which do not include references to subsidiaries other than national securities exchanges.[31] NYSE Arca, as the national securities exchange, would retain the regulatory and self-regulatory responsibility for the NYSE Arca options and equities markets.

Similarly, as a result of the proposed use of ''Exchanges'' instead of ''U.S. Regulated Subsidiaries,'' ICE Bylaws Section 8.3 would no longer provide that any U.S. Regulated Subsidiary is authorized to inspect the books and records of another U.S. Regulated Subsidiary over which the first has regulatory authority or oversight, adding further clarity and transparency to the Exchange's rules.[32]

Further, the proposed use of the defined term ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules and aligning the provision in the ICE Certificate with the voting and ownership concentration limits in the certificates of incorporation of other publicly traded companies that own one or more national securities exchanges, which use a similar description of membership.[33] Similarly, the proposed use of the defined term ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws would simplify the provisions without substantive change, thereby further adding clarity and transparency to the Exchange's rules.

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act [34] because the proposed rule change would be consistent with and would create a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the proposed amendments (1) replacing references to the U.S. Regulated Subsidiaries and to the NYSE, NYSE MKT, NYSE Arca, NYSE Arca Equities and NYSE Arca, LLC with references to an ''Exchange'' or the ''Exchanges,'' as appropriate; (2) using ''Member'' in place of the lists of categories of members and permit holders in Article V of the ICE Certificate; (3) using ''Intermediate Holding Company'' in place of the list of intermediate holding companies in Article V of the ICE Certificate and Section 3.14 of the ICE Bylaws; and (4) removing the ability of a U.S. Regulated Subsidiary to inspect the books and records of other U.S. Regulated Subsidiaries in ICE Bylaws Section 8.3 would remove impediments to and perfect the mechanism of a free and open market by simplifying and streamlining the Exchange's rules, thereby ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to the last sentence of Section 3.14(c) of the ICE Bylaws, which limits claims against directors, officers and employees of ICE and against ICE, would remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the proposed changes would conform the provision to the analogous statement in the governing documents of other holding companies of national securities exchanges, which are substantially similar.[35]

The Exchange believes that the proposed amendments to remove references to NYSE Market, NYSE Regulation and the Vice Chairman and to remove the cross reference to Section 11.2(b) of the ICE Bylaws from Article X of the ICE Certificate would remove impediments to, and perfect the

[27] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(1).

[30] 15 U.S.C. 78c(a)(1).

[31] *See* note 11, *supra.*

[32] As noted above, the ICE Bylaws would no longer provide that NYSE Arca may inspect the books and records of NYSE Arca Equities or NYSE Arca, LLC. However, the proposed change would have no substantive effect, because NYSE Arca would retain its authority pursuant to NYSE Arca Equities Rules 14.1 and 14.3. NYSE, NYSE MKT, NYSE Arca and NYSE National do not have regulatory authority or oversight over each other, and so the proposed change would have no effect on those entities' rights.

[33] *See* note 20, *supra.*

[34] 15 U.S.C. 78f(b)(5).

[35] *See* Amended and Restated Bylaws of Bats Global Markets, Inc., Article XII, Section 12.01; Amended and Restated Limited Liability Company Agreement of BOX Holdings Group LLC, Article 4, Section 4.12; Bylaws of IEX Group, Inc., Section 34; and Amended and Restated Bylaws of Miami International Holdings, Inc., Article VII, Section 1.

mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would eliminate obsolete references, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency in the ICE Certificate and ICE Bylaws. Such increased clarity and transparency would ensure that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the ICE governing documents.

The Exchange believes that the proposed amendments to Article II of the ICE Bylaws, regarding meetings of stockholders, would also remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest because the changes would increase the clarity of the relevant sections of Article II, thereby reducing potential confusion. Market participants and investors would not be harmed and in fact could benefit from the increased clarity and transparency regarding the location of stockholder meetings and advance notice requirements, and the conformance of the quorum requirements with those in the ICE Certificate, and so would more easily navigate and understand the ICE Bylaws.

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 Exchange Act. The proposed rule change is not designed to address any competitive issue but rather update and streamline the ICE Certificate and Bylaws, delete obsolete or unnecessary references and make other simplifying or clarifying changes to the ICE governing documents. The Exchange believes that the proposed rule change will serve to promote clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. The proposed rule change would result in no concentration or other changes of ownership of exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2017–01 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–NYSENAT–2017–01. 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–NYSENAT–2017–01 and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07530 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80415; File No. SR–NYSEArca–2017–30]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) To Provide for the Inclusion of Cash in an Index Underlying a Series of Investment Company Units

April 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 29, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[36] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .01 and Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units (''Units'').[4] NYSE Arca Equities Rule 5.2(j)(3) provides ''generic'' criteria permitting listing and trading of Units pursuant to Rule 19b–4(e) under the Act[5] when the underlying index or portfolio satisfies the criteria set forth in NYSE Arca Equities Rule 5.2(j)(3).

The Exchange understands that certain index providers have included, or intend to include, cash as a component in indexes that also include equity or fixed income securities components. An index provider may, for example, provide a certain index weighting allocation to cash or may periodically change an allocation to cash based on the index provider's assessment of market risk associated with other asset classes in the applicable index.[6]

Accordingly, the Exchange proposes to amend Commentaries .01 and .02 to permit listing and trading of Units based on an index or portfolio that includes cash as a component. While Units, like mutual funds, will generally hold an amount of cash, NYSE Arca Equities Rule 5.2(j)(3) currently provides that components of an index or portfolio underlying a series of Units consist of securities—namely, U.S. Component Stocks, Non-U.S. Component Stocks, Fixed Income Securities or a combination thereof. As described below, the proposed amendments to Commentary .01 and Commentary .02 to Rule 5.2(j)(3)would permit inclusion of cash as an index or portfolio component.

Currently, Commentary .01(a)(A) provides that an underlying index or portfolio of U.S. Component Stocks[7] must meet specified criteria. The Exchange proposes to amend Commentary .01(a)(A) to provide that the components of an index or portfolio underlying a series of Units may also include cash. In addition, the percentage weighting criteria in Commentary .01(a)(A)(1) through (4) each would be amended to make clear that such criteria would be applied only to the U.S. Component Stocks portion of an index or portfolio. For example, in applying the criteria in proposed Commentary .01(a)(A)(1),[8] if 85% of the weight of an index consists of U.S. Component Stocks and 15% of the index weight is cash, the requirement that component stocks accounting for 90% of the weight of the index or portfolio have a minimum market value of $75 million minimum would be applied only to the 85% portion consisting of U.S. Component Stocks.

Commentary .01(a)(B), which relates to international or global indexes or portfolios, would be amended to provide that components of an index or portfolio underlying a series of Units may consist of (a) only Non-U.S. Component Stocks, (b) Non-U.S. Component Stocks and cash, (c) both U.S. Component Stocks and Non-U.S. Component Stocks, or (d) U.S. Component Stocks, Non-U.S. Component Stocks and cash. In addition, the percentage weighting criteria in Commentary .01(a)(B)(1) through (4) each would be amended to make clear that such criteria would be applied only to the combined U.S. and Non-U.S. Component Stocks portions of an index or portfolio.

Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) provides generic criteria applicable to listing and trading of Units whose underlying index or portfolio includes Fixed Income Securities.[9] Currently, Commentary .02(a)(1) provides that an underlying index or portfolio must consist of Fixed Income Securities. The Exchange proposes to amend Commentary .02(a)(1) to provide that the index or portfolio may also include cash. In addition, the percentage weighting criteria in Commentary .02(a)(2), (a)(4) and (a)(6) each would be amended to make clear that such criteria would be applied only to the Fixed Income Securities portion of an index or portfolio. For example, in applying the criteria in proposed Commentary .01(a)(2),[10] if 90% of the weight of an index or portfolio consists of Fixed Income Securities and 10% of the index weight is cash, the requirement that Fixed Income Securities accounting for at least 75% of the weight of the index or portfolio have a minimum original principal amount outstanding of $100 million would be applied only to the 90% portion consisting of Fixed Income Securities.

The Exchange notes that the Commission has previously approved Exchange rules allowing portfolios held by issues of Managed Fund Shares

[4] Investment Company Units are securities that represent interests in a unit investment trust, an open-end management investment company securities or a similar entity registered under the investment Company Act of 1940 (15 U.S.C. 80a–1). A series of Investment Company Units seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[5] 17 CFR 240.19b–4(e).

[6] The Exchange notes that shares of the following exchange-traded funds based on indexes that include cash as a component are currently listed and traded on the BATS BZX Exchange, Inc.: QuantX Risk Managed Growth ETF; QuantX Risk Managed Multi-Asset Income ETF; QuantX Risk Managed Multi-Asset Total Return ETF; and QuantX Risk Managed Real Return ETF.

[7] Rule 5.2(j)(3) defines ''U.S. Component Stock'' as an equity security that is registered under Sections 12(b) or 12(g) of the Act or an American Depositary Receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[8] Proposed Commentary .01(a)(A)(1) would provide that component stocks (excluding Units and Derivative Securities Products) that in the aggregate account for at least 90% of the weight of the U.S. Component Stocks portion of the index or portfolio (excluding such Derivative Securities Products) each shall have a minimum market value of at least $75 million.

[9] As defined in Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3), Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof.

[10] Proposed Commentary .01(a)(2) would provide that Fixed Income Security components that in aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each shall have a minimum original principal amount outstanding of $100 million or more.

(actively-managed exchange-traded funds) under Commentary .01 to NYSE Arca Equities Rule 8.600 to include cash.[11] Like the provision in Commentary .01(c) to Rule 8.600, which states that there is no limit to cash holdings by an issue of Managed Fund Shares listed under Commentary .01 to Rule 8.600, there is no proposed limit to the weighting of cash in an index underlying a series of Units. The Exchange believes this is appropriate in that cash does not, in itself, impose investment or market risk.

The Exchange believes the proposed amendments, by permitting inclusion of cash as a component of indexes underlying series of Units, would provide issuers of Units with additional choice in indexes permitted to underlie Units that are permitted to list and trade on the Exchange pursuant to the Rule 19b–4(e), which would enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the proposed amendments would provide investors with greater ability to hold Units based on underlying indexes that may accord more closely with an investor's assessment of market risk, in that some investors may view cash as a desirable component of an underlying index under certain market conditions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Units in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The Exchange notes that, as described above, the percentage weighting criteria in Commentary .01(a)(B)(1) through (4) to Rule 5.2(j)(3) each would be amended to make clear that such criteria would be applied only to the combined U.S. and Non-U.S. Component Stocks portions of an index or portfolio. The percentage weighting criteria in Commentary .02(a)(2), (a)(4) and (a)(6) to Rule 5.2(j)(3) each would be amended to make clear that such criteria would be applied only to the Fixed Income Securities portion of an index or portfolio. Such applications of the proposed amendments would assure that the weighting requirements in Commentary .01 and Commentary .02 would continue to be applied only to securities in an index or portfolio, and would not be diluted as a result of inclusion of a cash component. In addition, the addition of cash as a permitted component of indexes underlying Units listed and traded on the Exchange pursuant to Rule 19b–4(e) does not raise regulatory issues because cash does not, in itself, impose investment or market risk and is not susceptible to manipulation.

The Exchange believes the proposed amendments, by permitting inclusion of cash as a component of indexes underlying series of Units, would provide issuers of Units with additional choice in indexes permitted to underlie Units that are permitted to list and trade on the Exchange pursuant to the Rule 19b–4(e), which would enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the proposed amendments would provide investors with greater ability to hold Units based on underlying indexes that may accord more closely with an investor's assessment of market risk.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would permit Exchange listing and trading under Rule 19b–4(e) of Units based on indexes that include cash as a component, which would enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period 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 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–NYSEArca–2017–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–30. 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

[11] *See* Commentary .01(c) to NYSE Arca Equities Rule 8.600.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–30, and should be submitted on or before May 5, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–07528 Filed 4–13–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 9961]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Micro-, Small-, and Medium Sized Enterprises

The Office of the Assistant Legal Adviser for Private International Law, Department of State, hereby gives notice that the Micro-, Small-, and Medium sized enterprises (MSMEs) study group of the Advisory Committee on Private International Law (ACPIL) will hold a public meeting via teleconference. The ACPIL UNCITRAL MSME Study Group will hold the teleconference meeting to discuss the next session of the UNCITRAL Working Group I–MSME scheduled for May 1–9 in New York. This is not a meeting of the full Advisory Committee.

UNCITRAL has established a working group aimed at reducing the legal obstacles faced by MSMEs throughout their life cycle, and in particular those in developing countries. UNCITRAL further directed that the work should start with a focus on the legal issues surrounding the simplification of registration and incorporation. At its upcoming session, the UNCITRAL Working Group I–MSME will consider a draft legislative guide on key principles of business registration (UN Doc. A/CN.9/WG.I/WP.101) (from May 1–5) and a draft legislative guide on a simplified business entity (UN Doc. A/CN.9/WG.I/WP.99 and Add.1) (from May 8–9). The Working Group will also consider future work. At its first session, the Working Group ''acknowledged and welcomed the Commission's mandate relative to the establishment of an enabling legal environment to facilitate the life cycle of MSMEs, beginning with the implementation of simplified rules of registration, incorporation and operation of such enterprises, in addition to other topics such as financial inclusion, including mobile payments, access to credit, alternative dispute resolution and simplified insolvency rules.'' (UN Doc. A/CN.9/800, para 66). The draft texts, along with the reports of earlier sessions of the Working Group will be available at *http://www.uncitral.org/uncitral/en/commission/working_groups/1MSME.html.*

Time and Place: The meeting of the ACPIL UNCITRAL MSME Study Group will take place on Friday April 28, from 10 a.m. to 12:00 p.m. EDT via teleconference.

Public Participation: Those planning to participate should email *pil@state.gov* to obtain the call-in number.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2017–07564 Filed 4–13–17; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 9924]

Nominations for Coordinating Lead Authors, Lead Authors, or Review Editors on the Second and Third Special Reports to be Undertaken by the Intergovernmental Panel on Climate Change During the Sixth Assessment Report (AR6) Cycle

The United States Department of State, in cooperation with the United States Global Change Research Program, seeks nominations for U.S. scientists with requisite expertise to serve as Coordinating Lead Authors, Lead Authors, or Review Editors on the second and third Special Reports to be undertaken by the Intergovernmental Panel on Climate Change (IPCC) during the Sixth Assessment Report (AR6) cycle. The outlines for ''Climate Change and Land: An IPCC Special Report on climate change, desertification, land degradation, sustainable land management, food security, and greenhouse gas fluxes in terrestrial ecosystems'' and for the ''IPCC Special Report on the Ocean and Cryosphere in a Changing Climate'' were adopted at the 45th session of the IPCC Plenary.

Nominations may be submitted at *https://contribute.globalchange.gov/;* additional information can be found at *http://www.globalchange.gov/notices.* This is an Open Call. All registered users can nominate U.S. citizens and permanent lawful residents to be considered by the IPCC Science Steering Committee (SSC). The call for nominations will close on May 15th, 2017, and a nominations package will be transmitted on behalf of the U.S. IPCC Focal Point on May 17th. The SSC will complete its work and issue appointment memos in late July 2017.

The United Nations Environment Programme (UNEP) and the World Meteorological Organization (WMO) established the IPCC in 1988. In accordance with its mandate and as reaffirmed in various decisions by the Panel, the major activity of the IPCC is to prepare comprehensive and up-to-date assessments of policy-relevant scientific, technical, and socio-economic information for understanding the scientific basis of climate change, potential impacts, and options for mitigation and adaptation.

Christopher Allison,

Director, Acting, Office of Global Change, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 2017–07596 Filed 4–13–17; 8:45 am]

BILLING CODE 4710–09–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Energy Resource Council (RERC) will hold a meeting on Tuesday, May 2 and Wednesday, May 3, 2017, regarding regional energy related issues in the Tennessee Valley.

The RERC was established to advise TVA on its energy resource activities and the priorities among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2.

The meeting agenda includes the following:

1. Welcome and Introductions
2. TVA Updates

3. Presentations regarding Technology, and Research and Development
4. Public Comments
5. Council Discussion

The RERC will hear views of citizens by providing a public comment session starting at 9:00 a.m. EDT, on Wednesday, May 3. The public comment session may last up to one hour. Persons wishing to speak are requested to register at the door by 8:45 a.m. on Wednesday, May 3, and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Energy Resource Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–9D, Knoxville TN 37902.

DATES: The meeting will be held on Tuesday, May 2, from 8:30 a.m. to 11:45 a.m. and on Wednesday, May 3, from 8:30 a.m. to noon EDT.

ADDRESSES: The meeting will be held at the Holiday Inn Knoxville Downtown/World's Fair Site, 525 Henley Street, Knoxville, TN 37902 and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Barbie Perdue, 400 West Summit Hill Drive, WT–9D, Knoxville, Tennessee 37902, (865) 632–6113.

Dated: April 10, 2017.

Joseph J. Hoagland,

Vice President, Enterprise Relations and Innovation, Tennessee Valley Authority.

[FR Doc. 2017–07552 Filed 4–13–17; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Virtual Public Meeting

AGENCY: Federal Aviation Administration (FAA), and Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: In preparation for the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP) meeting to be held April 24–April 28, 2017, in Montreal, Canada, the Federal Aviation Administration's (FAA) Office of Hazardous Materials Safety and the Pipeline and Hazardous Materials Safety Administration's (PHMSA) Office of Hazardous Materials Safety announce a virtual public meeting.

DATES: The virtual public meeting will be held on Thursday, April 20, 2017 from 9 a.m. until 12 p.m., Eastern Time.

ADDRESSES: The virtual public meeting will be held via WebEx. Participants are requested to register by using the following email address: *9-AWA-ASH-ADG-HazMat@faa.gov.* Please include your name, organization, and email address. WebEx video and telephone conference information will be provided prior to the meeting to those who register.

FOR FURTHER INFORMATION CONTACT: Questions regarding the meeting can be directed to Ms. Janet McLaughlin, Director, Office of Hazardous Materials Safety, ADG–1, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9432, Email: *9-AWA-ASH-ADG-HazMat@faa.gov.* Questions in advance of the meeting for PHMSA can be directed to Mr. Kevin Leary, International Standards Specialist, Pipeline and Hazardous Materials Safety Administration, PHH–10, 1200 New Jersey Ave. SE., Washington, DC 20590, telephone (202) 366–8553, Email: *kevin.leary@dot.gov.*

SUPPLEMENTARY INFORMATION: Information and viewpoints provided by stakeholders are requested as the United States delegation prepares for the International Civil Aviation Organization's Dangerous Goods Panel meeting to be held April 24–April 28, 2017, in Montreal, Canada. Copies of working papers, informal papers, the meeting agenda and report will be made available at the following Web page: *http://www.icao.int/safety/DangerousGoods/Pages/WG17.aspx.*

Representatives from the FAA and PHMSA will be participating. The virtual meeting is intended to be informal, non-adversarial, and to facilitate the public comment process. No individual will be subject to questioning by any other participant. Government representatives may ask questions to clarify statements. Unless otherwise stated, any statement made during the meetings by a FAA or PHMSA representative should not be construed as an official position of the US government.

The meeting will be open to all persons, subject to the capacity of the WebEx virtual meeting. Every effort will be made to accommodate all persons wishing to attend. The FAA and PHMSA will try to accommodate all speakers, subject to time constraints.

Issued in Washington, DC, on April 10, 2017.

Angela H. Stubblefield,

Deputy Associate Administrator for Security and Hazardous Materials Safety, FAA.

William Schoonover,

Associate Administrator for Hazardous Materials Safety, PHMSA.

[FR Doc. 2017–07577 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–0021]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 4, 2017.

ADDRESSES: You may send comments identified by Docket Number FAA–2017–0101 using any of the following methods:

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

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket

Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Justin Barcas (202) 267–7023, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 21, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0101.
Petitioner: Ryan Poteet.
Section of 14 CFR Affected: 21.9 (c).
Description of Relief Sought: Ryan Poteet is requesting on behalf of Advanced Composite Structures Florida (ACSF) for an exemption from § 21.9 (c) of Title 14, Code of Federal Regulations (14 CFR). The relief sought would allow ACSF to determine whether specific composite main rotor blades (CMRB) that were designed for the U.S. military, but sold to and operated by a foreign military, are in a condition for safe operation and are airworthy. § 21.9 (c) prohibits a person from selling surplus military articles for installation on aircraft unless the article was first accepted for use and declared surplus by the U.S. military.

[FR Doc. 2017–07571 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2017–0022]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 4, 2017.

ADDRESSES: You may send comments identified by Docket Number FAA–2017–0148 using any of the following methods:

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

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

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Justin Barcas (202) 267–7023, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 21, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0148.
Petitioner: Christopher Meinhardt.
Section of 14 CFR Affected: 135.605.
Description of Relief Sought: Air Methods is requesting an exemption to allow operation of its helicopters in air ambulance operations without a helicopter Terrain Awareness and Warning System (HTWAS) for a specified period after the implementation date of § 135.605.

[FR Doc. 2017–07574 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–96]

Petition for Exemption; Summary of Petition Received; Classic Helicopters Group, LLC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before May 4, 2017.

ADDRESSES: Send comments identified by docket number FAA–2016–6999 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building

Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

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

FOR FURTHER INFORMATION CONTACT: Justin Barcas (202) 267–7, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on March 21, 2017.

Lirio Liu,

Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2016–6999.

Petitioner: Classic Helicopters Group, LLC.

Section(s) of 14 CFR Affected: 135.619(g)(2)(i) and (iv).

Description of Relief Sought: Classic Helicopters, which conducts Helicopter Air Ambulance operations under 14 CFR part 135, requests relief from the operations control specialists duty time limitations of 14 CFR 135.619 (g)(2). Specifically, Classic Helicopters requests relief from 14 CFR 135.619(g)(2)(i), which states, ''Except in cases where circumstances or emergency conditions beyond the control of the certificate holder require otherwise, operations control specialists may not be scheduled for more than 10 consecutive hours of duty.'' In addition, Classic Helicopters requests relief from 14 CFR 135.619 (g)(2)(iv), which requires operations control specialists to be relieved of all duty with the certificate holder for at least 24 consecutive hours during any 7 consecutive days. The petitioner seeks relief to allow operations control specialists to be on duty for 12 consecutive hours and for 7 consecutive days before being relieved of all duties with the certificate holder for at least 24 consecutive hours.

[FR Doc. 2017–07569 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lee County, South Carolina; Notice of Intent

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Lee County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Emily O. Lawton, Division Administrator, Federal Highway Administration, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1270, Columbia, South Carolina 29201, Telephone: (803) 765–5411, Email: *emily.lawton@dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the South Carolina Department of Transportation (SCDOT) and the Santee-Lynches Regional Council of Governments (SLRCOG), will prepare an Environmental Impact Statement (EIS) on a proposal to provide a truck route in the vicinity of the City of Bishopville in Lee County, South Carolina, from US 15 near I–20, southwest of the City, to the junction of US 15 and Bethune Highway (SC 341), northeast of the City. The project study area is generally defined by the area bordered by US 15/I–20 Interchange to the southwest, US 15 just north of Bethune Highway (SC 341) to the northeast, the intersection of Pinchum Sly Road (S–15) and Camden Highway (SC 34) to the northwest and the intersection of Wisacky Highway (SC 341) and Mac Stuckey Lane (local road) to the southeast.

US 15 (N. Main Street) through downtown Bishopville is currently a two-lane roadway with a raised median and on-street parking. On average, over 700 large commercial trucks travel through downtown daily. The purpose of the project is to address the existing and future truck traffic traveling through downtown Bishopville. The EIS for the proposed project will consider the No-build Alternative as well as build alternatives within the identified project study area that would meet the purpose and need of the project. The EIS will promote informed decision making in the development of a solution to address truck traffic through the downtown area. This EIS will also evaluate options which may enhance the economic development of the area.

The FHWA, SCDOT, and SLRCOG are seeking input as part of the scoping process to assist in identifying issues relative to this proposed project and potential solutions. Letters describing the proposed project and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed an interest in this proposal. Formal public scoping meetings will be held in Lee County. In addition, public information meetings will be held as the proposed project is developed, and a public hearing will be conducted after the approval of the draft EIS. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Dated: April 6, 2017.

Emily O. Lawton

Division Administrator, Columbia, South Carolina.

[FR Doc. 2017–07341 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Transportation Project in Washington State

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other federal agencies.

SUMMARY: This notice announces actions taken by the FHWA that are final. The

action relates to the Federal Way Link Extension Project, King County, WA. Project sponsor: Central Puget Sound Regional Transit Authority (Sound Transit). Project description: The project alternative, selected by the Federal Transit Administration (FTA), the Federal Lead Agency, in its March 6, 2017, Record of Decision, would extend the Sound Transit Link light rail system by 7.8 miles from Angle Lake Station in SeaTac south through Des Moines and Kent, terminating in Federal Way. The route would travel along the west side of Interstate 5 and would include stations at Kent/Des Moines near Highline College, South 272nd Street, and the Federal Way Transit Center. The action by FHWA, a Cooperating Agency on this project, is the March 9, 2017, approval of a NEPA Record of Decision for the FHWA approvals required for this project. The FTA, the Federal Lead Agency, issued a Notice of Limitation on Claims for their actions on this project on March 22, 2017.

DATES: By this notice, FHWA is advising the public of final Agency actions subject to 23 U.S.C. 139(l)(1). This notice applies to all FHWA decisions on the Federal Way Link Extension Project as of the issuance date of this notice and all laws under which such actions were taken. A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before September 11, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA, contact Lindsey Handel, Urban Area Engineer, Washington Division, Federal Highway Administration, 711 S. Capitol Way, Suite 501, Olympia, WA 98501–1284, 360–753–9550, or *Lindsey.Handel@dot.gov.* Regular office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays. Further information and documentation can be found at: *http://www.soundtransit.org/Projects-and-Plans/Federal-Way-Link-Extension.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions within the meaning of 23 U.S.C. 139*(l)*(1) by issuing a NEPA Record of Decision for the Federal Way Link Extension Project. The action(s) by the FHWA, associated final actions by other Federal agencies, and the laws under which such actions were taken, are described in the FHWA's decisions and its project records. That information is available by contacting the FHWA at the address provided above.

The Final Environmental Impact Statement (EIS) for the project was published by the FTA on November 18, 2016. FHWA, as a Cooperating Agency, issued a Record of Decision (ROD) on March 9, 2017.

Authority: 23 U.S.C. 139(l)(1), as amended by Moving Ahead for Progress in the 21st Century Act, (Pub. L. 112–141, 126 Stat. 405).

Issued on: April 3, 2017.

Melinda M. Roberson,

FHWA Assistant Division Administrator, Olympia, WA.

[FR Doc. 2017–07271 Filed 4–13–17; 8:45 am]

BILLING CODE 4910–FY–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice to Account Holder for Garnishment of Accounts Containing Federal Benefit Payments

AGENCY: Departmental Offices, U.S. Department of the Treasury

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request(s) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on the collection(s) listed below.

DATES: Comments should be received on or before May 15, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

Title: Notice to Account Holder for Garnishment of Accounts Containing Federal Benefit Payments.

OMB Control Number: 1505–0230.

Type of Review: Extension without change of a currently approved collection.

Abstract: Certain federal benefits are exempt from garnishment orders. In order to give force and effect to federal anti-garnishment statutes, financial institutions and child support enforcement agencies must maintain records of actions taken in handling garnishments and provide notices to financial account holders.

Form: None.

Affected Public: Businesses or other for-profits, State Governments.

Estimated Total Annual Burden Hours: 23,354.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: April 10, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017–07521 Filed 4–13–17; 8:45 am]

BILLING CODE 4810–25–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

AGENCY: United States Institute of Peace.

Date/Time: Friday, April 21, 2017 (10:00 a.m.–2:00 p.m.).

Location: 2301 Constitution Avenue NW., Washington, DC 20037.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: April 21, 2017 Board Meeting: Approval of Minutes of the One Hundred and Sixty First Meeting (February 10, 2017) of the Board of Directors; Chairman's Report; Vice Chairman's Report; President's Report; Reports from USIP Board Committees; Afghanistan Trip Report; and USIP/Military Partnership Report.

Contact: Nick Rogacki, Special Assistant to the President, Email: *nrogacki@usip.org.*

Dated: April 7, 2017.

Nicholas Rogacki,

Special Assistant to the President.

[FR Doc. 2017–07439 Filed 4–13–17; 8:45 am]

BILLING CODE 6820–AR–P

FEDERAL REGISTER

Vol. 82 Friday,

No. 71 April 14, 2017

Part II

The President

Memorandum of April 12, 2017—Delegation of Authority Under the National Defense Authorization Act for Fiscal Year 2017

Federal Register
Vol. 82, No. 71
Friday, April 14, 2017

Presidential Documents

Title 3—

The President

Memorandum of April 12, 2017

Delegation of Authority Under the National Defense Authorization Act for Fiscal Year 2017

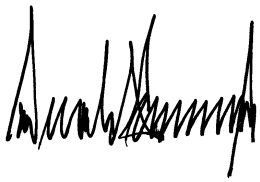
Memorandum for the Director of the Federal Bureau of Investigation

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

I hereby delegate to the Director of the Federal Bureau of Investigation the authority to submit the report required under section 1907(d) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328) (the ''Act'').

This memorandum's references to the Act shall be deemed to encompass any future Public Law that contains any provision that is the same or substantially the same as section 1907(d) of the Act.

You are authorized and directed to publish this memorandum in the *Federal Register.*



THE WHITE HOUSE,
Washington, April 12, 2017

[FR Doc. 2017–07785
Filed 4–13–17; 11:15 am]
Billing code 4410–02–P

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

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