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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 983

[Doc. No. AMS–FV–15–0038; FV15–983–1 FR]

Pistachios Grown in California, Arizona, and New Mexico; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Administrative Committee for Pistachios (Committee) for an increase of the assessment rate established for the 2015–16 and subsequent production years from $0.0005 to $0.0035 per pound of assessed weight pistachios handled under the marketing order for pistachios grown in California, Arizona, and New Mexico. The Committee locally administers the order and is comprised of producers and handlers of pistachios operating within the area of production. Assessments upon pistachio handlers are used by the Committee to fund reasonable and necessary expenses of the program. The production year begins on September 1 and ends August 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective February 29, 2016.

FOR FURTHER INFORMATION CONTACT: Peter Sommers, Marketing Specialist, or Jeffrey Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *PeterR.Sommers@ams.usda.gov* or *Jeffrey.Smutney@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 983, as amended (7 CFR part 983), regulating the handling of pistachios grown in California, Arizona, and New Mexico, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California, Arizona, and New Mexico pistachio handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable pistachios beginning on September 1, 2015, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 2015–16 and subsequent production years from $0.0005 to $0.0035 per pound of assessed weight pistachios handled.

The California, Arizona, and New Mexico pistachio marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California, Arizona, and New Mexico pistachios. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2011–12 and subsequent production years, the Committee recommended, and the USDA approved, an assessment rate that would continue in effect from production year to production year unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on July 9, 2015, and October 20, 2015, and unanimously recommended 2015–16 production year expenditures of $1,056,402 and an assessment rate of $0.0035 per pound of assessed weight pistachios handled to fund Committee expenses. This represents an increase over the prior year's budget and assessment rate. In comparison, last year's budgeted expenditures were $1,001,400. The assessment rate of $0.0035 is $0.0030 higher than the rate currently in effect. The Committee's recommended 2015–16 expenditures are $55,002 higher than last year's budgeted expenditures. The primary reason for the increase is to provide $560,000 in funding for Sterile Insect Technology/Navel Orange Worm (SIT/NOW) research. When applied to the Committee's crop estimate for the 2015–16 production year of 265 million pounds, the current assessment rate of $0.0005 would not generate sufficient income to cover anticipated expenses. The assessment rate of $0.0035 per pound of assessed weight pistachios would generate assessment income of $927,500. Anticipated assessment

income combined with financial reserves and other income would provide sufficient revenue for the Committee to meet its budgeted expenses while maintaining its financial reserve within the limit authorized under the order.

The major expenditures recommended by the Committee for the 2015–16 production year include $560,000 for SIT/NOW research, $92,401 for administrative expenses, $314,000 for salary and related employee expenses, $10,000 for compliance expenses, and $80,000 for a contingency fund. Budgeted expenses in 2014–15 were $360,000 for Technical Assistance Specialty Crop (TASC) Program research, $125,000 for other research, $117,400 for administrative expenses, $314,000 for salary and related employee expenses, $10,000 for compliance expenses, and $75,000 for a contingency fund. Actual expenses in 2014–15 were significantly lower, at $547,199, as the TASC research was not funded.

The assessment rate recommended by the Committee was derived by considering anticipated expenses and production levels of California, Arizona, and New Mexico pistachios, and other pertinent factors. As mentioned earlier, pistachio production levels are estimated at 265 million pounds, which should generate $927,500 in assessment income. Income derived from handler assessments, along with other income and financial reserves would provide sufficient revenue for the Committee to meet its budgeted expenses while maintaining its financial reserve within the limit authorized under the order.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA based upon a recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each production year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public, and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2015–16 budget and those for subsequent production years would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 1,152 producers of pistachios in the production area and approximately 19 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,000,000 (13 CFR 121.201).

Based on Committee data, it is estimated that about 47 percent of the handlers annually ship less than $7,000,000 worth of pistachios, and it is also estimated that 68 percent of the producers have annual receipts less than $750,000. Thus, the majority of handlers in the production area may be classified as large entities, and the majority of the producers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2015–16 and subsequent production years from $0.0005 to $0.0035 per pound of assessed weight pistachios. The Committee unanimously recommended 2015–16 expenditures of $1,056,402 and an assessment rate of $0.0035 per pound of assessed weight pistachios. The assessment rate of $0.0035 is $0.0030 higher than the 2014–15 rate. The quantity of assessable pistachios for the 2015–16 production year is estimated at 265 million pounds. Thus, the $0.0035 rate should provide $927,500 in assessment income. Income derived from handler assessments, along with other income and financial reserves would provide sufficient revenue for the Committee to meet its budgeted expenses while maintaining its financial reserve within the limit authorized under the order.

The major expenditures recommended by the Committee for the 2015–16 production year include $560,000 for SIT/NOW research, $92,401 for administrative expenses, $314,000 for salary and related employee expenses, $10,000 for compliance expenses, and $80,000 for a contingency fund. Budgeted expenses in 2014–15 were $360,000 for TASC Program research, $125,000 for other research, $117,400 for administrative expenses, $314,000 for salary and related employee expenses, $10,000 for compliance expenses, and $75,000 for a contingency fund. The reasons for the proposed increase include a significant increase in budgeted expenses in 2015 over actual expenses in 2014, a significantly smaller crop estimate in 2015, and allocation of funds for Sterile Insect Technology/Navel Orange Worm (SIT/NOW) research.

Prior to arriving at this budget and assessment rate, the Committee considered alternative expenditure levels but ultimately determined that 2015–16 expenditures of $1,056,402 were appropriate and that the current assessment rate would generate insufficient revenue to meet its expenses.

According to data from the National Agricultural Statistics Service, the season average producer price was $3.48 per pound of assessed weight pistachios in 2013 and $3.10 per pound in 2014. A review of historical information and preliminary information pertaining to the upcoming production year indicates that the producer price for the 2015–16 production year could range between $3.48 and $3.10 per pound of assessed weight pistachios. Therefore, the estimated assessment revenue for the 2015–16 production year as a percentage of total producer revenue could range between 0.10 and 0.11 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. These costs are offset by the benefits derived from the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California, Arizona, and New Mexico pistachio industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the July 9, 2015, and October 20, 2015, meetings were public and all entities, both large

and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0215. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California, Arizona, and New Mexico pistachio handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on December 14, 2015. Copies of the proposed rule were also mailed or sent via facsimile to all California, Arizona, and New Mexico pistachio handlers. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending December 29, 2015, was provided for interested persons to respond to the proposal. No comments were received. A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Antoinette Carter at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2015–16 production year began on September 1, 2015 and the marketing order requires that the rate of assessment for each production year apply to all assessable pistachios handled during such production year; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; (3) handlers are aware of this rule which was recommended at a public meeting and is similar to assessment rate actions issued in past years. Also, a 15-day comment period was provided in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 983

Marketing agreements, Pistachios, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 983 is amended as follows:

PART 983—PISTACHIOS GROWN IN CALIFORNIA, ARIZONA, and NEW MEXICO

■ 1. The authority citation for 7 CFR part 983 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 983.253, paragraph (a) is revised to read as follows:

§ 983.253 Assessment rate.

(a) On and after September 1, 2015, an assessment rate of $0.0035 per pound is established for California, Arizona, and New Mexico pistachios.

* * * * *

Dated: February 22, 2016.

Elanor Starmer,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2016–04049 Filed 2–25–16; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. AMS–FV–15–0034; FV15–987–1 FIR]

Domestic Dates Produced or Packed in Riverside County, California; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the California Date Administrative Committee (committee) to decrease the assessment rate established for the 2015–16 and subsequent crop years from $0.20 to $0.10 per hundredweight of dates handled under the marketing order (order). The committee locally administers the marketing order and is comprised of producers and handlers of dates grown or packed in Riverside County, California. The interim rule to decrease the assessment rate was necessary to allow the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

DATES: Effective February 29, 2016.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, Senior Marketing Specialist, or Jeff Smutny, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Terry.Vawter@ams.usda.gov* or *Jeffrey.Smutny@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses;* or by contacting Antoinette Carter, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Antoinette.Carter@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 987, both as amended (7 CFR part 987), regulating the handling of dates produced or packed in Riverside County, California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

Under the order, Riverside County, California, date handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable dates for the entire crop year and continue

indefinitely until amended, suspended, or terminated. The Committee's crop year begins on October 1, and ends on September 30.

In an interim rule published in the **Federal Register** on October 28, 2015, and effective on October 29, 2015 (80 FR 65886, Doc. No. AMS–FV–15–0034, FV15–987–1 IR), § 987.339 was amended by decreasing the assessment rate established for California dates for the 2015–16 and subsequent crop years from $0.20 to $0.10 per hundredweight of dates. The decrease in the per hundredweight assessment rate allows the Committee to reduce its financial reserve while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 70 producers of dates in the production area and 11 handlers subject to regulation under the marketing order. The Small Business Administration defines small agricultural producers as those having annual receipts of less than $750,000, and small agricultural service firms as those whose annual receipts are less than $7,500,000. (13 CFR 121.201)

According to the National Agricultural Statistics Service (NASS), data for the most-recently completed crop year (2014) shows that about 3.54 tons, or 7,080 pounds, of dates were produced per acre. The 2014 producer price published by NASS was $1,190 per ton. Thus, the value of date production per acre in 2014–15 averaged about $4,213 (3.54 tons times $1,190 per ton). At that average price, a producer would have to farm over 178 acres to receive an annual income from dates of $750,000 ($750,000 divided by $4,213 per acre equals 178.02 acres). According to committee staff, the majority of California date producers farm less than 178 acres. Thus, it can be concluded that the majority of date producers could be considered small entities. In addition, according to data from the committee staff, the majority of handlers of California dates have receipts of less than $7,500,000 and may also be considered small entities.

This rule continues in effect the action that decreased the assessment rate established for the committee and collected from handlers for the 2015–16 and subsequent crop years from $0.20 to $0.10 per hundredweight of dates. The committee unanimously recommended 2015–16 expenditures of $59,250 and an assessment rate of $0.10 per hundredweight of dates, which is $0.10 lower than the rate previously in effect. Applying the $0.10 per hundredweight assessment rate to the estimated crop at 29,000,000 pounds (290,000 hundredweight) should provide $29,000 in assessment income. Thus, income derived from handler's assessments, along with other income and funds from the committee's authorized reserve, should be adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers; however, decreasing the assessment rate reduces the burden on handlers.

In addition, the committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meetings and encouraged to participate in committee deliberations on all issues. Like all committee meetings, the June 25, 2015, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178, ''Vegetable and Specialty Crop Marketing Orders.'' No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Riverside County, California, date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Comments on the interim rule were required to be received on or before December 28, 2015. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-15-0034-0001.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (80 FR 65886, October 28, 2015) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

PART 987—DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA [AMENDED]

■ Accordingly, the interim rule amending 7 CFR part 987, which was published at 80 FR 65886 on October 28, 2015, is adopted as a final rule, without change.

Dated: February 22, 2016.

Elanor Starmer,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2016–04044 Filed 2–25–16; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–4070; Directorate Identifier 2015–NE–31–AD; Amendment 39–18408; AD 2016–04–14]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain

Turbomeca S.A. Arriel 1E2 turboshaft engines. This AD requires removing the tachometer box on affected engines. This AD was prompted by reports of uncommanded in-flight shutdowns (IFSDs). We are issuing this AD to prevent failure of the tachometer box, which could lead to failure of the engine, IFSD, and loss of control of the helicopter.

DATES: This AD becomes effective April 1, 2016.

ADDRESSES: For service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; fax: 33 (0)5 59 74 45 15. 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. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4070.

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–2015–4070; 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 mandatory continuing airworthiness information (MCAI), 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: Philip Haberlen, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on November 24, 2015 (80 FR 73147). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There have been reports of Arriel 1E2 engines having experienced an uncommanded in-flight shut-down (IFSD) due to an untimely activation of the tachometer box shut-off system which was activated by the power turbine monitoring function of the tachometer box.
>
> This condition, if not corrected, could potentially lead to further cases of IFSD, possibly resulting in a forced landing.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (80 FR 73147, November 24, 2015).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information

Turbomeca S.A. has issued Mandatory Service Bulletin No. 292 77 0844, Version B, dated July 6, 2015. The service information describes procedures for removing pre-TU 369 tachometer boxes.

Costs of Compliance

We estimate that this AD affects 200 engines installed on helicopters of U.S. registry. We also estimate that it will take about 3 hours per engine to comply with this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $51,000.

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 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 this AD:

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

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

(3) Will not affect intrastate aviation in Alaska 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 adding the following new airworthiness directive (AD):

2016–04–14 Turbomeca S.A.: Amendment 39–18408; Docket No. FAA–2015–4070; Directorate Identifier 2015–NE–31–AD.

(a) Effective Date

This AD becomes effective April 1, 2016.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to Turbomeca S.A. Arriel 1E2 turboshaft engines with tachometer boxes with the following part number (P/N) and serial number (S/N) combinations:

(i) P/N 9580116170—all S/Ns

(ii) P/N 9580116260—all S/Ns

(iii) P/N 9580116900—all S/Ns

(iv) P/N 9580117110—all S/Ns

(v) P/N 9580117550—all S/Ns 1499 and below with or without suffix letters and all S/Ns 1500 and above that do not contain the suffix letters EL.

(2) This AD applies only to Turbomeca S.A. Arriel 1E2 turboshaft engines with

tachometer boxes identified in paragraph (c)(1) of this AD that also have installed electrical connectors labeled as P10106, P10098, and P10108; or P11F, P13F, and P15F.

(d) Reason

This AD was prompted by reports of uncommanded in-flight shutdowns (IFSDs). We are issuing this AD to prevent failure of the tachometer box, which could lead to failure of the engine, IFSD, and loss of control of the helicopter.

(e) Actions and Compliance

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

(1) Within 1,600 flight hours after the effective date of this AD, remove the affected tachometer box from the engine.

(2) Reserved.

(f) Credit for Previous Action

You may take credit for the action required by paragraph (e) of this AD if you performed the action before the effective date of this AD in accordance with Turbomeca S.A. Mandatory Service Bulletin 292 77 0844, Version A, dated March 4, 2015.

(g) 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*.

(h) Related Information

(1) For more information about this AD, contact Philip Haberlen, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7770; fax: 781–238–7199; email: *philip.haberlen@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2015–0175, dated August 24, 2015, which includes Mandatory Service Bulletin No. 292 77 0844, Version B, dated July 6, 2015, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–4070.

(3) Turbomeca S.A. Mandatory Service Bulletin No. 292 77 0844, Version B, dated July 6, 2015, which is not incorporated by reference in this AD, can be obtained from Turbomeca S.A., using the contact information in paragraph (h)(4) of this AD.

(4) For service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; fax: 33 (0)5 59 74 45 15.

(5) 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.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on February 16, 2016.

Ann C. Mollica,

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

[FR Doc. 2016–04028 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–1280; Directorate Identifier 2014–NM–064–AD; Amendment 39–18404; AD 2016–04–10]

RIN 2120–AA64

Airworthiness Directives; ATR—GIE Avions de Transport Régional Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, and Model ATR72–102, –202, –212, and –212A airplanes. This AD was prompted by a report of chafed wires between electrical harnesses. This AD requires inspections for wire discrepancies, and corrective actions if necessary. We are issuing this AD to detect and correct damaged wiring and incorrect installation of the wiring harness and adjacent air ducts that could lead to wire harness chafing and arcing, possibly resulting in an on-board fire.

DATES: This AD becomes effective April 1, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 1, 2016.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1280* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this final rule, contact ATR—GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–1280.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, and Model ATR72–102, –202, –212, and –212A airplanes. The NPRM published in the **Federal Register** on May 12, 2015 (80 FR 27114) (''the NPRM''). The NPRM was prompted by a report of chafed wires between electrical harnesses. The NPRM proposed to require inspections for wire discrepancies, and corrective actions if necessary. We are issuing this AD to detect and correct damaged wiring and incorrect installation of the wiring harness and adjacent air ducts, which could lead to wire harness chafing and arcing, possibly resulting in an on-board fire.

Since the NPRM was issued, the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0171, dated August 20, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain ATR—GIE Avions de Transport Régional Model ATR42–500 airplanes, and Model ATR72–102, –202, –212, and –212A airplanes. The MCAI states:

> An erroneous cockpit indication has been reported on an in-service aeroplane. Subsequent investigation identified chafed wiring between harnesses (2M–2S–6M) and the metallic structure of the cargo lining panel above the electronic rack 90VU shelf. The chafing was most likely the result of incorrect harness installation. In some cases, the bracket, which supports the harnesses, could be incorrectly positioned. Consequently, the wiring harnesses, and in certain configurations, the adjacent air duct, could be incorrectly routed.

This condition, if not detected and corrected, could lead to wiring harness chafing and arcing, possibly resulting in an on-board fire.

Prompted by this unsafe condition, EASA issued AD 2014–0052 (later revised) [*http://www.casa.gov.au/wcmswrs/main/lib100154/2014–0052.pdf*] to require a one-time visual inspection of the affected area including a bracket position check and, depending on findings, accomplishment of applicable corrective actions.

Since EASA AD 2014–0052R1 [*http://ad.easa.europa.eu/blob/easa_ad_2014_0052_R1_superseded.pdf/AD_2014-0052R1_1*] was issued, ATR determined that more aeroplanes are potentially affected (referred as Group B aeroplanes) than originally identified. It was also determined that some aeroplanes, originally addressed by AD 2014–0052, are not affected due to their specific configuration. Taking into account these findings, ATR issued Revision 03 of Service Bulletin (SB) ATR42–92–0024 and SB ATR72–92–1032 to reflect the reidentified population of affected aeroplanes.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0052R1, which is superseded, and requires inspection, and, depending on findings, applicable corrective action(s), on the adjusted range of aeroplanes.

EASA AD 2015–0171, dated August 20, 2015, replaces EASA AD 2014–0052R1, dated April 7, 2014, which was the referenced MCAI in the NPRM. The revised MCAI adds certain airplanes and removes others from the applicability, but does not affect any U.S.-registered airplanes. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-1280-0003.*

Comments

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

Changes to This AD

Since the NPRM was issued, Avions de Transport Régional has issued Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015; and Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015. No additional work is required for airplanes that have accomplished the actions specified in any previous version. We have revised paragraphs (g) and (h) of this AD to reference this revised service information. We have revised paragraph (i) of this AD to give credit for actions done before the effective date of this AD using the following service bulletins.

- Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 01, dated January 16, 2014.
- Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 02, dated April 17, 2014.
- Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 01, dated January 16, 2014.
- Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 02, dated April 17, 2014.

We have also revised paragraph (c) of this AD to refer to the manufacturer serial numbers of the affected airplanes as identified in EASA AD 2015–0171, dated August 20, 2015.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

ATR—GIE Avions de Transport Régional has issued the following service bulletins.

- Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015. The service information describes procedures for inspecting the electrical harness routing on top of the 90VU electrical rack, and modification if necessary.
- Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015. The service information describes procedures for inspecting the electrical harness routing on top of the 90VU electrical rack, and modification if necessary.

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

Costs of Compliance

We estimate that this AD affects 1 airplane of U.S. registry.

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

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $82, for a cost of $337 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2015-1280;* 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 street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–04–10 ATR—GIE Avions de Transport Régional: Amendment 39–18404. Docket No. FAA–2015–1280; Directorate Identifier 2014–NM–064–AD.

(a) Effective Date

This AD becomes effective April 1, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the ATR–GIE Avions de Transport Régional airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Model ATR42–500 airplanes, serial numbers 443 through 1006 inclusive, and 1014; except serial numbers 811, 1002, and 1005.

(2) Model ATR72–102, –202, –212, and –212A airplanes, serial numbers 475 through 969 inclusive, 971 through 988 inclusive, 1025, 1028 through 1069 inclusive, 1072, and 1089 through 1175 inclusive; except serial numbers 872, 887, 893, 956, 1042, and 1162.

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical Routing.

(e) Reason

This AD was prompted by a report of chafed wires between electrical harnesses. We are issuing this AD to detect and correct damaged wiring and incorrect installation of the wiring harness and adjacent air ducts that could lead to wire harness chafing and arcing, possibly resulting in an on-board fire.

(f) Compliance

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

(g) Inspections

Within 500 flight hours after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015; and Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015; as applicable.

(1) Do a general visual inspection for damage of the electrical wires of harnesses 2M–2S–6M.

(2) Do a general visual inspection for correct routing of electrical bundle 2M–2S–6M, and correct routing of the air duct.

(h) Corrective Actions

(1) If, during the inspection required by paragraph (g)(1) of this AD, any damage is found on the electrical wires: Before further flight, repair the wires, in accordance with the Accomplishment Instructions of Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015; and Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015; as applicable.

(2) If, during the inspection required by paragraph (g)(2) of this AD, electrical bundle 2M–2S–6M and/or an air duct is found to be incorrectly routed: Within 500 flight hours after the effective date of this AD, do a general visual inspection for correct positioning of the bracket, in accordance with the Accomplishment Instructions of Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015; and Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015; as applicable.

(i) If, during the inspection required by paragraph (h)(2) of this AD, the bracket is found to be correctly positioned: Within 500 flight hours after the effective date of this AD, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015; and Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015; as applicable.

(ii) If, during the inspection required by paragraph (h)(2) of this AD, the bracket is found to be missing or incorrectly positioned: Within 500 flight hours after the inspection required by paragraph (h)(2) of this AD, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or ATR–GIE Avions de Transport Régional's EASA Design Organization Approval (DOA).

(i) Credit for Previous Actions

This paragraph provides credit for actions required by this AD, if those actions were performed before the effective date of this AD using the applicable service bulletins specified in paragraphs (i)(1) through (i)(6) of this AD, which are not incorporated by reference in this AD.

(1) Avions de Transport Régional Service Bulletin ATR42–92–0024, dated June 6, 2013.

(2) Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 01, dated January 16, 2014.

(3) Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 02, dated April 17, 2014.

(4) Avions de Transport Régional Service Bulletin ATR72–92–1032, dated June 6, 2013.

(5) Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 01, dated January 16, 2014.

(6) Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 02, dated April 17, 2014.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0171, dated August 20, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2015-1280-0003.*

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

(l) Material Incorporated by Reference

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

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

(i) Avions de Transport Régional Service Bulletin ATR42–92–0024, Revision 03, dated January 21, 2015.

(ii) Avions de Transport Régional Service Bulletin ATR72–92–1032, Revision 03, dated January 21, 2015.

(3) For service information identified in this AD, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.*

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

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

Issued in Renton, Washington, on February 16, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–03689 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3146; Directorate Identifier 2014–NM–249–AD; Amendment 39–18411; AD 2016–04–17]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the skin lap splices at certain stringers in certain fuselage sections are subject to widespread fatigue damage (WFD) on aging Model 777 airplanes that have accumulated at least 45,000 total flight cycles. This AD requires inspections to detect cracking of fuselage skin lap splices in certain fuselage sections, and corrective actions if necessary; modification of left-side and right-side lap splices; and post-modification repetitive inspections for cracks in the modified lap splices, and corrective actions if necessary. We are issuing this AD to detect and correct fatigue cracking of the skin lap splices, and consequent risk of sudden decompression and the inability to sustain limit flight and pressure loads.

DATES: This AD is effective April 1, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 1, 2016.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P. O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3146.

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–2015–3146; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eric Lin, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6412; fax: 425–917–6590; email: *Eric.Lin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 777–200 series airplanes. The NPRM published in the **Federal Register** on August 25, 2015 (80 FR 51488) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the skin lap splices at certain stringers in certain fuselage sections are subject to WFD on aging airplanes (airplanes that have accumulated at least 45,000 total flight cycles). The NPRM proposed to require inspections to detect cracking of fuselage skin lap splices in certain fuselage sections, and corrective actions if necessary; modification of left-side and right-side lap splices; and post-modification repetitive inspections for cracks in the modified lap splices, and corrective actions if necessary. We are issuing this AD to detect and correct fatigue cracking of the skin lap splices, and consequent risk of sudden decompression and the inability to sustain limit flight and pressure loads.

Comments

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

Support for the NPRM

An anonymous commenter expressed support for the NPRM.

Request To Revise WFD Criteria Definition

Boeing requested that we revise the NPRM to specify that DAH analysis indicates that potential multi-site damage that could lead to WFD does not occur until at least 45,000 total flight cycles on aging Model 777 airplanes.

We agree with the commenter's request. We have revised the **SUMMARY** and Discussion sections of this final rule and paragraph (e) of this AD to specify that this AD was prompted by an evaluation by the DAH indicating that the skin lap splices at certain stringers in certain fuselage sections are subject to WFD on aging Model 777 airplanes that have accumulated at least 45,000 total flight cycles.

Conclusion

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

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

We also determined that these changes will not increase the economic

burden on any operator or increase the scope of this AD.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014. The service bulletin describes procedures for inspections to detect cracking of fuselage skin lap splices, modification to the skin lap splices, repetitive inspections for cracks in the modified lap splices, and repairs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 21 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 and modification.	2,713 work-hours × $85 per hour = $230,605 ...	$0	$230,605	$4,842,705.
Post-modification inspection.	1,391 work-hours × $85 per hour = $118,235 per inspection cycle.	0	$118,235 per inspection cycle.	$2,482,935 per inspection cycle.

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–04–17 The Boeing Company: Amendment 39–18411; Docket No. FAA–2015–3146; Directorate Identifier 2014–NM–249–AD.

(a) Effective Date

This AD is effective April 1, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the skin lap splices at certain stringers in certain fuselage sections are subject to widespread fatigue damage on aging Model 777 airplanes that have accumulated at least 45,000 total flight cycles. We are issuing this AD to detect and correct fatigue cracking of the skin lap splices, and consequent risk of sudden decompression and the inability to sustain limit flight and pressure loads.

(f) Compliance

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

(g) Inspections and Corrective Actions

Except as provided by paragraph (h)(1) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014: Do Part 1, inspection ''A,'' of the modification area for cracks; Part 2, inspection ''B,'' of the modification area for cracks; and Part 3, inspection ''C,'' of the modification area for scribe lines and cracks; as applicable; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014, except as provided by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight.

(1) Inspection ''A'' includes an external phased array ultrasonic inspection for cracks in the lower/overlapped skin of the stringer S–14 left and right (L/R) lap splices between fuselage station 655 and station 1434, and an open hole high frequency eddy current (HFEC) inspection for skin cracks at the upper and lower fastener rows of the stringer S–14 L/R lap splices.

(2) Inspection ''B'' includes the inspections specified in paragraphs (g)(2)(i) through (g)(2)(iv) of this AD.

(i) A detailed inspection for cracks of any skin panel common to a stringer S–14 L/R lap splice between fuselage station 655 and station 1434 that has a scribe line 0.001 inch or deeper.

(ii) Either an ultrasonic inspection or a surface HFEC inspection for cracks (depending on the location of the scribe line(s)) of any skin panel common to a stringer S–14 L/R lap splice between fuselage station 655 and station 1434 that has a scribe line 0.001 inch or deeper.

(iii) An external phased array ultrasonic inspection for cracks in the lower/overlapped skin of the stringer S–14 L/R lap splices between fuselage station 655 and station 1434.

(iv) An open hole HFEC inspection for skin cracks at the upper and lower fastener rows of the stringer S–14 L/R lap splices.

(3) Inspection ''C'' includes the inspections for scribe lines and cracks specified in paragraphs (g)(3)(i), (g)(3)(ii), and (g)(3)(iii) of this AD on stringer S–14 L/R lap splice between fuselage station 655 and station 1434 on both sides of the airplane.

(i) A detailed inspection for scribe lines. If any scribe line is found during the inspection required by this paragraph, the actions include the inspections specified in paragraphs (g)(3)(i)(A) and (g)(3)(i)(B) of this AD.

(A) A detailed inspection for cracks of the scribe line area(s).

(B) Either an ultrasonic inspection or a surface HFEC inspection for cracks (depending on the location of the scribe line(s)).

(ii) An external phased array ultrasonic inspection for cracks in the lower/overlapped skin of the stringer S–14 L/R lap splices between fuselage station 655 and station 1434.

(iii) An open hole HFEC inspection for skin cracks at the upper and lower fastener rows of the stringer S–14 L/R lap splices.

(h) Exceptions to Service Information Specifications

(1) Where Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(2) If, during accomplishment of any inspection required by this AD, any condition is found for which Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014, specifies to contact Boeing for special repair instructions or supplemental instructions for the modification, and specifies that action as ''RC'' (Required for Compliance): Before further flight, do the repair or modification using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Lap Splice Modification

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014: Do the left-side and right-side lap splice modification, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014, except as provided by paragraph (h)(2) of this AD.

(j) Post-Modification Inspections and Corrective Action

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014: Do a post-modification internal surface HFEC inspection for skin cracks in the modified lap splices on both sides of the airplane; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014, except as provided by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection of the modified lap splices thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) Except as required by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(4)(ii) apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

(l) Related Information

For more information about this AD, contact Eric Lin, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6412; fax: 425–917–6590; email: *Eric.Lin@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 777–53A0052, dated October 10, 2014.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on February 16, 2016.

Dionne Palermo,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–03886 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–2984; Directorate Identifier 2015–NE–21–AD; Amendment 39–18405; AD 2016–04–11]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all General Electric Company (GE) GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models. This AD was prompted by reports of two separate, single engine in-flight shutdowns

(IFSDs) caused by high-pressure turbine (HPT) rotor stage 1 blade failure. This AD requires inspection and conditional removal of affected HPT rotor stage 1 blades. We are issuing this AD to prevent failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

DATES: This AD is effective April 1, 2016.

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; email: *aviation.fleetsupport@ge.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803. 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–2015–2984; 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: Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models. The NPRM published in the **Federal Register** on August 27, 2015 (80 FR 51965). The NPRM was prompted by reports of two separate, single engine IFSDs caused by HPT rotor stage 1 blade failure. The NPRM proposed to require inspection and conditional removal of affected HPT rotor stage 1 blades. We are issuing this AD to correct the unsafe condition that could result in failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, 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 proposal and the FAA's response to each comment.

Support for the NPRM

The National Transportation Safety Board (NTSB) expressed support for the NPRM (80 FR 51965).

Request To Change Applicability

United Airlines (United) requested that the Applicability paragraph be changed to more appropriately address engine models. United stated that the GEnx–1B54 and GEnx–1B58 be removed and GEnx–1B64G03, 1B64G04, 1B67G03, 1B67G04, 1B70G03 and 1B70G04 be added to paragraph (c) Applicability. United indicated this change would improve clarity and accomplishment of the AD.

We disagree. This AD applies to all GE GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models, as listed in the GEnx type certificate data sheet. We did not change this AD.

Request To Change Compliance

United requested that the Compliance paragraph be changed to clarify maintenance actions. United requested that in paragraph (e) the phrase, ''. . . remove the cracked blade'' be changed to read, ''. . . remove the engine containing the cracked blade.'' United reasoned that removing the cracked blade is not a maintenance option.

We partially agree. We agree with changing the compliance language to include disposition of a cracked blade. We disagree with using the phrase, ''. . . remove the engine containing the cracked blade'' because removal of the cracked blade addresses the unsafe condition.

We revised paragraphs (e)(1)(i) and (e)(1)(ii) of this AD to include, ''. . . remove the cracked blade from service. . . .''

Request To Change the Summary and Unsafe Condition

Boeing and General Electric Company (GE) requested that the Summary and Unsafe Condition paragraphs be clarified to reflect that two separate, single engine IFSDs occurred, prompting the need for this AD.

We agree. We changed the Summary and Unsafe Condition paragraphs of this AD to read: ''This AD was prompted by reports of two separate, single engine in-flight shutdowns, caused by HPT rotor stage 1 blade failure. . . .''

Request To Change the Cost of Compliance

Boeing requested that the Costs of Compliance paragraph specifically state that the projected costs are for only the initial inspection and not for repetitive inspections. Boeing indicated this is needed to clarify the cost of compliance.

We agree. We changed the Costs of Compliance paragraph of this AD to include, ''We also estimate that it will take about 1 hour per engine to comply with the initial inspection in this AD.''

Request To Change Compliance Time

Japan Airlines (JAL) and GE suggested that in paragraph (e)(1) Compliance, the need to inspect within 1,000 cycles since new (CSN) may not be representative of the fleet.

We disagree. The initial blade inspection compliance time was based on the safety evaluation of the known failures. Any person may make a request for an Alternative Method of Compliance (AMOC) to the compliance times of this AD using the procedures listed herein. We did not change this AD.

Request To Change Compliance

GE requested that the Compliance paragraph be changed to clarify that the criteria of multiple cracks should be based on an individual blade and not multiple blades, each with a single crack.

We agree. We changed paragraph (e)(1)(i) of this AD to read: ''. . . , or if more than one axial crack of any length is found on one blade, remove the cracked blade from service before further flight.''

Revision to Service Information

We revised the service information in the Related Information section of this AD to Revision 01 of GE GEnx–1B Service Bulletin (SB) No. 72–0267 R01, dated August 10, 2015. GE made an editorial change to this SB that did not affect its contents.

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 (80 FR 51965) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (80 FR 51965).

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

Costs of Compliance

We estimate that this AD will affect 4 engines installed on airplanes of U.S. registry. We also estimate that it will take about 1 hour per engine to comply with the initial inspection in this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the total cost of this AD to U.S. operators to be $340.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska 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 adding the following new airworthiness directive (AD):

2016–04–11 General Electric Company: Amendment 39–18405; Docket No. FAA–2015–2984; Directorate Identifier 2015–NE–21–AD.

(a) Effective Date

This AD is effective April 1, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) GEnx–1B54, –1B58, –1B64, –1B67, and –1B70 turbofan engine models with high-pressure turbine (HPT) rotor stage 1 blade, part number 2305M26P06, installed.

(d) Unsafe Condition

This AD was prompted by reports of two separate, single engine in-flight shutdowns, caused by HPT rotor stage 1 blade failure. We are issuing this AD to prevent failure of the HPT rotor stage 1 blades, which could lead to failure of one or more engines, loss of thrust control, and damage to the airplane.

(e) Compliance

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

(1) Perform an initial borescope inspection (BSI) of the convex surface of the HPT rotor stage 1 blades for axial cracks from the platform to 30% span, within 1,000 blade cycles since new or 25 cycles after the effective date of this AD, whichever occurs later, and disposition as follows:

(i) If any axial crack with a length greater than or equal to 0.3 inch is found, or if any axial crack of any length turning in a radial direction is found, or if more than one axial crack of any length is found on one blade, remove the cracked blade from service before further flight.

(ii) If an axial crack is found with a length greater than or equal to 0.2 inch and less than 0.3 inch, remove the cracked blade from service within 10 blade cycles.

(iii) If an axial crack is found with a length greater than or equal to 0.1 inch and less than 0.2 inch, inspect the cracked blade within 50 blade cycles since last inspection (CSLI).

(iv) If an axial crack is found with a length less than 0.1 inch, inspect the cracked blade within 100 blade CSLI.

(v) If no cracks were found, perform a BSI of the blades within 125 blade CSLI.

(2) Thereafter, perform a repetitive BSI of the convex surface of the HPT rotor stage 1 blades for axial cracks from the platform to 30% span within 125 blade CSLI and disposition as specified in paragraphs (e)(1)(i) through (e)(1)(v) of this AD, or remove the blades from service.

(f) Definition

For the purpose of this AD, a ''blade cycle'' is defined as the number of engine cycles that a set of rotor blades has accrued, regardless of the engine(s) in which they have operated.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to 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.*

(h) Related Information

(1) For more information about this AD, contact Christopher McGuire, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7120; fax: 781–238–7199; email: *chris.mcguire@faa.gov.*

(2) GE GEnx–1B Service Bulletin No. 72–0267 R01, dated August 10, 2015 can be obtained from GE using the contact information in paragraph (h)(3) of this AD.

(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; email: *aviation.fleetsupport@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 February, 18, 2016.

Ann C. Mollica,

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

[FR Doc. 2016–04031 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3704; Directorate Identifier 2016–NM–005–AD; Amendment 39–18413; AD 2016–04–19]

RIN 2120–AA64

Airworthiness Directives; Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.) Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes. This AD requires a general visual inspection of the rudder control system to confirm correct alignment and installation of the adjustment device, and repair if necessary. This AD was prompted by a report of disconnection of the kinematic chain from the co-pilot rudder pedals to the rudder control bars located under the cockpit floor; subsequent investigation revealed that the failure was caused by disconnection of the pedal adjustment device from the adjustment actuator. We are issuing this AD to detect and correct incorrect alignment and incorrect installation of the adjustment device, which could lead to loss of the rudder control from the affected side and possibly result in reduced control of the airplane.

DATES: This AD becomes effective March 14, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 14, 2016.

We must receive comments on this AD by April 11, 2016.

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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Airbus Defense and Space S.A., Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 3127; email *MTA.TechnicalService@military.airbus.com.* For U.S. operators, email alternatively *TechnicalSupport@airbusmilitaryna.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3704.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3704; or in person at the Docket Operations office 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 street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0012, dated January 14, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition on all Airbus Defense and Space S.A. Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes. The MCAI states:

> An occurrence was reported involving disconnection of the kinematic chain from the co-pilot rudder pedals to the rudder control bars located under the cockpit floor. Subsequent investigation revealed that the failure was caused by disconnection of the pedal adjustment device from the adjustment actuator.
>
> This condition, if not detected and corrected, could lead to loss of the rudder control from the affected side, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, Airbus Defence and Space (Airbus D&S) issued Alert Operators Transmission (AOT) AOT–CN235–27–0002 and AOT–C295–27–0001, as applicable to aeroplane model, to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time general visual inspection (GVI) of the rudder control system and correctness of the installation connection between the adjustment actuators and the adjustment devices of the rudder pedals and, depending on findings, accomplishment of applicable corrective action(s).

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3704.

Related Service Information Under 1 CFR Part 51

Airbus Defence and Space has issued AOT AOT–C295–27–0001, Revision 1, dated September 29, 2015; and AOT–CN235–27–0002, Revision 1, dated September 22, 2015. The service information describes procedures for a general visual inspection of the rudder control system to confirm correct alignment and installation of the adjustment device. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because incorrect alignment and

incorrect installation of the adjustment device could lead to loss of the rudder control from the affected side and possibly result in reduced control of the airplane. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3704; Directorate Identifier 2016–NM–005–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

We estimate that this AD affects 29 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,465, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 8 work-hours and require parts costing $177, for a cost of $857 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–04–19 Airbus Defense and Space S.A. (Formerly Known as Construcciones Aeronauticas, S.A.): Amendment 39–18413. Docket No. FAA–2016–3704; Directorate Identifier 2016–NM–005–AD.

(a) Effective Date

This AD becomes effective March 14, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Defense and Space S.A. (Formerly known as Construcciones Aeronauticas, S.A.) Model CN–235, CN–235–100, CN–235–200, CN–235–300, and C–295 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by a report of disconnection of the kinematic chain from the co-pilot rudder pedals to the rudder control bars located under the cockpit floor; subsequent investigation revealed that the failure was caused by disconnection of the pedal adjustment device from the adjustment actuator. We are issuing this AD to detect and correct incorrect alignment and incorrect installation of the adjustment device, which could lead to loss of the rudder control from the affected side and possibly result in reduced control of the airplane.

(f) Compliance

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

(g) General Visual Inspection

Within 30 days after the effective date of this AD: Do a general visual inspection of the rudder control system to confirm correct alignment and installation of the adjustment device, in accordance with the instructions of Airbus Defence and Space Alert Operators Transmission (AOT) AOT–C295–27–0001, Revision 1, dated September 29, 2015; or Airbus Defence and Space AOT AOT–CN235–27–0002, Revision 1, dated September 22, 2015; as applicable.

(h) Corrective Action

If, during the general visual inspection required by paragraph (g) of this AD, any discrepancy is found, as specified in Airbus Defence and Space AOT AOT–C295–27–0001, Revision 1, dated September 29, 2015; or Airbus Defence and Space AOT AOT–CN235–27–0002, Revision 1, dated September 22, 2015; as applicable: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus Defense and Space S.A.'s EASA Design Organization Approval (DOA).

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Airbus Defence and Space AOT AOT–C295–27–0001, dated October 23, 2014; or Airbus Defence and Space AOT AOT–CN235–27–0002, dated October 23, 2014; as applicable.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0012, dated January 14, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3704.

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

(l) Material Incorporated by Reference

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

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

(i) Airbus Defence and Space Alert Operators Transmission AOT–C295–27–0001, Revision 1, dated September 29, 2015.

(ii) Airbus Defence and Space Alert Operators Transmission AOT–CN235–27–0002, Revision 1, dated September 22, 2015.

(3) For service information identified in this AD, contact Airbus Defense and Space S.A., Services/Engineering Support, Avenida de Aragón 404, 28022 Madrid, Spain; telephone +34 91 585 55 84; fax +34 91 585 3127; email *MTA.TechnicalService@military.airbus.com.* For U.S. operators, email alternatively *TechnicalSupport@airbusmilitaryna.com.*

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

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

Issued in Renton, Washington, on February 15, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–03883 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–0681; Directorate Identifier 2014–NM–201–AD; Amendment 39–18400; AD 2016–04–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by a determination that a repetitive test is needed to inspect the components on airplanes equipped with a certain air distribution system configuration. This AD requires doing repetitive testing for correct operation of the equipment cooling system and low pressure environmental control system, and corrective actions if necessary. This AD also requires, for certain airplanes, installing new relays and doing wiring changes to the environmental control system. We are issuing this AD to detect and correct latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

DATES: This AD is effective April 1, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of April 1, 2016.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–0681.

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–2015–0681; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6585; fax: 425–917–6590; email: *stanley.chen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on April 1, 2015 (80 FR 17368) (''the NPRM''). The NPRM was prompted by a determination that a repetitive test is needed to inspect the components on airplanes equipped with a certain air distribution system configuration. The NPRM proposed to require repetitive testing for correct operation of the equipment cooling system and low pressure environmental control system, and corrective actions if necessary. The

NPRM also proposed to require, for certain airplanes, installing new relays and doing wiring changes to the environmental control system. We are issuing this AD to detect and correct latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

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 Clarify Conditions Leading to Unsafe Condition

Boeing requested that we revise the unsafe condition to clarify that latent failures of the equipment cooling system and low pressure environmental control system alone do not create the unsafe condition addressed in the NPRM. Boeing explained that the unsafe condition is a combination of a failure of both systems along with a cargo fire event, which could lead to a smoke penetration hazard.

We agree to revise the description of the events leading to the unsafe condition, and have revised the **SUMMARY** section in this final rule and paragraph (e) of this AD accordingly.

Request To Clarify Unsafe Condition

Boeing requested that we revise the NPRM to clarify that the hazard being mitigated by the NPRM is smoke penetration into the occupied areas of the airplane—the flight deck or the main cabin (not just the flight deck). Boeing stated that failure of the equipment cooling system and/or low pressure environmental control system, in combination with a cargo fire event, could lead to cargo smoke penetration into the flight deck and/or main cabin, either of which could be catastrophic.

We agree that clarification is needed to specify that the hazard being mitigated by the NPRM is smoke penetration into flight deck and main cabin, which are occupied areas of the airplane. We have revised the **SUMMARY** section in this final rule and paragraph (e) of this AD accordingly.

Request To Match Repetitive Interval in Service Information

Boeing, Delta Airlines (Delta), United Airlines (United), and Yuta Kobayashi requested that we revise the repetitive interval for the operational test from 9,000 flight cycles to 9,000 flight hours. Boeing stated that a 9,000 flight-hour interval is supported by a fault tree analysis, whereas the repetitive interval of 9,000 flight cycles required by the NPRM is not. Mr. Kobayashi stated that a correction needed to be made since Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, states the repetitive interval in flight hours.

We agree with the request to revise the repetitive interval since the repetitive interval in flight hours matches the interval stated in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014. In the proposed AD, we inadvertently specified flight ''cycles'' instead of flight ''hours.'' We have revised the interval in paragraph (g) of this AD from flight ''cycles'' to flight ''hours.''

Request To Clarify Airplanes Subject to Repetitive Testing Requirement

The Discussion section of the NPRM stated that a repetitive test is needed on airplanes equipped with an air distribution system that had been reconfigured in accordance with Boeing Special Attention Service Bulletin 737–26–1122. Boeing requested that we revise the NPRM to clarify that all Model 737–600, –700, –700C, –800, –900 and –900ER airplanes are subject to the repetitive testing (as specified in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014)—not just those airplanes with reconfigured air distribution systems. Boeing added that Model 737–700C and 737–900 airplanes were not subject to the same changes and thus were not included in the effectivity of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009.

We agree that Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, describes procedures for the operational testing of the equipment cooling system and low pressure environmental control systems, and that all 737–600, –700, –700C, –800, –900 and –900ER airplanes are subject to this repetitive testing. However, the Discussion section that appeared in the NPRM is not repeated in this final rule. Therefore no change has been made to this final rule in this regard.

Request To Exclude Certain Airplanes From Applicability

Delta requested that we revise the NPRM to exclude airplanes that have not been modified by Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009. Delta further requested that these airplanes be subject to evaluation for additional separate rulemaking.

Delta stated that it believes two separate airworthiness concerns must be addressed. Delta stated that the first concern identified by the NPRM is a potential latent failure of the equipment cooling system and low pressure environmental control system; Delta noted this condition is addressed by Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014.

Delta stated that the second concern, not identified by the NPRM, is the need to properly isolate the occupied areas of the airplane from smoke intrusion in the event of a cargo compartment fire; Delta noted this condition is addressed by the following service information:

- Boeing Special Attention Service Bulletin 737–26–1121, Revision 1, dated October 26, 2009.
- Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009.
- Boeing Special Attention Service Bulletin 737–21–1135, Revision 1, dated November 13, 2008.
- Boeing Special Attention Service Bulletin 737–21–1163, Revision 1, dated December 17, 2009.

Delta stated this service information introduces, among other tasks, better sealing of the cargo compartment and changes to the environmental control system to keep the cargo compartment at a lower pressure than that of the cabin in order to keep smoke from a cargo compartment fire out of occupied areas.

We disagree with the request to exclude the airplanes identified by the commenter and consider separate rulemaking for those airplanes. The primary airworthiness concern addressed by the requirements in this AD is the lack of a procedure to detect and correct latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control. This unsafe condition affects all Model 737–600, –700, –700C, –800, –900, and –900ER airplanes, regardless of whether Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, has been done. Therefore, all Model 737–600, –700, –700C, –800, –900, and –900ER airplanes are subject to the repetitive testing in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, not just those airplanes reconfigured using Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009.

For certain airplanes, Boeing Special Attention Service Bulletin 737–26–

1122, Revision 1, dated August 13, 2009, is a concurrent requirement because the actions specified Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, must be done to make sure the testing results are satisfactory (*e.g.,* electrical components that are required to reconfigure the air distribution system during a cargo fire event need to be installed).

In addition, the installation and changes specified in paragraph B. ''Concurrent Requirements'' of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, will need to be implemented, if not already done, in order accomplish the concurrent requirements as specified in Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009. These measures are necessary to properly isolate the occupied areas of the aircraft from smoke penetration in the event of a cargo compartment fire, such as changes to the cargo compartment sealing and equipment cooling system to keep the cargo compartment at a lower pressure than the cabin pressure. Therefore, we have not changed this final rule regarding this issue.

Request To Incorporate Additional Service Information and Revise the Costs of Compliance Section

Delta and Southwest Airlines (Southwest) requested that the Costs of Compliance section of the NPRM be revised to capture the costs of the following service information since they are identified as ''Concurrent Requirements'' in Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009:

- Boeing Special Attention Service Bulletin 737–26–1121, Revision 1, dated October 26, 2009.
- Boeing Special Attention Service Bulletin 737–21–1135, Revision 1, dated November 13, 2008.
- Boeing Special Attention Service Bulletin 737–21–1163, Revision 1, dated December 17, 2009.

Delta stated these concurrent service bulletins add a significant burden to operators in terms of labor and time since they amount to 190 additional work-hours. Delta added that since these concurrent actions add significant change in scope, it is necessary to withdraw the existing proposed rule, allow operators the opportunity to comment on their incorporation, and reissue a revised rule with a new comment period. Additionally, Delta asked that these documents be specified by their explicit revision level in order to ensure the correct intended compliance actions are satisfied.

We agree to add the labor and parts costs for concurrent accomplishment of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, because it is a requirement of this final rule for Group 1 airplanes; the costs for this action were inadvertently omitted from the NPRM.

We also acknowledge the installation and changes specified in paragraph B. ''Concurrent Requirements'' of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, may also need to be done for certain airplanes. We have therefore revised the Costs of Compliance section of this final rule by adding 208 work-hours and a parts cost of $27,323 for the concurrent action.

We do not agree to withdraw the existing NPRM and reissue a revised NPRM with a new comment period. To delay this final rule would be inappropriate, since we have determined that an unsafe condition exists. However, under the provisions of paragraph (j) of this AD, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety. We have not changed this final rule in this regard.

Request To Clarify Conflicting Concurrent Requirements

Jet2.com requested that compliance guidance be given for airplanes equipped with Supplemental Type Certificate (STC) ST02076LA (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/73f6dd3b3bfe1890862578af0053cf0a/$FILE/ST02076LA.pdf*); specifically, Jet2.com asked for clarification for airplanes that accomplished STC ST02076LA as an alternative action to installing the automatic shutoff system for the center tank fuel boost pumps using Boeing Alert Service Bulletin 737–28A1206, Revision 2, dated May 21, 2009, which is required by AD 2011–18–03, Amendment 39–16785 (76 FR 53317, August 26, 2011). Jet2.com explained that while the concurrent service information is clear for accomplishing the required actions of the proposed AD, actions for airplanes having STC ST02076LA are not clear.

We agree to clarify the concurrent requirements of this AD. Paragraph B., ''Concurrent Requirements,'' of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, refers to Boeing Special Attention Service Bulletin 737–21–1135, dated December 12, 2007, for certain changes. However, Boeing Special Attention Service Bulletin 737–21–1135, dated December 12, 2007, inadvertently specified concurrent accomplishment of Boeing Alert Service Bulletin 737–28A1206, dated January 11, 2006. Boeing subsequently issued Special Attention Service Bulletin 737–21–1135, Revision 1, dated November 13, 2008, which no longer identifies Boeing Alert Service Bulletin 737–28A1206, dated January 11, 2006, as concurrent service information. We have revised paragraph (h) of this AD to clarify the concurrent requirements and state that Boeing Alert Service Bulletin 737–28A1206, dated January 11, 2006, is not required by this AD.

Request To Clarify Initial Compliance Time for Production Airplanes

American requested that we clarify the initial compliance times for airplanes that have not yet been delivered, since the proposed AD specifies a compliance time for the initial testing of only in-service airplanes, but not airplanes that are in production. American also requested a more definitive method of determining aircraft effectivity than relying on ''the 'Get Effectivity' function on myboeingfleet.com'' as specified in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014.

We agree that clarification is necessary. Group 3 airplanes in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, are identified as those having line numbers 1701 and all line numbers after 1701. It is not necessary to use the 'Get Effectivity' function on ''myboeingfleet.com'' because airplanes in production are Group 3 airplanes. The compliance time for Group 3 airplanes as specified in the NPRM is within 10 months. However, we have determined that for airplanes having line numbers 4923, 4924, and 4926 and subsequent, which were delivered after the issuance of Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, a compliance time of ''before the accumulation of 9,000 total flight hours'' will provide an acceptable level of safety. We have coordinated this change with Boeing. As a result, we have restructured paragraph (g) to include new subparagraphs (g)(1) and (g)(2).

Request To Revise Initial Compliance Time Relative to AD Effective Date

United requested that we clarify the initial compliance times for the test for correct operation of the equipment cooling system and low pressure environmental control system of the

proposed AD. United requested that the compliance time be revised from the effective date of the service bulletin to the effective date of the AD since Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, was not required at the time it was published and therefore, some operators may already be beyond the compliance time when this AD is issued.

We agree that clarification is necessary. This AD requires compliance within the specified compliance time after the effective date of this AD. This provision was specified in paragraph (i) of the proposed AD, and is retained in this AD. We have not changed this AD in this regard.

Request To Refer to a Maintenance Planning Document (MPD) as a Method of Compliance

Aeroflot requested that we refer to Boeing Maintenance Planning Document B737 MPD 21–050–00. Aeroflot stated that the MPD and Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, refer to the same task specified in Boeing Airplane Maintenance Manual 21–27–00–700.

We disagree with the request. Although this final rule does not refer to Boeing B737 MPD 21–050–00 as a method of compliance, operators may apply for an alternative method of compliance (AMOC) for these actions in accordance with the provisions of paragraph (j)(1) of this AD if sufficient data are submitted to substantiate that the MPD provides an acceptable level of safety. We have not changed this AD in this regard.

Clarification Regarding the Installation of Winglets

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect compliance.

We agree with the commenter that Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, which describes procedures for repetitive testing for correct operation of the smoke clearance mode of the equipment cooling system and low pressure environmental control system, and applicable corrective actions.

We also reviewed Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, which describes procedures for installing new relays and doing wiring changes to the environmental control system.

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

Costs of Compliance

We estimate that this AD affects 1,372 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
Operational Test	4 work-hours × $85 per hour = $340 per operation test cycle.	$0	$340 per operation test cycle.	$466,480 per operation test cycle.
Installation of new relays and wiring changes to the environmental control system (concurrent actions) (up to 613 airplanes).	Up to 208 work-hours × $85 per hour = $17,680.	Up to $27,323	Up to $45,003	Up to $27,586,839.

We estimate the following costs to do any necessary system fault isolation and replacements that would be required based on the results of the operational test. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Perform system fault isolation and replace faulty component.	10 work-hours × $85 per hour = $850	$0	$850

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2016–04–06 The Boeing Company: Amendment 39–18400; Docket No. FAA–2015–0681; Directorate Identifier 2014–NM–201–AD.

(a) Effective Date

This AD is effective April 1, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 2120, Air Distribution System.

(e) Unsafe Condition

This AD was prompted by a determination that repetitive inspection is needed to inspect the components on airplanes equipped with a certain air distribution system configuration. We are issuing this AD to detect and correct latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

(f) Compliance

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

(g) Repetitive Operational Tests and Corrective Action

At the applicable times specified in paragraph (g)(1) or (g)(2) of this AD, do a test for correct operation of the smoke clearance mode of the equipment cooling system and low pressure environmental control system, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014. Do all applicable corrective actions before further flight. Repeat the test thereafter at intervals not to exceed 9,000 flight hours.

(1) For airplanes other than those identified in paragraph (g)(2) of this AD: At the applicable times identified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, except as required by paragraph (i) of this AD.

(2) For airplanes having line numbers 4923, 4924, and 4926 and subsequent: Before the accumulation of 9,000 total flight hours.

(h) Concurrent Requirements

For Group 1 airplanes identified in Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014: Before or concurrently with accomplishing the initial operational test required of paragraph (g) of this AD, install new relays and do wiring changes to the environmental control system, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009. When the actions required by this paragraph are done, the installation and changes specified in paragraph B. ''Concurrent Requirements'' of Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009, must also be done. However, operators should note that Boeing Alert Service Bulletin 737–28A1206, dated January 11, 2006, is not required by this AD.

(i) Exception to the Service Information

Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(3)(i) and (j)(3)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

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

(k) Related Information

For more information about this AD, contact Stanley Chen, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6585; fax: 425–917–6590; email: *stanley.chen@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–26A1137, dated May 22, 2014.

(ii) Boeing Special Attention Service Bulletin 737–26–1122, Revision 1, dated August 13, 2009.

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

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

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

Issued in Renton, Washington, on February 8, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–03459 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 11, 16, and 111

[Docket No. FDA–2015–N–0797]

RIN 0910–AG64 and 0910–AG66

The Food and Drug Administration Food Safety Modernization Act: Prevention-Oriented Import System Regulations and Implementation; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a public meeting entitled ''FDA Food Safety Modernization Act: Prevention-Oriented Import System Regulations and Implementation.'' The public meeting will provide importers and other interested persons an opportunity to discuss import safety regulations and programs, including final rules for foreign supplier verification programs (FSVPs) for importers of food for humans and animals (the FSVP final rule) and accreditation of third-party certification bodies (the third-party certification final rule). Participants will also be briefed on the status of FDA's Voluntary Qualified Importer Program (VQIP), which is still in development. Additionally, the public meeting will provide importers and other interested persons an opportunity to discuss FDA's comprehensive planning effort for the next phase of the FDA Food Safety Modernization Act implementation relating to import safety programs, which includes establishing the operational framework for these programs and plans for guidance documents, training, education, and technical assistance.

DATES: See section III, ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document for dates and times of the public meeting, closing dates for advance registration, and requesting special accommodations due to disability.

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

FOR FURTHER INFORMATION CONTACT: *For questions about registering for the meeting, or to register by phone:* Courtney Treece, Planning Professionals Ltd., 1210 West McDermott St., Suite 111, Allen, TX 75013, 704–258–4983, FAX: 469–854–6992, email: *ctreece@planningprofessionals.com.*

For general questions about the meeting or for special accommodations due to a disability: Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Food Safety Modernization Act (FSMA) (Pub. L.111–353), signed into law by President Obama on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. FSMA amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish the foundation of a modernized, prevention-based food safety system. Among other things, FSMA directs FDA to issue regulations requiring preventive controls for human food and animal food, setting standards for produce safety, and requiring importers to perform certain activities to help ensure that the food they bring into the United States is produced in a manner consistent with U.S. safety standards.

In the **Federal Register** of November 27, 2015, we published the FSVP final rule (80 FR 74225) and the third-party certification final rule (80 FR 74569).

The FSVP final rule requires importers of food to verify that their foreign suppliers use processes and procedures that provide the same level of public health protection as the preventive controls and produce safety regulations, where applicable, and also to verify that the food they import is not adulterated and is not misbranded with respect to food allergen labeling.

The third-party certification final rule adopts regulations to provide for accreditation of third-party certification bodies to conduct food safety audits of foreign entities, including registered foreign food facilities, and to issue food and facility certifications under FSMA. Certification will be required to establish VQIP eligibility. To prevent potentially harmful food from reaching U.S. consumers, in specific circumstances FDA also may require a food offered for import to be accompanied by a certification.

On June 5, 2015, we published a notice of availability of a draft guidance for industry on VQIP for importers of human or animal food (80 FR 32136). The draft guidance describes and answers questions about VQIP. To ensure that we consider comments on the draft guidance before we complete a final version of the guidance, we invited electronic or written comments on the draft guidance by August 19, 2015.

The FSVP and third-party certification final rules and related fact sheets are available on FDA's FSMA Web page located at *http://www.fda.gov/FSMA.*

The FSVP and third-party certification final rules are two of several final rules that will establish the foundation of, and central framework for, the modern food safety system envisioned by Congress in FSMA.

II. Purpose and Format of the Public Meeting

FDA is holding the public meeting on FSMA's prevention-oriented import system to brief participants on the key components of the FSVP and third-party certification final rules; brief participants on the status of the VQIP; discuss the plans for guidance documents related to import safety, as well as training, education, and technical assistance; provide an update on the development of a risk-based industry oversight framework that are at the core of FSMA; and answer questions about these import programs.

The public meeting is an opportunity for FDA to share its current thinking on implementation plans for programs related to import safety. We encourage interested persons to provide feedback during the meeting on any ideas that we present at the public meeting related to the operational aspects of FSMA

implementation. The agenda and other documents will be accessible on our FSMA Web site at *http://www.fda.gov/FSMA* before the public meeting.

There will be an opportunity for stakeholders who are unable to participate in person to join the meeting via Webcast. (See section III for more information on the Webcast option.)

Following the public meeting, FDA plans to continue dialogue on implementation of these import safety programs with a series of regional meetings across the United States.

III. How To Participate in the Public Meeting

We are holding the public meeting on March 21, 2016, from 8:30 a.m. until 5 p.m., at FDA's Center for Food Safety and Applied Nutrition, Wiley Auditorium, 5100 Paint Branch Parkway, College Park, MD 20740. Due to limited space and time, we encourage all persons who wish to attend the meeting to register in advance. There is no fee to register for the public meeting, and registration will be on a first-come, first-served basis. Early registration is recommended because seating is limited. Onsite registration will be accepted, as space permits, after all preregistered attendees are seated.

Those requesting an opportunity to make an oral presentation during the time allotted for public comment at the meeting are asked to focus their remarks on the implementation or operational aspects of the import safety programs. To make such a presentation, please submit a request and provide the specific topic or issue to be addressed. Due to the anticipated high level of interest in presenting public comment and the limited time available, we are allocating 3 minutes to each speaker to make an oral presentation. Speakers will be limited to making oral remarks; there will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. If time permits, individuals or organizations that did not register in advance may be granted the opportunity to make an oral presentation. We would like to maximize the number of individuals who make a presentation at the meeting and will do our best to accommodate all persons who wish to make a presentation or express their opinions at the meeting.

We encourage persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the presentation requests, we will notify each participant before the meeting of the approximate time their presentation is scheduled to begin, and remind them of the presentation format (*i.e.,* 3-minute oral presentation without visual media).

We encourage interested persons to provide feedback on any ideas that we present at the public meeting related to the operational aspects of FSMA implementation.

Table 1 provides information on participation in the public meeting.

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING

	Date	Electronic address	Address	Other Information
Attend public meeting.	March 21, 2016, from 8:30 a.m. to 5 p.m. ET.	Please preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	FDA Center for Food Safety and Applied Nutrition, Wiley Auditorium, 5100 Paint Branch Parkway, College Park, MD 20740.	Registration check-in begins at 8 a.m.
View Webcast	March 21, 2016, from 8:30 a.m. to 5 p.m. ET.	Individuals who wish to participate by Webcast are asked to preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.		The Webcast will have closed captioning.
Preregister	Register by March 14, 2016.	Individuals who wish to participate in person are asked to preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	We encourage the use of electronic registration, if possible[1].	There is no registration fee for the public meeting.
Request to make a public comment.	Request by March 7, 2016.	Individuals who wish to make a public comment during the Open Public Comment and Q&A Session are asked to submit request at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.		
Request special accommodations due to a disability	Request by March 7, 2016.	Juanita Yates, email: Juanita.yates@fda.hhs.gov.	See **FOR FURTHER INFORMATION CONTACT**.	
Submit electronic questions about the FSMA final rules.		Submit questions to the FDA FSMA Technical Assistance Network at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm459719.htm*.		For more information about the FDA FSMA Technical Assistance Network, visit *http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm459719.htm*.

[1] You may also register via email, mail, or fax. Please include your name, title, firm name, address, and phone and fax numbers in your registration information and send to: Courtney Treece, Planning Professionals Ltd., 1210 West McDermott St., Suite 111, Allen, TX 75013, 704–258–4983, FAX: 469–854–6992, email: *ctreece@planningprofessionals.com*.

IV. Transcripts and Recorded Video

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* and at FDA's FSMA Web site at: *http://www.fda.gov/FSMA.* You may also view the transcript at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. The Freedom of Information office address is available on FDA's Web site at *http://www.fda.gov.* Additionally, we will be video recording the public meeting. Once the recorded video is available, it will be accessible at FDA's FSMA Web site at *http://www.fda.gov/FSMA.*

Dated: February 23, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04127 Filed 2–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–394F]

RIN 1117–AB38

Removal of Exemption From Registration for Persons Authorized Under U.S. Nuclear Regulatory Commission or Agreement State Medical Use Licenses or Permits and Administering the Drug Product DaTscan

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: On November 25, 2014, the Drug Enforcement Administration published the interim final rule titled ''Exemption from Registration for Persons Authorized Under U.S. Nuclear Regulatory Commission or Agreement State Medical Use Licenses or Permits and Administering the Drug Product DaTscan.'' The Drug Enforcement Administration is hereby removing this interim final rule as it is no longer needed, as a result of the removal of [^{123}I]ioflupane from the schedules of controlled substances effective September 11, 2015.

DATES: *Effective Date:* February 26, 2016.

FOR FURTHER INFORMATION CONTACT: Barbara J. Boockholdt, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801–971. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Under the CSA, each controlled substance is classified into one of five schedules based upon its potential for abuse, its currently accepted medical use in treatment in the United States, and the degree of dependence the substance may cause. 21 U.S.C. 812. The initial schedules of controlled substances established by Congress are found at 21 U.S.C. 812(c), and pursuant to 21 U.S.C. 812 (a) and (b), the current list of all scheduled substances is published at 21 CFR part 1308.

Pursuant to 21 U.S.C. 822(a)(1), every person who manufactures or distributes any controlled substance or list I chemical, or who proposes to engage in the manufacture or distribution of any controlled substance or list I chemical, shall obtain annually a registration issued by the Attorney General in accordance with the rules and regulations promulgated by the Attorney General. Further, pursuant to 21 U.S.C. 822(a)(2), every person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the Attorney General a registration issued in accordance with the rules and regulations promulgated by the Attorney General.

The Attorney General however may, by regulation, waive the requirement for registration of certain manufacturers, distributors, or dispensers if the Attorney General finds it consistent with the public health and safety pursuant to 21 U.S.C. 822(d). The Attorney General delegated this authority to the Administrator of the DEA, 28 CFR 0.100(b), who in turn redelegated that authority to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator''). 28 CFR part 0, subpart R, App. section 7.

Background

On November 25, 2014, the DEA published an interim final rule (IFR) exempting from registration persons authorized under Nuclear Regulatory Commission (NRC) or Agreement State Medical Use Licenses or permits and administering the drug product DaTscan directly to patients for diagnostic purposes. 79 FR 70085. The IFR was intended to alleviate the regulatory burdens on those administering the drug product DaTscan, to allow more patients to receive important diagnostic testing. Additionally, because persons who administer DaTscan are subject to strict NRC/Agreement State requirements, the DEA determined in the IFR that the waiver from registration of persons who administer DaTscan was consistent with the public health and safety. The IFR provided an opportunity for interested persons to submit written comments on the rulemaking on or before January 26, 2015.

However, effective September 11, 2015, the DEA removed [^{123}I]ioflupane from the schedules of controlled substances. 80 FR 54715. [^{123}I]Ioflupane is the active pharmaceutical ingredient in DaTscan. Accordingly, a registration exemption is no longer necessary for persons who administer the drug product DaTscan. As the DEA explained in the final rule removing [^{123}I]ioflupane from the schedules of controlled substances, all of the administrative, civil, and criminal sanctions applicable to controlled substances no longer apply to those persons who handle [^{123}I]ioflupane, or any drug products that contain [^{123}I]ioflupane, on or after September 11, 2015.

Because the decontrol of [^{123}I]ioflupane supersedes the registration exemption provided in the IFR, the DEA hereby finalizes the rulemaking procedure that was initiated with the November 25, 2014, IFR (79 FR 70085) by publishing this final rule removing that regulation. Below the DEA has provided a discussion of comments received in response to the IFR. 79 FR 70085.

Comments Received

The DEA received six comments on the IFR. Two comments were from GE Healthcare, the manufacturer of the drug product DaTscan, one comment was from a professor of pharmaceutical sciences, two comments were from nuclear medicine industry groups, and one comment was from a Parkinson's Disease advocacy group.

Decontrol of DaTscan:

Five commenters requested that the DEA follow the November 2, 2010, recommendation by the U.S. Department of Health and Human Services (HHS) to decontrol the drug product DaTscan. One commenter stated that the DEA is bound by the HHS' recommendation. Additionally, five of these commenters cited the lack of abuse of the drug product DaTscan as a reason why it should be decontrolled.

Response: There is no doubt that, as a derivative of cocaine, ioflupane is a schedule II controlled substance. Congress specified that ''cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or *any compound, mixture, or preparation which contains any quantity of any of the substances* referred to in this paragraph'' are schedule II controlled substances. 21 U.S.C. 812(c), Schedule II, (a)(4) (emphasis added). A radioactive form of ioflupane is contained within the drug product DaTscan; accordingly DaTscan was controlled as a schedule II substance at the time of the IFR. The fact that there is a low likelihood of diversion of the drug product DaTscan at the dispensing level supported the registration exemption provided by the IFR at that time.

As stated in the IFR, the DEA was continuing to review the control status of [^{123}I]ioflupane pursuant to 21 U.S.C. 811. The IFR was separate and apart from the control process, and did not resolve the control status of [^{123}I]ioflupane. The purpose of the IFR was to encourage use and expand access of this drug product as a diagnostic tool until the control status of DaTscan™ was resolved. Subsequently, effective September 11, 2015, the DEA removed [^{123}I]ioflupane from the schedules of controlled substances. The factors in support of removing [^{123}I]ioflupane from the schedules of controlled substances are summarized in the notice of proposed rulemaking and the final rule, (80 FR 13455 and 80 FR 54715, respectively). The DEA explained in the final rule that as a result of removing [^{123}I]ioflupane from the schedules of controlled substances, all of the administrative, civil, and criminal sanctions applicable to controlled substances no longer apply to those persons who handle [^{123}I]ioflupane.

Expedited Rulemaking under the Administrative Procedure Act:

One commenter expressed concern that the DEA did not undertake notice and comment procedures before promulgating the IFR. The same commenter stated that the IFR did not meet the legal requirements for expedited rulemaking nor for the issuance of a rule with an immediate effective date, asserting that the IFR did not meet the requirements of the good cause exception to make a rule immediately effective.

Response: A rule is exempt from certain provisions of the Administrative Procedure Act (APA), including notice of proposed rulemaking and the pre-promulgation opportunity for public comment, if the agency for good cause determines that those procedures are unnecessary, impracticable, or contrary to the public interest. 5 U.S.C. 553(b)(3)(B). The IFR was intended to enable more persons to administer DaTscan, thereby helping to increase patient access to its diagnostic benefits. The DEA for good cause found that it was unnecessary and contrary to the public interest to seek public comment prior to promulgating the IFR because, without prompt exemption from registration, some members of the health care community would not have been able to utilize this diagnostic tool. It was reasonable to expect that alleviating the registration burden would stimulate use, thereby expanding access. In addition, this exemption was intended to reduce costs for imaging centers because they would not have had to pay DEA registration fees (unless they also handle other pharmaceutical controlled substances).

The IFR alleviated certain registration, security, recordkeeping, reporting, and labeling requirements for persons authorized under the NRC, or Agreement State medical use licenses or permits, who administer the drug product DaTscan to a patient for diagnostic purposes. The APA requires the publication of a substantive rule to be made not less than 30 days before its effective date. 5 U.S.C. 553(d). However, the APA allows an exception for ''a substantive rule which grants or recognizes an exemption or relieves a restriction.'' 5 U.S.C. 553(d)(1). The DEA found that the IFR met this criterion.

Although a notice of proposed rulemaking was not published with regard to the drug product DaTscan, the DEA published an IFR with request for comment on November 25, 2014. The comment period for the IFR closed on January 26, 2015, and in that 60-day time frame, the DEA received six comments on the rulemaking, and has considered those comments herein.

Exemption from Registration for Radiopharmacies:

One commenter stated that the registration exemption should be expanded to include nuclear pharmacies (also known as radiopharmacies) that distribute DaTscan, because it would increase patient access to DaTscan.

Response: At the time of the IFR, radiopharmacies that transferred DaTscan to imaging centers and hospitals were required to be registered as distributors because they transferred the now decontrolled substance to other registrants for subsequent administration pursuant to the authority of a DEA Form 222 or digitally signed electronic order rather than pursuant to the authority of a prescription or other lawful order. The commenter does not state how such an exemption would increase patient access, and the radiopharmacy (*i.e.,* the registered distributor of DaTscan) commented that the barrier to patient access is the registration requirement at the imaging centers, rather than at the distributor or manufacturer levels. Therefore, it was appropriate that the IFR did not include radiopharmacies within the scope of the registration exemption.

Inconsistency between Federal and State Law:

Three commenters asserted concern that the IFR could not directly exempt anyone from state requirements since most states would not automatically incorporate federal exemptions into their corresponding regulatory systems. The commenters expressed further concern that each state would require an independent rulemaking process to implement the registration exemption.

Response: Before promulgation of the IFR, only imaging centers that operated in accordance with NRC or Agreement State regulations and that were DEA registrants were able to administer the drug product DaTscan. The IFR alleviated the requirement to register with the DEA, as well as the associated security, recordkeeping, and reporting requirements for persons authorized under the NRC or Agreement State medical use licenses or permits who administer the drug product DaTscan to a patient for diagnostic purposes.

With respect to the relationship between Federal and State law in the area of controlled substances, the IFR did not alter State law. The CSA shall not be ''construed as indicating an

intent on the part of the Congress to occupy the field in which that provision operates, including criminal penalties, to the exclusion of any State law on the same subject matter which would otherwise be within the authority of the State, unless that is a positive conflict between that provision . . . and that State law so that the two cannot consistently stand together.'' 21 U.S.C. 903. Accordingly, any applicable State law that is more stringent than Federal law applies.

This lack of uniformity between Federal and State law with respect to the treatment of controlled substances is not uncommon, and it is encountered by registrants and non-registrants that lawfully handle controlled substances. For example, some states control substances that are not Federally controlled or control substances more stringently than the Federal controls (*e.g.,* carisoprodol, tramadol, pseudoephedrine products). Still other states prohibit activities that are allowed under the CSA (*e.g.,* collection and disposal of controlled substances by certain entities). These issues with respect to lack of uniformity between Federal and State law may also be present with respect to the recent removal of [^{123}I]ioflupane from the schedules of controlled substances.

In addition, the exemption provided by the IFR was very similar to the DEA-authorized exemption for certain chemical preparations pursuant to 21 CFR 1308.23. In accordance with 21 CFR 1308.23 and 1308.24, certain preparations or mixtures containing one or more controlled substances can be exempt from regulations pertaining to registration, security, labeling, records, and reports. In 2014, the DEA exempted almost 1,500 preparations from certain regulatory requirements, a number that has increased considerably since 2011 when the DEA exempted 390 chemical preparations. It is the DEA's understanding that there has been no confusion with respect to State laws which apply to these chemical preparations. As the registration exemption in the IFR was similar to the exemptions provided for certain chemical preparations, the DEA believed at the time of the IFR that it was unlikely that the IFR would create complications with State laws.

Disposal:

Three commenters discussed the issue of disposal of the drug product DaTscan. One commenter expressed concern that hospitals and other practitioners currently registered with the DEA and administering the drug product DaTscan are required to change their existing disposal practices with respect to DaTscan as a result of the IFR. The commenter noted that the IFR language can be read to impose new requirements for those handling the drug product DaTscan. The commenter also stated that it was not practice for the current distributor to take back unused portions of DaTscan from those administering the drug product, and that the current distributor is not licensed as a reverse distributor. The commenter also stated that the DEA did not specify the volume of the drug product DaTscan which would constitute ''unused'' product, and inquired about the use of DEA Forms 41 and 222.

Another commenter expressed concern that requiring exempt entities (*e.g.,* imaging centers) to return the unused DaTscan to the distributor will increase costs to exempt entities.

Response: Under the IFR, hospitals, imaging centers, and other practitioners that were already registered with the DEA were not required to follow the procedures in the IFR if they chose to handle DaTscan as a DEA registrant. Only those entities that chose to benefit from the exemption had to adhere to the requirements of the IFR. Therefore, those entities already registered with the DEA that did not wish to be exempt from registration when handling DaTscan, were permitted to continue to handle the drug product DaTscan, including disposal, in accordance with applicable law.

At the time of the IFR, the DEA understood that it was common practice for radiopharmacies to take back unused radioactive material in vials and dosage unit syringes, as well as empty vials and empty dosage unit syringes from the medical use licensee, as long as they were originally provided by the radiopharmacy. Further, the DEA understood that as long as the radiopharmacy is authorized under its NRC or Agreement State license for this return, and does not receive anything that it did not send to the medical use licensee, the radiopharmacy is not considered a waste broker in accordance with NRC or Agreement State regulations. The DEA appreciates the commenter's clarification of the business practices relating to the drug product DaTscan.

As discussed, effective September 11, 2015, the DEA removed [^{123}I]ioflupane from the schedules of controlled substances. The DEA explained in the final rule removing [^{123}I]ioflupane from the schedules of controlled substances, none of the requirements applicable to controlled substances will apply on or after that date to those persons who handle [^{123}I]ioflupane, such as the drug product DaTscan, including use of the DEA Form 41 and 222. 80 FR 54715.

Compliance with Executive Order 12866:

One commenter expressed concern that the DEA determined that the IFR was a non-significant regulatory action and had, therefore, circumvented interagency review. The commenter stated that the IFR represents a drastic and notable departure from established practice in the healthcare industry. The commenter was also concerned that the interaction with existing laws and regulations promulgated by other federal agencies should have resulted in interagency review, and the process undertaken by the DEA for the IFR will have a precedential effect on future DEA rulemakings.

Response: To be a significant regulatory action in accordance with Executive Order 12866 (E.O. 12866) the action must meet one of the four factors set forth in E.O. 12866.[1] The DEA determined that the IFR did not meet any of the four factors. In addition, the Office of Management and Budget concurred with the assessment that the IFR was not significant under E.O. 12866, sec. 6.

Labeling Requirements:

One commenter stated that the DEA is unable to waive the CSA's requirement (21 U.S.C. 825) that controlled substances be labeled as such, and that the DEA is unable to waive labeling requirements enforced by the Food and Drug Administration (FDA).

Response: Initially the DEA included the waiver for labeling so that those exempted by this waiver would not be confused by the ''C–II'' labeling on the DaTscan packaging. The comments, however indicated that not requiring ''C–II'' labeling would cause more confusion than requiring it. However, due to the recent removal of [^{123}I]ioflupane from the schedules of controlled substances, the ''C–II'' label is no longer required on DaTscan packaging.

[1] As provided in Executive Order Section 12866, Regulatory Planning and Review, sec. 3(f): ''Significant regulatory action'' means any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Regulatory Analyses

Executive Orders 12866 and 13563

This final rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review'' section 1(b) General Principles of Regulation.

The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132

This rulemaking does not have federalism implications warranting the application of Executive Order 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule does not have tribal implications warranting the application of Executive Order 13175. It does not have substantial direct effects 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.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As explained above and in the interim final rule, the DEA determined that there was good cause to exempt the IFR from notice and comment. Consequently, the RFA does not apply to this final rule.

Paperwork Reduction Act of 1995

This rule does not involve a collection of information within the meaning of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995 (2 U.S.C. 1501 *et seq.*), the DEA has determined and certifies pursuant to UMRA that this action would not result in any Federal mandate that may result ''in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year . . . .'' Therefore, neither a Small Government Agency Plan nor any other action is required under the provisions of UMRA of 1995.

Congressional Review Act

This rule is not a major rule as defined by the Congressional Review Act (CRA) (5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, the DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

Administrative Procedure Act

The APA requires the publication of a substantive rule to be made not less than 30 days before its effective date. 5 U.S.C. 553(d). However, one exception is ''as otherwise provided by the agency for good cause found and published with the rule.'' Because the DEA removed [^{123}I]ioflupane from the schedules of controlled substances as of September 11, 2015, [80 FR 22919], there is no longer any need for a registration exemption for persons administering DaTscan, and the DEA is hereby removing the IFR through this final rule. The broader decontrol action has superseded it. Therefore, it is unnecessary to delay the effective date of this final rule by 30 days, and this rule shall take effect immediately upon publication.

List of Subjects in 21 CFR Part 1301

Administrative practice and procedure, Drug traffic control, Controlled substances, Drug abuse, Reporting and recordkeeping requirements.

Accordingly, 21 CFR part 1301 is amended as follows:

PART 1301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1301 continues to read as follows:

Authority: 21 U.S.C. 821, 822, 823, 824, 831, 871(b), 875, 877, 886a, 951, 952, 953, 956, 957, 958, 965.

§ 1301.29 [Removed and Reserved]

■ 2. Remove and reserve § 1301.29.

Dated: February 23, 2016.

Louis J. Milione,

Deputy Assistant Administrator.

[FR Doc. 2016–04224 Filed 2–25–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9754]

RIN 1545–BL59

Disclosures of Return Information Reflected on Returns to Officers and Employees of the Department of Commerce for Certain Statistical Purposes and Related Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that authorize the disclosure of certain items of return information to the Bureau of the Census (Bureau) in conformance with section 6103(j)(1) of the Internal Revenue Code (Code). These regulations finalize temporary regulations that were made pursuant to a request from the Secretary of Commerce. These regulations require no action by taxpayers and have no effect on their tax liabilities. Thus, no taxpayers are likely to be affected by the disclosures authorized by this guidance.

DATES: *Effective Date:* These regulations are effective on February 26, 2016.

Applicability Date: For dates of applicability, see § 301.6103(j)(1)–1(e).

FOR FURTHER INFORMATION CONTACT: William Rowe, (202) 317–5093 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to 26 CFR part 301. Section 6103(j)(1)(A) authorizes the Secretary of Treasury to

furnish, upon written request by the Secretary of Commerce, such returns or return information as the Secretary of Treasury may prescribe by regulation to officers and employees of the Bureau for the purpose of, but only to the extent necessary in, the structuring of censuses and conducting related statistical activities authorized by law. Section 301.6103(j)(1)–1 of the existing regulations further defines such purposes by reference to 13 U.S.C. chapter 5 and provides an itemized description of the return information authorized to be disclosed for such purposes.

By letter dated May 10, 2013, the Secretary of Commerce requested that additional items of return information be disclosed to the Bureau for purposes of structuring a census that costs less per housing unit and still maintains high quality results. A major cost in previous decennial censuses was the high number of follow-up, in-person attempts to collect information from housing units that did not return a completed census form. The Bureau intends to conduct research and testing for the next decennial census using administrative data from federal agencies, state agencies, and commercial vendors to determine whether the number of non-response follow-up visits can be reduced through the strategic reuse of this data. Specifically, the Bureau aims to achieve the following research initiatives: (1) Validating and enhancing the Master Address File; (2) Designing and assigning resources to carry out the next decennial census; (3) Un-duplicating public, private, and census lists; and (4) Imputing missing data. All administrative data from the above sources, including return information, will be integrated into the Bureau's data system that is used for the next decennial census and housing counts and will be done in a manner such that the source (for example, commercial vendor, IRS, or Social Security Administration) will not be associated with any data element in the final decennial person-level census records.

On July 15, 2014, a temporary regulation (TD 9677) was published in the **Federal Register** (79 FR 41132). The text of the temporary regulations also serves as the text of proposed regulations set forth in a notice of proposed rulemaking (REG–120756–13) published in the **Federal Register** for the same day (79 FR 41152). No public hearing was requested or held. Two comments responding to the notice of proposed rulemaking were received. After consideration of these comments, the proposed regulations are adopted by this Treasury decision, and the corresponding temporary regulations are removed.

The temporary regulations authorized disclosure of additional items of return information from the Form 1040, ''U.S. Individual Income Tax Return'', and disclosure of items from the Form 1098, ''Mortgage Interest Statement''. Specifically, § 301.6103(j)(1)–1T of the temporary regulations authorizes the disclosure of the following additional items of return information from Forms 1040: (1) Electronic Filing System Indicator; (2) Return Processing Indicator; and (3) Paid Preparer Code. Section 301.6103(j)(1)–1T authorizes the disclosure of the following items of return information from Form 1098: (1) Payee/Payer/Employee Taxpayer Identification Number; (2) Payee/Payer/Employee Name (First, Middle, Last, Suffix); (3) Street Address; (4) City; (5) State; (6) ZIP Code (9 digit); (7) Posting Cycle Week; (8) Posting Cycle Year; and (9) Document Code. These temporary regulations apply to disclosures to the Bureau of the Census made on or after July 15, 2014, and expire on or before July 14, 2017.

Both comments opposed publication of the regulations and questioned the underlying authority for the IRS to disclose federal tax return information. Contrary to the views expressed in these comments, section 6103(j)(1) specifically authorizes the IRS to disclose returns or return information to the Bureau of the Census for the purpose of, but only to the extent necessary in, the structuring of censuses and national economic accounts and conducting related statistical activities authorized by law. The final regulations under § 301.6103(j)(1)–1 are being issued under the authority of section 6103(j)(1). Accordingly, the recommendation of both commentators that the regulations not be published has not been adopted.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f) of the Internal Revenue Code, the Notice of Proposed Rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these final regulations is William Rowe, Office of the Associate Chief Counsel (Procedure & Administration).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 301.6103(j)(1)–1 is amended by adding paragraphs (b)(1)(xviii) through (xx) and (b)(7) and revising paragraph (e) to read as follows:

§ 301.6103(j)(1)–1 Disclosures of return information reflected on returns to officers and employees of the Department of Commerce for certain statistical purposes and related activities.

* * * * *

(b) * * *

(1) * * *

(xviii) Electronic Filing System Indicator.

(xix) Return Processing Indicator.

(xx) Paid Preparer Code.

* * * * *

(7) Officers or employees of the Internal Revenue Service will disclose the following return information reflected on Form 1098 ''Mortgage Interest Statement'' to officers and employees of the Bureau of the Census for purposes of, but only to the extent necessary in, conducting and preparing, as authorized by chapter 5 of title 13, United States Code, demographic statistics programs, censuses, and surveys—

(i) Payee/Payer/Employee Taxpayer Identification Number;

(ii) Payee/Payer/Employee Name (First, Middle, Last, Suffix);

(iii) Street Address;

(iv) City;

(v) State;

(vi) ZIP Code (9 digit);
(vii) Posting Cycle Week;
(viii) Posting Cycle Year; and
(ix) Document Code.

* * * * *

(e) *Effective/applicability date.* Paragraphs (b)(1)(xviii) through (xx) and (b)(7) of this section apply to disclosures to the Bureau of the Census made on or after July 15, 2014. For rules that apply to disclosures to the Bureau of the Census before that date, see 26 CFR 301.6103(j)(1)–1 (revised as of April 1, 2014).

§ 301.6103(j)(1)–1T [Removed]

■ **Par. 3.** Section 301.6103(j)(1)–1T is removed.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: January 22, 2016.

Mark J. Mazur,

Assistant Secretary of the Treasury.

[FR Doc. 2016–04310 Filed 2–24–16; 4:15 pm]

BILLING CODE 4830–01–P

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

32 CFR Part 1704

Mandatory Declassification Review Program

AGENCY: Office of the Director of National Intelligence.

ACTION: Direct final rule with request for comments.

SUMMARY: The Office of the Director of National Intelligence (ODNI) is publishing this direct final rule pursuant to Executive Order 13526, relating to classified national security information. It provides procedures for members of the public to request from ODNI a Mandatory Declassification Review (MDR) of information classified under the provisions of Executive Order 13526 or predecessor orders such that the agency may retrieve it with reasonable effort. This rule also informs requesters where to send requests for an MDR.

DATES: This rule is effective April 26, 2016 without further action, unless adverse comment is received by March 28, 2016. If adverse comment is received, ODNI will publish a timely withdrawal of the rule in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Hudson, 703–874–8085.

SUPPLEMENTARY INFORMATION: It is the policy of the ODNI to act in matters relating to national security information in accordance with Executive Order 13526 and directives issued thereunder by the Information Security Oversight Office (ISOO). The purpose of this rule is to assist in implementing specific sections of Executive Order 13526 concerning the Mandatory Declassification Review (MDR). This is being issued as a direct final rule without prior notice of proposed rulemaking as allowed by the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(A) for rules of agency procedure and interpretation.

Regulatory Impact

This rule is not a significant regulatory action for the purposes of Executive Order 12866. This rule is not a major rule as defined in 5 U.S.C. Chapter 8, Congressional Review of Agency Rulemaking. As required by the Regulatory Flexibility Act, we certify that this rule will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies.

List of Subjects in 32 CFR Part 1704

Declassification, Information, Intelligence, National security information.

■ For the reasons set forth in the preamble, ODNI adds 32 CFR part 1704 to read as follows:

PART 1704—MANDATORY DECLASSIFICATION REVIEW PROGRAM

Sec.

Authority: 50 U.S.C. 3001; E.O. 13526, 75 FR 707, 3 CFR, 2009 Comp, p. 298.

§ 1704.1 Authority and purpose.

(a) *Authority.* This part is issued under the authority of 32 CFR 2001.33; Section 3.5 of Executive Order 13526 (or successor Orders); the National Security Act of 1947, as amended (50 U.S.C. 3001 *et seq.*).

(b) *Purpose.* This part prescribes procedures, subject to limitations set forth below, for requesters to request a mandatory declassification review of information classified under Executive Order 13526 or predecessor or successor orders. Section 3.5 of Executive Order 13526 and these regulations are not intended to and do not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, officers, employees, or agents, or any other person.

§ 1704.2 Definitions.

For purposes of this part:

Control means the authority of the agency that originates information, or its successor in function, to regulate access to the information. (32 CFR 2001.92)

Day means U.S. Federal Government working day, which excludes Saturdays, Sundays, and federal holidays. Three (3) days may be added to any time limit imposed on a requester by this part if responding by U.S. domestic mail; ten (10) days may be added if responding by international mail.

D/IMD means the Director of the Information Management Division and the leader of any successor organization, who serves as the ODNI's manager of the information review and release program.

Federal Agency means any *Executive Agency,* as defined in 5 U.S.C. 105; any *Military department,* as defined in 5 U.S.C. 102; and any other entity within the executive branch that comes into the possession of classified information.

Information means any knowledge that can be communicated or documentary material, regardless of its physical form that is owned by, produced by or for, or under the control of the U.S. Government; it does not include information originated by the incumbent President, White House Staff, appointed committees, commissions or boards, or any entities within the Executive Office that solely advise and assist the incumbent President.

Interested party means any official in the executive, military, congressional, or judicial branches of government, or U.S. Government contractor who, in the sole discretion of the ODNI, has a subject matter or other interest in the documents or information at issue.

NARA means the National Archives and Records Administration.

ODNI means the Office of the Director of National Intelligence.

Order means Executive Order 13526, ''Classified National Security Information'' (December 29, 2009) or successor Orders.

Originating element means the element that created the information at issue.

Presidential libraries means the libraries or collection authorities established under the Presidential Libraries Act (44 U.S.C. 2112) and

similar institutions or authorities as may be established in the future.

Referral means coordination with or transfer of action to an interested party.

Requester means any person or organization submitting an MDR request.

§ 1704.3 Contact information.

For general information on the regulation in this part or to submit a request for a Mandatory Declassification Review (MDR), please direct your communication by mail to the Office of the Director of National Intelligence, Director of the Information Management Division, Washington, DC 20511; by facsimile to (703) 874–8910; or by email to *DNI-FOIA@dni.gov*. For general information on the ODNI MDR program or status information on pending MDR cases, call (703) 874–8500.

§ 1704.4 Suggestions or comments.

The ODNI welcomes suggestions for improving the administration of our MDR program in accordance with Executive Order 13526. Suggestions should identify the specific purpose and the items for consideration. The ODNI will respond to all communications and take such actions as determined feasible and appropriate.

§ 1704.5 Guidance.

Address all communications to the point of contact as specified in § 1704.3. Clearly describe, list, or label said communication as an MDR Request.

§ 1704.6 Exceptions.

MDR requests will not be accepted from a foreign government entity or any representative thereof. MDR requests will not be accepted for documents required to be submitted for pre-publication review or other administrative process pursuant to an approved nondisclosure agreement; for information that is the subject of pending litigation; nor for any document or material containing information contained within an operational file exempted from search and review, publication, and disclosure under the FOIA. If the ODNI has reviewed the requested information for declassification within the past two years, the ODNI will not conduct another review, but the D/IMD will notify the requester of this fact and the prior review decision. Requests will not be accepted from requesters who have outstanding fees for MDR or Freedom of Information Act (FOIA) requests with the ODNI or another federal agency.

§ 1704.7 Requirements.

An MDR request shall describe the document or material containing the information with sufficient specificity to enable the ODNI to locate it with a reasonable amount of effort.

§ 1704.8 Fees.

(a) Requesters making requests directly to the ODNI shall be responsible for paying all fees under this regulation.

(b) Requesters making requests directly to the ODNI shall be responsible for reproduction costs as follows: Fifty cents per photocopied page and $10.00 per CD.

(c) Applicable fees will be due even if the search locates no responsive information or some or all of the responsive information must be withheld under applicable authority.

(1) *Computer searching.* (i) Clerical/Technical—$20.00 per hour (or fraction thereof).

(ii) Professional/Supervisory—$40.00 per hour (or fraction thereof).

(iii) Manager/Senior Professional—$72.00 per hour (or fraction thereof).

(2) *Manual searching.* (i) Clerical/Technical—$20.00 per hour (or fraction thereof).

(ii) Professional/Supervisory—$40.00 per hour (or fraction thereof).

(iii) Manager/Senior Professional—$72.00 per hour (or fraction thereof).

(3) *Document review.* (i) Professional/Supervisory—$40.00 per hour (or fraction thereof).

(ii) Manager/Senior Professional—$72.00 (or fraction thereof).

(iii) ODNI will not charge review fees for time spent resolving general legal or policy issues regarding the responsive information.

(iv) Fees may be paid by a check or money order made payable to the Treasurer of the United States.

§ 1704.9 Determination by originator or interested party.

(a) *In general.* The originating element(s) of the classified information (document) is always an interested party to any mandatory declassification review; other interested parties may become involved through a referral by the D/IMD when it is determined that some or all of the information is also within their official cognizance.

(b) *Required determinations:* These parties shall respond in writing to the D/IMD with a finding as to the classified status of the information, including the category of protected information as set forth in section 1.4 of the Order, and if older than ten years, the basis for the extension of classification time under sections 1.5 and 3.3 of the Order. These parties shall also indicate whether withholding is otherwise authorized and warranted in accordance with sections 3.5(c) and 6.2(d) of the Order.

(c) *Time.* Responses to the requester shall be provided on a first-in/first-out basis, taking into account the business requirements of the originating element(s) and other interested parties, and, in accordance with Executive Order 13526, ODNI will respond to requesters within one year of receipt of requests.

(d) The IMD FOIA Branch Chief, in consultation with the D/IMD and the Classification Management Branch Chief, will ordinarily be the deciding official on initial reviews of MDR requests to the ODNI.

§ 1704.10 Appeals.

(a) *Administrative.* Appeals of initial decisions must be received in writing by the D/IMD within 60 days of the date of mailing of the ODNI's decision. The appeal must identify with specificity the documents or information to be considered on appeal and it may but need not provide a factual or legal basis for the appeal.

(1) *Exceptions.* No appeal shall be accepted from a foreign government entity or any representative thereof. Appeals will not be accepted for documents required to be submitted for pre-publication review or other administrative process pursuant to an approved nondisclosure agreement; for information that is the subject of pending litigation; nor for any document or material containing information contained within an operational file exempted from search and review, publication, and disclosure under the FOIA. No appeals shall be accepted if the requester has outstanding fees for information services at ODNI or another federal agency. In addition, no appeal shall be accepted if the information in question has been the subject of a declassification review within the previous two years.

(2) *Receipt, recording, and tasking.* The D/IMD will record each appeal received under this part and acknowledge receipt to the requester.

(3) *Appellate authority.* The ODNI Chief Management Officer (CMO), after consultation with all interested parties or ODNI component organization as well as with the Office of General Counsel, will make a final determination on the appeal within 60 days.

(b) *Final appeal.* The D/IMD will prepare and communicate the ODNI administrative appeal decision to the requester, NARA, Presidential Library and referring agency, as appropriate. Correspondence will include a notice, if applicable, that a further appeal of ODNI's final decision may be made to the Interagency Security Classification

Appeals Panel (ISCAP) established pursuant to section 5.3 of Executive Order 13526. Action by that Panel will be the subject of rules to be promulgated by the Information Security Oversight Office.

Dated: February 11, 2016.

Mark W. Ewing,

Chief Management Officer.

[FR Doc. 2016–04172 Filed 2–25–16; 8:45 am]

BILLING CODE 9500–01–P–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–0123]

Drawbridge Operation Regulation; Jamaica Bay and Connecting Waterways, Queens, NY

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 Marine Parkway Bridge across the Jamaica Bay, mile 3.0, at Queens, New York. This deviation is necessary to allow the bridge owner to replace the auxiliary clutch shafts at the bridge.

DATES: This deviation is effective from 7 a.m. on March 14, 2016 to 5 p.m. on March 25, 2016.

ADDRESSES: The docket for this deviation, [USCG–2016–0123] 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 Judy Leung-Yee, Project Officer, First Coast Guard District, telephone (212) 514–4330, email *judy.k.leung-yee@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Marine Parkway Bridge, mile 3.0, across the Jamaica Bay, has a vertical clearance in the closed position of 55 feet at mean high water and 59 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.795(a).

The waterway is transited by commercial oil barge traffic of various sizes.

The bridge owner, MTA Bridges and Tunnels, requested a temporary deviation from the normal operating schedule to facilitate auxiliary clutch shafts replacement at the bridge.

Under this temporary deviation, the Marine Parkway Bridge shall remain in the closed position from 7 a.m. on March 14, 2016 to 5 p.m. March 25, 2016.

Vessels able to pass under the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass.

The Coast Guard will inform the users of the waterways through our Local Notice and Broadcast to Mariners of the change in operating schedule for the bridge so that vessel operations 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: February 22, 2016.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2016–04125 Filed 2–25–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2015–0582; FRL–9942–79–Region 7]

Approval of Iowa's Air Quality Implementation Plans; Iowa Plan for the 2008 Lead Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve Iowa's attainment demonstration State Implementation Plan (SIP) for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Council Bluffs, Pottawattamie County, Iowa, received by EPA on February 9, 2015. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act (CAA), and will bring the designated portions of Council Bluffs, Iowa into attainment of the 0.15 microgram per cubic meter ($\mu g/m^3$) lead NAAQS.

DATES: This final rule is effective on March 28, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2015–0582. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically at *www.regulations.gov* and at EPA Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. Please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. For additional information and general guidance, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Stephanie Doolan, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7719, or by email at *doolan.stephanie@epa.gov.*

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

Table of Contents

I. What is being addressed in this document?

In this document, EPA is granting final approval of Iowa's attainment demonstration SIP for the lead NAAQS nonattainment area in portions of Council Bluffs, Pottawattamie County, Iowa. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the CAA identified in EPA's Final Rule (73 FR 66964, October 15, 2008), and will bring the area into attainment of the 0.15 microgram per cubic meter ($\mu g/m^3$) lead NAAQS. EPA's proposal containing the background information for this action can be found at 80 FR 59695 (October 2, 2015).

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

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of the docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. EPA's Response to Comments

The public comment period on EPA's proposed rule opened October 2, 2015, the date of its publication in the **Federal Register**, and closed on November 2, 2015. During this period, EPA received no comments.

IV. What action is EPA taking?

EPA is taking final action to amend the Iowa SIP to approve Iowa's SIP for the Council Bluffs lead NAAQS nonattainment area in Pottawattamie County, Iowa. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 2008 (73 FR 66964).

Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

Statutory and Executive Order Reviews

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

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

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 26, 2016. Filing a petition for reconsideration by the Administrator of this rule does not affect the finality of this rulemaking for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such future rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 17, 2016.

Mark Hague,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart Q—Iowa

■ 2. Section 52.820 is amended by:

■ a. Adding entries (110) and (111) in numerical order to table (d); and

■ b. Adding new entry (42) in numerical order to table (e) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED IOWA SOURCE-SPECIFIC ORDERS/PERMITS

Name of source	Order/Permit No.	State effective date	EPA Approval date	Explanation
*	* * *	*	*	*
(110) Griffin Pipe Products Co., LLC.	Administrative Consent Order No. 2015–AQ–02	1/29/15	2/26/16 *[Insert **Federal Register** citation].*	
(111) Alter Metal Recycling.	Permit No. 14–A–521	9/2/14	2/26/16 *[Insert **Federal Register** citation].*	

(e) * * *

EPA-APPROVED IOWA NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA Approval date	Explanation
*	* * *	*	*	*
(42) Lead attainment SIP	Portions of Pottawattamie County	1/30/15	2/26/16 *[Insert **Federal Register** citation].*	[EPA–R07–OAR–2015–0582; FRL–9942–79–Region 7].

[FR Doc. 2016–04082 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0709; FRL–9941–92]

Trifloxystrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of trifloxystrobin in or on multiple commodities which are identified and discussed later in this document. Bayer CropScience requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 26, 2016. Objections and requests for hearings must be received on or before April 26, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0709, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0709 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before April 26, 2016. Addresses for

mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0709, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of February 11, 2015 (80 FR 7559) (FRL–9921–94), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 4F8288) by Bayer CropScience, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.555 be amended by establishing tolerances for residues of the fungicide trifloxystrobin, benzeneacetic acid, (E, E)-α-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl)phenyl]ethylidene] amino]oxy]methyl]-, methyl ester, and the free form of its acid metabolite CGA-321113, (E,E)-methoxyimino-[2-[1-(3-trifluoromethyl-phenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid, calculated as the stoichiometric equivalent of trifloxystrobin, in or on leafy greens (crop subgroup 4A) at 30 parts per million (ppm); herb (crop subgroup 19A) at 200 ppm; spice (crop subgroup 19B), except black pepper) at 30 ppm; head and stem brassica (crop subgroup 5A) at 2 ppm; leafy brassica greens (crop subgroup 5B) at 30 ppm; tuberous and corm vegetables (crop subgroup 1C) at 0.04 ppm; small fruit vine climbing (except fuzzy kiwifruit) (crop subgroup 13–07F) at 2.0 ppm; and low growing berry (crop subgroup 13–07G) at 1.5 ppm. Bayer CropScience, also requested that the existing tolerance for leafy petioles (subgroup 4B) be amended from 3.5 ppm to 9 ppm. That document referenced a summary of the petition prepared by Bayer CropScience, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has modified the commodity terms for several tolerances to reflect the correct commodity definition. The reason for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for trifloxystrobin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with trifloxystrobin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Trifloxystrobin exhibits very low toxicity following single oral, dermal and inhalation exposures. It is a strong dermal sensitizer and a mild dermal and eye irritant. In repeated dose tests in rats, the liver is the target organ for trifloxystrobin; toxicity is induced following oral and dermal exposure for 28 days. Liver effects characterized by an increase in liver weights and an increased incidence of hepatocellular hypertrophy and/or hepatocellular necrosis were seen in rats, mice, and dogs. There is no concern for neurotoxicity or immunotoxicity in the database. In the rabbit developmental toxicity study, an increase in the incidence of fused sternabrae was seen at a dose 10 times higher than the maternal lowest observed adverse effect level (LOAEL). In the rat reproduction study, both parents and offspring showed decreases in body weight during lactation. The rat and rabbit developmental and the rat reproduction toxicity data do not demonstrate an increase in susceptibility in the fetus or other offspring. Trifloxystrobin is classified as: ''Not likely to be Carcinogenic to Humans'' based on both the negative results in the battery of mutagenicity tests (except at a cytoxic dose in one *in vitro* test), and from the long-term carcinogenicity studies in rats and mice. Specific information on the studies received and the nature of the adverse effects caused by trifloxystrobin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in the document ''Trifloxystrobin. Aggregate Human Health Risk Assessment for the Proposed New Uses on Leafy Greens (Crop Subgroup 4A), Head and Stem *Brassica* Vegetables (Crop Subgroup 5A), Leafy *Brassica* Greens (Crop Subgroup 5B), Herbs (Crop Group 19A), and Spices, Except Black Pepper (Crop Subgroup 19B); to Amend the Current Tolerance on Leafy Petioles (Crop Subgroup 4B); and to Convert the Potato Tolerance to the Tuberous and Corm Vegetables Subgroup (Crop Subgroup 1C), Convert the Grape Tolerance to the Small Fruit Vine Climbing (Subgroup 13–07F), and Convert the Strawberry Tolerance to the Low Growing Berries (Subgroup 13–07G).,'' dated December 1, 2015.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/assessing-human-health-risk-pesticides.*

A summary of the toxicological endpoints for trifloxystrobin used for human risk assessment is discussed in Unit III B of the final rule published in the **Federal Register** of June 11, 2010. However, subsequent to that **Federal Register** publication, EPA reassessed the liver effects seen in the 28-day dermal toxicity study according to current policy, and determined that since these effects should not be considered adverse, no toxicity endpoint was identified. The NOAEL for the 28-day dermal study was set at 1,000 mg/kg/ day and the LOAEL was not established. Therefore, the endpoints assessed as part of this action exclude the endpoint for dermal exposure identified in the table published in the above-referenced **Federal Register** on June 11, 2010.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to trifloxystrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing trifloxystrobin tolerances in 40 CFR 180.555. EPA assessed dietary exposures from trifloxystrobin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for trifloxystrobin. In estimating acute dietary exposure EPA conducted an analysis using the Dietary Exposure Evaluation Model (DEEM–FCID) Version 3.16. This model uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). An acute dietary assessment was conducted assuming tolerance level residues and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the Dietary Exposure Evaluation Model (DEEM–FCID) Version 3.16. This model uses 2003–2008 food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed 100% crop treated, tolerance level residues, anticipated residues for some crops, and default processing factors.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that trifloxystrobin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for trifloxystrobin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of trifloxystrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/about-water-exposure-models-used-pesticide.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM GW) models, the estimated drinking water concentrations (EDWCs) of trifloxystrobin and its major degradation product for acute exposures are estimated to be 29 parts per billion (ppb) for surface water, and 427 ppb for ground water. For chronic non-cancer exposure assessments, EDWCs are estimated to be 23 ppb for surface water and 365 ppb for ground water. Modeled estimates of drinking water concentrations were directly entered into the acute (427 ppb) and chronic (365 ppb) dietary assessments in the Dietary Exposure Evaluation Model—Food Commodity Intake Database (DEEM–FCID) food categories of ''water, direct, all sources'' and ''water, indirect, all sources.''

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Trifloxystrobin is currently registered for the following uses that could result in residential exposures: Ornamental plants and turfgrass. EPA assessed residential exposure from relevant registered trifloxystrobin products using the Agency's 2012 Residential Standard Operating Procedures (SOPs) along with updates in dermal risk assessment hazard and policy regarding body weight in addition to the following assumptions:

i. *Residential handler exposures.* Residential handler exposure is expected to be short-term only. Intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners. Dermal handler exposures were not assessed since no adverse systemic dermal hazard was identified for trifloxystrobin.

ii. *Residential post-application exposures.* Because dermal hazard has not been identified for trifloxystrobin, a quantitative post-application assessment for dermal exposure is not necessary and the only exposure scenarios quantitatively assessed are for children

1 to <2 years old who may experience short-term incidental oral exposure to trifloxystrobin from treated turf. Incidental oral granule ingestion is not applicable because there is no endpoint identified for the acute dietary duration for infants and children. Intermediate-term incidental oral post-application exposures are not expected because trifloxystrobin is not persistent in soil or water; furthermore, the short-term incidental oral risk estimates would be protective of the possible intermediate-term incidental oral exposures because the POD for both durations is the same. Post-application inhalation exposure is expected to be negligible for the proposed residential uses.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found trifloxystrobin to share a common mechanism of toxicity with any other substances, and trifloxystrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that trifloxystrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www2.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no indication of increased quantitative or qualitative susceptibility to trifloxystrobin in rats or rabbits. In the prenatal developmental study in rats, there was no developmental toxicity at and up to the limit dose. In the prenatal developmental study in rabbits, developmental toxicity was seen at a dose that was higher than the dose causing maternal toxicity. In the multigeneration study, offspring and parental LOAELs are at the same dose level.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for trifloxystrobin is complete.

ii. There is no indication that trifloxystrobin is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that trifloxystrobin results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The exposure databases are complete or are estimated based on data that reasonably account for potential exposures. The exposure assessments will not underestimate the potential dietary (food and drinking water) or non-dietary exposures for infants and children from the use of trifloxystrobin. The acute and chronic dietary food exposure assessment was conservatively based on 100 PCT assumptions and conservative ground water drinking water modeling estimates. The dietary drinking water assessment utilizes water concentration values generated by models and associated modeling parameters which are designed to provide conservative, health protective, high-end estimates of water concentrations, and are not likely to be exceeded. In addition, the residential post-application assessment is based upon the residential SOPs employing surrogate study data and reasonable ''worst-case'' assumptions. These data and assessments are reliable and are not expected to underestimate exposure and risk posed by trifloxystrobin to adults or children as well as incidental oral exposure of young children (1–2 years old).

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to trifloxystrobin will occupy 3.1% of the aPAD for females 13–49 years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to trifloxystrobin from food and water will utilize 71% of the cPAD for infants (<1 year old), the population group receiving the greatest exposure.

Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of trifloxystrobin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Trifloxystrobin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to trifloxystrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 300 for adults and 120 for children 1 to < 2 years old. Because EPA's level of concern for trifloxystrobin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic

exposure to food and water (considered to be a background exposure level). Although the Agency identified an intermediate-term endpoint, the Agency does not expect trifloxystrobin to result in intermediate-term residential exposure, due to the intermittent nature of homeowner applications and its short soil half-life (about 2 days). Therefore, the Agency relies on the chronic risk assessment to account for intermediate-term risk and concludes that trifloxystrobin does not pose an intermediate-term aggregate risk.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, trifloxystrobin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to trifloxystrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas chromatography with nitrogen phosphorus detection (GC/NPD), Method AG–659A) is available to enforce the tolerance expression for the combined residues of trifloxystrobin and CGA–321113 in plant and livestock commodities. The lowest level of method validation (LLMV) is equivalent to the limit of quantitation (LOQ) which was 0.010 ppm for each analyte in/on all matrices.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established MRLs for trifloxystrobin in or on lettuce, head at 15 ppm; celery at 1 ppm; brussel sprouts at 0.1 ppm; cabbage at 0.5 ppm; flower head *Brassicas* (includes broccoli; broccoli, Chinese; and cauliflower) at 0.5 ppm; potato at 0.2 ppm; grape at 3 ppm; and strawberry at 1 ppm. These MRLs are different than the tolerances established for trifloxystrobin in the United States.

These tolerances, with exception to grape and potato, cannot be harmonized with the Codex MRLs because the MRLs for those commodities are expressed in terms of trifloxystrobin (parent only) while U.S. tolerances are based on the combined residues of trifloxystrobin and its acid metabolite CGA–321113, expressed in parent equivalents. Therefore, harmonization is not possible for these commodities as the Codex MRLs are too low based on the U.S. residue definition for tolerance enforcement. For grape and potato, the U.S. is establishing MRLs for the requested representative crop groups; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F and vegetable, tuberous and corm, subgroup 1C. These MRLs will be lower than Codex, but identical to Canadian MRLs (for grape and potato). This will permit harmonization with the existing Canadian MRLs as requested by the petitioner and facilitate trade with Canada.

C. Revisions to Petitioned-For Tolerances

The Agency is revising the commodity terms for the requested tolerances to reflect the common commodity vocabulary currently used by the Agency. Specifically, head and stem *Brassica* subgroup 5A was changed to *Brassica,* head and stem, subgroup 5A; leafy *Brassica* subgroup 5B was changed to *Brassica,* leafy greens, subgroup 5B; tuberous and corm vegetable subgroup 1C was changed to vegetable, tuberous and corm, subgroup 1C. small fruit vine climbing subgroup (except fuzzy kiwifruit), subgroup 13–07F was changed to fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F and low growing berry, subgroup 13–07G was changed to berry, low growing, subgroup 13–07G. Bayer requested a tolerance for spice (crop subgroup 19B), except black pepper. As black pepper is the representative commodity for spice subgroup 19B, it may not be excepted from a tolerance. 40 CFR 180.40(h). Without sufficient data to establish the subgroup tolerance, the Agency is establishing an individual tolerance for the crop for which data was submitted—dill, seed.

V. Conclusion

Therefore, tolerances are established for residues of trifloxystrobin, benzeneacetic acid, (E,E)-α-(methoxyimino)-2-[[[[1-[3-(trifluoromethyl) phenyl]ethylidene] amino]oxy]methyl]-, methyl ester, and the free form of its acid metabolite CGA–321113, (E,E)-methoxyimino-[2-[1-(3-trifluoromethyl-phenyl)-ethylideneaminooxymethyl]-phenyl]acetic acid, calculated as the stoichiometric equivalent of trifloxystrobin, in or on *Brassica,* head and stem, subgroup 5A at 2 ppm; *Brassica,* leafy greens, subgroup 5B at 30 ppm; herb subgroup 19A at 200 ppm; dill, seed at 30 ppm; vegetable, tuberous and corm, subgroup 1C at 0.04 ppm; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 2.0 ppm; berry, low growing, subgroup 13–07G at 1.5 ppm; and leaf petioles, subgroup 4A at 30 ppm.

The existing tolerance for leaf petioles subgroup 4B, is amended from 3.5 ppm to 9 ppm based on new celery residue data at zero day (pre-harvest interval) PHI. The existing tolerance for potato at 0.04 ppm is being removed because it is included with the new tolerance being established for tuberous and corm vegetables (crop subgroup 1C) at 0.04 ppm. Similarly, the current tolerances for grape at 2.0 ppm and strawberry at 1.1 ppm are being removed as they are included in the new tolerances for the small fruit vine climbing (subgroup 13–07F) at 2.0 ppm, and low growing berries (subgroup 13–07G) at 1.5 ppm, respectively.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of

Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 11, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.555, is amended:

■ a. By alphabetically adding the commodities to the table in paragraph (a);

■ b. By removing ''Grape'', ''Potato'', and ''Strawberry'' from the table in paragraph (a);

■ c. By revising ''Leaf petioles subgroup 4B'' in the table in paragraph (a).

The additions and revision read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * * * *	
Berry, low growing subgroup 13–07G	1.5
Brassica, head and stem, subgroup 5A	2.0
Brassica, leafy greens, subgroup 5B	30
* * * * * * *	
Dill, seed	30
* * * * * * *	
Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F	2.0
* * * * * * *	
Herbs, subgroup 19A	200
* * * * * * *	
Leaf petioles subgroup 4B	9.0
Leafy greens, subgroup 4A	30
* * * * * * *	
Vegetable, tuberous and corm, subgroup 1C	0.04
* * * * * * *	

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[FR Doc. 2016–04070 Filed 2–25–16; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0249; FRL–9942–43]

D-Glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives (CAS Reg. No. 1591782–62–5) when used as an inert ingredient (surfactant) applied to growing crops and raw agricultural commodities after harvest at a concentration not to exceed 40% by weight under 40 CFR 180.910. Keller & Heckman LLP on behalf of the Clariant Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives.

DATES: This regulation is effective February 26, 2016. Objections and requests for hearings must be received on or before April 26, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0249, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0249 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before April 26, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0249, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Petition for Exemption

In the **Federal Register** of August 26, 2015 (80 FR 51762) (FRL–9931–74), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10792) by Keller & Heckman LLP (1001 G Street NW., Suite 500 West, Washington, DC 20001), on behalf of the Clariant Corporation (4000 Monroe Road, Charlotte, NC 28205). The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives (CAS Reg. No. 1591782–62–5) when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops and raw agricultural commodities at a concentration in formulations not to exceed 40% by weight. That document referenced a summary of the petition prepared by Keller & Heckman on behalf of the Clariant Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and

hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

D-Glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives exhibits low acute toxicity. The oral lethal dose $(LD)_{50}$ in the rat is 500 milligram/kilogram (mg/kg) and above. The dermal LD_{50} in rats and rabbits was determined to be >2,000 mg/kg. The inhalation lethal concentration $(LC)_{50}$ value for Wistar rats is greater than 1 milligram per Liter (mg/L). A primary skin irritation test with the rabbit indicates it is not irritating to rabbit's skin. An eye irritation test with New Zealand white rabbits indicates it to be moderately irritating. Two skin sensitization tests with Hartley guinea pigs show it is not a sensitizer to the guinea pig.

A 28-day repeat dose oral toxicity study was conducted with Wistar rats. In this study, rats were treated via gavage with D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives at doses up to 500 milligram/kilogram/day (mg/kg/day). At the 500 mg/kg/day dose, mortality was observed as well as toxicity reflected as microscopic findings in the GI tract, trachea, lung, spleen and bone marrow. The NOAEL was 250 mg/kg/day.

In a reproduction/developmental toxicity screening test, rats were dosed for 54 days with D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives at doses up to 312.5 mg/kg/day. Neither parental, developmental nor reproduction toxicity was observed at 312.5 mg/kg/day, the highest dose tested (HDT).

A gene reverse mutation study with *Salmonella,* an *in vitro* mammalian cell gene mutation study with Chinese hamster V 79 cells, a mammalian micronucleus mutagenicity test of micronuclei in polychromatic erythrocytes in the mouse bone marrow, a mammalian micronucleus test with murine peripheral blood cells, a mutagenesis assay using L5178Y TK+/- mouse lymphoma cells, an *in vivo* rat bone marrow cytogenicity study all were negative for mutagenic and clastogenic effects.

There were no neurotoxicity data *per se* however there were no indications of neurotoxic effects in the functional observation battery in the 28-day oral toxicity study in the rat. In addition, the DEREK predictive modeling system did not identify any alerts for potential neurotoxicity.

There were no data regarding immunotoxicity. However evidence of potential immunotoxicity was observed in the 28-day oral toxicity study in the rat. In this study, atrophy is seen in the spleen and bone marrow at 500 mg/kg/day. These effects will be protected since the established chronic reference dose (cRfD) is 1.04 mg/kg/day.

There were no study data presented specifically addressing metabolism. Modeling data using the DEREK (Nexus) and METEOR modeling systems indicate 80% absorption via the gastrointestinal system and less than 1% via dermal absorption. The major route of excretion is via the urine.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the LOAEL are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold

risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

An acute effect was not found in the database therefore an acute dietary assessment is not necessary. The reproduction/developmental toxicity screening study in the rat was selected for the toxicological endpoint for use in the chronic dietary risk assessment. In this study, no effects are observed up to 312.5 mg/kg/day. The standard uncertainty factors (100X) are applied for intra-and interspecies variation and an additional uncertainty factor (3X) is applied to account for extrapolation from subchronic to chronic exposures. EPA identified the uncertainty factor of 3X as protective rather than 10X is because there was no toxicity observed at doses up to 312.5 mg/kg/day in an Organization for Economic Cooperation and Development (OECD) 422 study. Dermal and inhalation absorption are assumed to be 100%. For all short- and intermediate-term residential risk assessments, the toxicological endpoint selected for use in the assessment is taken from the reproduction/developmental toxicity screening study in the rat. In this study, no effects are observed up to 312.5 mg/kg/day. The level of concern for residential risk assessments is for MOEs of less than 300.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives, in food as follows: Dietary exposure (food and drinking water) to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives can occur following ingestion of foods with residues from treated crops. An acute dietary risk assessment was not conducted because no endpoint of concern following a single exposure was identified in the available studies. A chronic dietary exposure assessment was completed and performed using the Dietary Exposure Evaluation Model DEEM–FCID™, Version 3.16, which includes food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, ''What We Eat In America'', (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. In the absence of actual residue data, the inert ingredient evaluation is based on a highly conservative model that assumes that the residue level of the inert ingredient would be no higher than the highest established tolerance for an active ingredient on a given commodity. Implicit in this assumption is that there would be similar rates of degradation between the active and inert ingredient (if any) and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient. The model assumes 100 percent crop treated (PCT) for all crops and that every food eaten by a person each day has tolerance-level residues. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives, a conservative drinking water concentration value of 100 parts per billion (ppb) based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

D-Glucitol, 1-deoxy-1-(methylamino)-, N–C_{8-10} derivatives may be used in inert ingredients in products that are registered for specific uses that may result in residential exposure, such as pesticides used in and around the home. The Agency conducted an assessment to represent worst-case residential exposure by assessing D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} derivatives in pesticide formulations (outdoor scenarios) and in disinfectant-type uses (indoor scenarios).

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives to share a common mechanism of toxicity with any other substances, and D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence of increased susceptibility in the OECD 422 study based on lack of systemic toxicity in the maternal animals and offspring at doses up to 312.5 mg/kg/day; the HDT.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 3X. That decision is based on the following findings:

i. The toxicity database for D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives contains the following studies that are adequate to evaluate the potential toxicity of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives for infants and children: The database contains a 28-day repeat dose oral toxicity study, a reproduction/developmental toxicity screening study and several mutagenicity studies.

ii. There were no neurotoxicity data *per se* however there were no indications of neurotoxic effects in the functional observation battery in the 28-day oral toxicity study in the rat.

iii. There were no data regarding immunotoxicity. However evidence of potential immunotoxicity was observed in the 28-day oral toxicity study in the rat. In this study, atrophy is seen in the spleen and bone marrow at 500 mg/kg/day. These effects will be protected since the established cRfD is 1.04 mg/kg/day.

iv. There was no evidence of increased susceptibility of infants and children in the OECD 422 study.

v. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 percent crop treated (PCT) and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives

E. Aggregate Risks and Determination of Safety

Determination of safety section. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives from food and water will utilize 54.4% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives may be used as inert ingredients in pesticide products that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives. Using the exposure assumptions described above, EPA has concluded that the combined short-term aggregated food, water, and residential exposures result in MOEs of 490 for both adult males and females respectively. Adult residential exposure combines high-end dermal and inhalation handler exposure from indoor hard surface, mopping, wiping and trigger-pump spray. As the level of concern is for MOEs that are lower than 300, this MOE is not of concern. EPA has concluded the combined short-term aggregated food, water, and residential exposures result in an aggregate MOE of 420 for children As the level of concern is for MOEs that are lower than 300, this MOE is not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). D-Glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives may be used as inert ingredients in pesticide products that could result in intermediate -term residential exposure and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential exposures to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives. Using the exposure assumptions described above, EPA has concluded that the combined intermediate-term aggregated food, water, and residential exposures result in aggregate MOEs of 490 for adult males and females. Adult residential exposure combines indoor hard surface, wiping with a high end post application dermal exposure from contact with treated lawns. As the level of concern is for MOEs that are lower than 300, this MOE is not of concern. EPA has concluded the combined intermediate-term aggregated food, water, and residential exposures result in an aggregate MOE of 420 for children. Children's residential exposure includes total exposures associated with contact with treated surfaces (dermal and hand-to-mouth exposures). As the level of concern is for MOEs that are lower than 300, this MOE is not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on a DEREK structural alert analysis and the lack of mutagenicity, D-Glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives residues.

V. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives in or on any food commodities. EPA is establishing a limitation on the amount of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives that may be used in pesticide formulations applied to growing crops. That limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for use on growing crops for sale or distribution that exceed 40% of D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for D-glucitol, 1-deoxy-1-(methylamino)-, N-C_{8-10} acyl derivatives when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops

and raw agricultural commodities at a concentration not to exceed 40% by weight.

VII. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 18, 2016.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.910 add alphabetically the following inert ingredient to the table to read as follows:

§ 180.910 Inert Ingredients use pre- and post-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* *	* *
D-Glucitol, 1-deoxy-1-(methyl-amino)-, N-C_{8-10} acyl derivatives (CAS Reg. No. 1591782–62–5).	Not more than 40% by weight in pesticide formulation.	Surfactant
* * *	* *	* *

[FR Doc. 2016–04071 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 232, 243, and Appendix F to Chapter 2

[Docket DARS–2015–0025]

RIN 0750–AI54

Defense Federal Acquisition Regulation Supplement: Uniform Procurement Identification (DFARS Case 2015–D011)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to conform with the uniform procurement identification procedures implemented in the Federal Acquisition Regulation (FAR).

DATES: *Effective Date:* February 26, 2016.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, telephone 571–372–6100.

SUPPLEMENTARY INFORMATION:

I. Background

DoD published a proposed rule in the **Federal Register** at 80 FR 30030 on May 26, 2015, to amend the DFARS to conform with the uniform procurement identification procedures implemented in the FAR through final rule 2012–023 (79 FR 61739, published October 14, 2014, became effective November 13, 2014). The final FAR rule implemented a uniform procurement instrument identification system for various procurement transactions across the Federal Government. DFARS coverage of uniform procurement instrument identification must be synchronized with the FAR coverage so that the identification numbers of DoD-issued contracts, orders, and other procurement instruments will comply with FAR subpart 4.16 as amended by final FAR rule 2012–023. Three respondents submitted public comments in response to the proposed rule.

II. Discussion and Analysis

DoD reviewed the public comments in the development of the final rule. A discussion of the comments and the significant changes made to the rule as a result of those comments is provided as follows:

A. Summary of Significant Changes

This final rule makes the following significant changes from the proposed rule:

- DFARS 204.1601(b)—The date of October 1, 2015, which was the date DoD Components were encouraged to start implementation, has been removed since that date has passed.
- DFARS 204.1603(a)(3)—Clarifies use of the letters C, H, M, and T in the ninth position of a procurement instrument identifier (PIID).
- DFARS 232.905(b)(1)(iii)—Clarifies that basic contract or ordering agreement numbers may be included on invoices and receiving reports in addition to the task order or delivery order numbers.

B. Analysis of Public Comments

1. General

a. Consistency With the FAR

Comment: One respondent requested assurance that the rule is consistent with the FAR due to uncertainty regarding how uniform procurement identification is being implemented.

Response: The implementation of uniform procurement identification in the DFARS is consistent with the FAR. The amendments to the DFARS accomplish the following: (1) Removal of the language that is duplicative of FAR language; (2) relocation of the remaining, nonduplicative DFARS language to subpart 204.16 to align with FAR subpart 4.16; (3) establishment of a timeline for implementation within DoD of the changes now required by the FAR; (4)confirmation that DoD will continue to use PIIDs that are 13 characters in length; and (5) revision of procedures for payment documentation and Wide Area WorkFlow (WAWF) to implement the FAR changes to task order and delivery order PIIDs.

b. Request for Meeting With Industry

Comment: One respondent requested that DoD hold a meeting with industry to ensure the concerns of industry have been considered and addressed before the rule takes effect.

Response: FAR final rule 2012–023, containing the uniform PIID requirements, was published in October 2014, and the few public comments received were addressed at that time. The DFARS final rule does not change any of the FAR requirements. Therefore, a public meeting is deemed to be unnecessary.

2. Implementation

a. Timing of Implementation

Comment: One respondent asked that the uniform PIID changes not take effect before contract writing, invoicing, and other systems are modified to accommodate the changes.

Response: Each DoD Component is scheduling its implementation in order to complete the transition by the beginning of fiscal year 2017. The enterprise Procurement Desktop Defense (PD2) contract writing system (also known as the Standard Procurement System, or SPS) and WAWF have been tested before fielding the changes. The WAWF Invoices Receipt Acceptance and Property Transfer (iRAPT) Electronic Data Interchange and File Transfer Protocol Implementation Guides have been updated.

b. Impact on Industry Systems

Comment: One respondent commented that there is uncertainty regarding how the uniform PIID changes will impact industry systems and the resources required to insert the new data constructs. Another respondent commented that industry will need to modify existing systems integrating with WAWF.

Response: Implementation of the FAR uniform PIID requirements in the DFARS is designed to limit the number of changes necessary to systems. At this time, the changes are essentially limited to the structure of task order and delivery order numbers issued under DoD ordering instruments, as well as modifications to these orders. However, these changes are consistent with the way task order and delivery order numbers issued under non-DoD ordering instruments have been constructed for many years. The anticipated impact to industry systems is as limited as possible with this implementation strategy.

c. Sufficient Time for Industry Implementation

Comment: Two respondents commented that industry must be allowed sufficient time to adequately implement the changes, including time to modify and test applicable systems. One respondent also commented that the short transition schedule will require double entry of data in industry systems and WAWF until the changes can be implemented.

Response: The FAR final rule containing the uniform PIID requirements became effective November 13, 2014. Each DoD Component is scheduling its implementation in order to transition by

the beginning of fiscal year 2017. For DoD, the rule primarily affects the structure of task and delivery order numbers issued under DoD ordering instruments, as well as modifications to those orders. Implementation of the uniform PIID requirements will not require double entry of data in WAWF. If a task order or delivery order is issued prior to the transition to the new PIID numbering requirements, invoices will be submitted as they are today for orders placed under DoD ordering instruments. If a task order or delivery order is issued after the transition, invoices will be submitted in accordance with the changes specified in this DFARS final rule, which is the same process currently followed for invoices for task orders and delivery orders issued under non-DoD ordering instruments (*e.g.,* Federal Supply Schedules).

3. System Issues

a. Contracts Issued in 2015 or Earlier

Comment: One respondent stated that it is unclear how the requirements of the rule will work with contracts issued in 2015 or earlier that were not numbered in accordance with the uniform PIID requirements.

Response: The DFARS changes are intended to apply prospectively. Therefore, existing contract numbers are not required to be updated, although this is not prohibited if the DoD Component chooses to do so. The DFARS changes address this possibility at 204.1601(c). Order numbers for task orders and delivery orders already issued under DoD indefinite-delivery contracts and ordering agreements are not required to be changed, and modifications to these orders may continue to use two-character modification numbers. However, new orders issued after the transition to the new numbering structure must be numbered in accordance with the uniform PIID requirements; likewise, modifications to new orders also must use the new numbering structure.

b. Identification of Basic Contract or Agreement on Invoice and Receiving Reports

Comment: Two respondents expressed concern about the omission of basic contract and ordering agreement numbers from invoices for task orders and delivery orders, which would eliminate the linkage between the contract or agreement and its orders. This would make those orders more difficult to close out. Both respondents proposed language to allow contractors to include the basic contract and ordering agreement numbers on the invoices.

Response: Invoices for task orders and delivery orders numbered in accordance with the uniform PIID requirements will be directly traceable to the orders and to the basic contract or ordering agreement. The order itself contains the order's PIID as well as the PIID for the contract or agreement under which it was placed. Additionally, WAWF iRAPT will implement a change proposal in the spring of 2016 that will enable improved search capabilities.

Regarding the proposed language to allow contractors to include the basic contract and ordering agreement numbers on invoices, DoD concurs and has incorporated this language into the final rule.

c. Traceability of Purchase Orders in Systems

Comment: One respondent identified an issue with the uniform PIID requirements that results in loss of the capability to search by purchase order identifier, which will inhibit traceability. The respondent also referenced a future release of WAWF iRAPT that would correct the issue.

Response: Concur that WAWF iRAPT release 5.9, scheduled to be implemented in the spring of 2016, will correct the search capability issue. This will mitigate the traceability concern.

d. Identification of Hybrid Contracts

Comment: One respondent commented that, although current DFARS text prohibits the use of the letter C in the ninth position of a PIID for contracts that include both definite and indefinite delivery requirements, the proposed DFARS changes do not continue this prohibition. The proposed DFARS changes would allow orders to be placed under a ''C'' type contract. The respondent asked if this shift from existing DoD policy was intentional.

Response: There is no shift in policy. The DFARS final rule includes clarifying language at DFARS 204.1603(a)(3)(C) to prohibit use of the letter C or H designators for contracts or agreements that include provisions for orders or calls.

e. Inclusion of Clauses in Task or Delivery Orders

Comment: One respondent recommended that all contract clauses from the basic contract or ordering agreement be included in each task or delivery order.

Response: This comment is outside the scope of the rule.

C. Other Changes

The final rule includes some minor editorial changes for clarity and consistency in the rule text.

- The examples of proper supplementary PIID numbering, previously located under DFARS 204.1603 are moved to DFARS PGI.
- The proposed rule deleted the text at DFARS 239.7407. This text is not deleted in the final rule.
- A cross reference to relocated text is updated at DFARS 243.172.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* and is summarized as follows:

This final rule amends the Defense Federal Acquisition Regulation Supplement (DFARS) to conform with the uniform procurement instrument identification procedures implemented in the Federal Acquisition Regulation (FAR). The amendments to the DFARS accomplish the following: (1) Removal of the language that is duplicative of FAR language; (2) relocation of the remaining, nonduplicative DFARS language to subpart 204.16 to align with FAR subpart 4.16; (3) establishment of a timeline for implementation within DoD of the changes now required by the FAR; (4)confirmation that DoD will continue to use procurement instrument identifiers (PIIDs) that are 13 characters in length; and (5) revision of procedures for payment documentation and Wide Area WorkFlow (WAWF) to implement the FAR changes to task order and delivery order PIIDs.

There were no significant issues raised by the public in response to the initial regulatory flexibility analysis provided in the proposed rule.

This rule is not expected to have a significant impact on a substantial number of small entities. The primary changes that will impact DoD contractors from this final DFARS rule are essentially limited to the structure of task and delivery order numbers issued under DoD ordering instruments, as well as modifications to these orders.

This rule does not add any new information collection, reporting, or recording keeping requirements. The existing recordkeeping requirements are limited to properly recording contract and other procurement instrument identification numbers and inserting them into documents (*e.g.,* invoices) as required under Government contracts. Preparation of these records requires clerical and analytical skills to create the documents and input them into the appropriate electronic systems.

No alternatives were determined to be available that will accomplish the objectives of the rule.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0248 entitled ''Material Inspection and Receiving Report.''

List of Subjects in 48 CFR Parts 204, 232, 243, and Appendix F to Chapter 2

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 232, 243, and appendix F to chapter 2 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 232, 243, and appendix F to chapter 2 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

■ 2. Add subpart 204.16 to read as follows:

Subpart 204.16—Uniform Procurement Instrument Identifiers

Sec.
204.1601 Policy.
204.1603 Procedures.
204.1670 Cross reference to Federal Procurement Data System.
204.1671 Order of application for modifications.

Subpart 204.16—Uniform Procurement Instrument Identifiers

204.1601 Policy.

(a) *Establishment of a Procurement Instrument Identifier (PIID).* Do not reuse a PIID once it has been assigned. Do not assign the same PIID to more than one task or delivery order, even if they are issued under different base contracts or agreements.

(b) *Transition of PIID numbering.* Effective October 1, 2016, all DoD components shall comply with the PIID numbering requirements of FAR subpart 4.16 and this subpart for all new solicitations, contracts, orders, and agreements issued, and any amendments and modifications to those new actions. See also PGI 204.1601(b).

(c) *Change in the PIID after its assignment.* When a PIID is changed after contract award, the new PIID is known as a continued contract.

(i) A continued contract—

(A) Does not constitute a new procurement;

(B) Incorporates all prices, terms, and conditions of the predecessor contract effective at the time of issuance of the continued contract;

(C) Operates as a separate contract independent of the predecessor contract once issued; and

(D) Shall not be used to evade competition requirements, expand the scope of work, or extend the period of performance beyond that of the predecessor contract.

(ii) When issuing a continued contract, the contracting officer shall—

(A) Issue an administrative modification to the predecessor contract to clearly state that—

(*1*) Any future awards provided for under the terms of the predecessor contract (*e.g.,* issuance of orders or exercise of options) will be accomplished under the continued contract; and

(*2*) Supplies and services already acquired under the predecessor contract shall remain solely under that contract for purposes of Government inspection, acceptance, payment, and closeout; and

(B) Follow the procedures at PGI 204.1601(c).

204.1603 Procedures.

(a) *Elements of a PIID.* DoD-issued PIIDs are thirteen characters in length. Use only alpha-numeric characters, as prescribed in FAR 4.1603 and this subpart. Do not use the letter I or O in any part of the PIID.

(3) *Position 9.*

(A) DoD will use three of the letters reserved for departmental or agency use in FAR 4.1603(a)(3) in this position as follows:

(*1*) Use M to identify purchase orders and task or delivery orders issued by the enterprise FedMall system.

(*2*) Use S to identify broad agency announcements.

(*3*) Use T to identify automated requests for quotations by authorized legacy contract writing systems. See PGI 204.1603(a)(3)(A)(*3*) for the list of authorized systems.

(B) Do not use other letters identified in FAR 4.1603(a)(3) as ''Reserved for future Federal Governmentwide use'' or ''Reserved for departmental or agency use'' in position 9 of the PIID.

(C) Do not use the letter C or H for contracts or agreements with provisions for orders or calls.

(4) *Positions 10 through 17.* In accordance with FAR 4.1603(a)(4), DoD-issued PIIDs shall only use positions 10 through 13 to complete the PIID. Enter the serial number of the instrument in these positions. A separate series of serial numbers may be used for any type of instrument listed in FAR 4.1603(a)(3). DoD components assign such series of PIID numbers sequentially. A DoD component may reserve blocks of numbers or alpha-numeric numbers for use by its various activities.

(b) *Elements of a supplementary PIID.* In addition to the supplementary PIID numbering procedures in FAR 4.1603(b), follow the procedures contained in paragraphs (b)(2)(ii)(*1*) and (*2*) of this section. See PGI 204.1603(b) for examples of proper supplementary PIID numbering.

(2)(ii) *Positions 2 through 6.* In accordance with FAR 4.1603(b)(2)(ii), DoD-issued supplementary PIIDs shall, for positions 2 through 6 of modifications to contracts and agreements, comply with the following:

(*1*) *Positions 2 and 3.* These two digits may be either alpha or numeric characters, except—

(*i*) Use K, L, M, N, P, and Q only in position 2, and only if the modification is issued by the Air Force and is a provisioned item order;

(*ii*) Use S only in position 2, and only to identify modifications issued to provide initial or amended shipping instructions when—

(*a*) The contract has either FOB origin or destination delivery terms; and

(*b*) The price changes;

(*iii*) Use T, U, V, W, X, or Y only in position 2, and only to identify modifications issued to provide initial or amended shipping instructions when—

(*a*) The contract has FOB origin delivery terms; and

(*b*) The price does not change; and

(*iv*) Use Z only in position 2, and only to identify a modification which definitizes a letter contract or a previously issued undefinitized modification.

(*2*) *Positions 4 through 6.* These positions are always numeric. Use a separate series of serial numbers for each type of modification listed in paragraph (b)(2)(ii) of this section.

204.1670 Cross reference to Federal Procurement Data System.

Detailed guidance on mapping PIID and supplementary PIID numbers stored in the Electronic Document Access system to data elements reported in the Federal Procurement Data System can be found in PGI 204.1670.

204.1671 Order of application for modifications.

(a) Circumstances may exist in which the numeric order of the modifications to a contract is not the order in which the changes to the contract actually take effect.

(b) In order to determine the sequence of modifications to a contract or order, the modifications will be applied in the following order—

(1) Modifications will be applied in order of the effective date on the modification;

(2) In the event of two or more modifications with the same effective date, modifications will be applied in signature date order; and

(3) In the event of two or more modifications with the same effective date and the same signature date, procuring contracting office modifications will be applied in numeric order, followed by contract administration office modifications in numeric order.

Subpart 204.70—[Removed and Reserved]

■ 3. Remove and reserve subpart 204.70, consisting of sections 204.7000 through 204.7007.

PART 232—CONTRACT FINANCING

■ 4. Add section 232.905 to read as follows:

232.905 Payment documentation and process.

(b)(1)(iii) For task and delivery orders numbered in accordance with FAR 4.1603 and 204.1603, the 13-character order number may serve as the contract number on invoices and receiving reports. The contract or agreement number under which the order was placed may be omitted from invoices and receiving reports. The contractor may choose to identify both the contract number and the 13-character order number on invoices and receiving reports. Task and delivery orders numbered with a four-position alpha-numeric call or order serial number shall include both the 13-position basic contract Procurement Instrument Identifier and the four-position order number.

PART 243—CONTRACT MODIFICATIONS

243.172 [Amended]

■ 5. Amend section 243.172 by removing ''204.7007'' and adding ''204.1671'' in its place.

■ 6. Amend appendix F to chapter 2, in section F–301, by revising paragraph (b)(1) to read as follows:

Appendix F to Chapter 2—Material Inspection and Receiving Report

* * * * *

F–301 Preparation instructions.

* * * * *

(b) * * *

(1) Contract no/delivery order no.

(i) For stand-alone contracts, enter the 13-position alpha-numeric basic Procurement Instrument Identifier (PIID) of the contract. For task and delivery orders numbered in accordance with FAR 4.1603 and DFARS 204.1603, enter the 13-character order number. The contract or agreement number under which the order was placed may be omitted from the WAWF RR. Alternatively, the contractor may choose to enter the contract number on the WAWF RR in addition to the 13-character order number. If the order has only a four-position alpha-numeric call or order serial number, enter both the 13-position basic contract PIID and the four-position order number.

(ii) Except as indicated in paragraph (b)(1)(iii) of this appendix, do not enter supplementary numbers used in conjunction with basic PIIDs to identify—

(A) Modifications of contracts and agreements;

(B) Modifications to calls or orders; or

(C) Document numbers representing contracts written between contractors.

(iii) When shipping instructions are furnished and shipment is made before receipt of the confirming contract modification (SF 30, Amendment of Solicitation/Modification of Contract), enter a comment in the Misc. Info Tab to this effect. This will appear in the Comments section of the printed WAWF RR.

* * * * *

[FR Doc. 2016–04189 Filed 2–25–16; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312235–3658–02]

RIN 0648–XE455

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; Trip Limit Reduction

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

ACTION: Temporary rule; trip limit reduction.

SUMMARY: NMFS reduces the commercial trip limit for vermilion snapper in or from the exclusive economic zone (EEZ) of the South Atlantic to 500 lb (227 kg), gutted weight, 555 lb (252 kg), round weight. This trip limit reduction is necessary to protect the South Atlantic vermilion snapper resource.

DATES: This rule is effective 12:01 a.m., local time, March 2, 2016, until 12:01 a.m., local time, July 1, 2016.

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *rick.devictor@noaa.gov.*

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

The commercial ACL (commercial quota) for vermilion snapper in the South Atlantic is divided into two 6-month time periods, January through June and July through December. For the January 1 through June 30, 2016, fishing season, the commercial quota is 388,703 lb (176,313 kg), gutted weight, 431,460 lb (195,707 kg), round weight (50 CFR 622.190(a)(4)(i)(D)).

Under 50 CFR 622.191(a)(6)(ii), NMFS is required to reduce the commercial trip limit for vermilion snapper from 1,000 lb (454 kg), gutted weight, 1,110 lb (503 kg), round weight, when 75 percent of the fishing season commercial quota is reached or

projected to be reached, by filing a notification to that effect with the Office of the Federal Register, as established by Regulatory Amendment 18 (78 FR 47574, August 6, 2013). The reduced commercial trip limit is 500 lb (227 kg), gutted weight, 555 lb (252 kg), round weight. Based on current information, NMFS has determined that 75 percent of the available commercial quota for the January 1 through June 30, 2016, fishing season for vermilion snapper will be reached by March 2, 2016. Accordingly, NMFS is reducing the commercial trip limit for vermilion snapper to 500 lb (227 kg), gutted weight, 555 lb (252 kg), round weight, in or from the South Atlantic EEZ at 12:01 a.m., local time, on March 2, 2016. This reduced commercial trip limit will remain in effect until the start of the next fishing season on July 1, 2016, or until the commercial quota is reached and the commercial sector closes, whichever occurs first.

Classification

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

This action is taken under 50 CFR 622.191(a)(6)(ii) and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this commercial trip limit reduction constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary rule is unnecessary and contrary to the public interest. Such procedures are unnecessary, because the rule establishing the trip limit has already been subject to notice and comment, and all that remains is to notify the public of the trip limit reduction. Prior notice and opportunity for public comment is contrary to the public interest, because any delay in reducing the commercial trip limit could result in the commercial quota being exceeded. There is a need to immediately implement this action to protect the vermilion snapper resource, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment on this action would require time and increase the probability that the commercial sector could exceed its quota.

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

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

Dated: February 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–04191 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XE471

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Aleutian Islands District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod, including for the Community Development Quota program (CDQ), in the Western Aleutian Islands district of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Western Aleutian Islands district Pacific cod harvest limit of the 2016 total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 23, 2016, through 2400 hrs, A.l.t., December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Western Aleutian Islands district Pacific cod harvest limit of the 2016 TAC in the Aleutian Islands subarea of the BSAI is 3,377 metric tons (mt) as established by the final 2015 and 2016 harvest specifications for groundfish in the BSAI (80 FR 11919, March 5, 2015) and inseason adjustment (81 FR 184, January 5, 2016). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the Area 543 Pacific cod harvest limit of the 2016 Pacific cod TAC in the Aleutian Islands subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,377 mt, and is setting aside the remaining 1,000 mt as incidental catch in directed fishing for other species. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod in the Western Aleutian Islands district of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod in the Western Aleutian Islands district of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 22, 2016.

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

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

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

Dated: February 23, 2016.

Emily H. Menashes,

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

[FR Doc. 2016–04205 Filed 2–23–16; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 38
Friday, February 26, 2016

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 HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2015–0050]

Privacy Act: Implementation of Exemptions; Department of Homeland Security/ALL–038 Insider Threat Program System of Records

AGENCY: Privacy Office, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security (DHS) is giving concurrent notice of a newly established system of records pursuant to the Privacy Act of 1974 for the ''Department of Homeland Security/ALL–038 Insider Threat Program System of Records'' and this proposed rulemaking. In this proposed rulemaking, the Department proposes to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: Comments must be received on or before March 28, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2015–0050 or by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this document. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions please contact: Karen L. Neuman, (202–343–1717), Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department proposes to establish a new DHS system of records titled ''DHS/ALL–038 Insider Threat Program System of Records.''

DHS has created a Department-wide system, known as the Insider Threat Program system of records to manage insider threat matters within DHS. The Insider Threat Program was mandated by E.O. 13587, ''Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information,'' issued October 7, 2011, which requires Federal agencies to establish an insider threat detection and prevention program to ensure the security of classified networks and the responsible sharing and safeguarding of classified information with appropriate protections for privacy and civil liberties. Insider threats include: Attempted or actual espionage, subversion, sabotage, terrorism, or extremist activities directed against the Department and its personnel, facilities, resources, and activities; unauthorized use of or intrusion into automated information systems; unauthorized disclosure of classified, controlled unclassified, sensitive, or proprietary information or technology; and indicators of potential insider threats. The Insider Threat Program system may include information from any DHS Component, office, program, record, or source, and includes records from information security, personnel security, and systems security for both internal and external security threats.

Consistent with DHS's information sharing mission, information stored in the DHS/ALL–038 Insider Threat Program system of records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS may share information with appropriate Federal, State, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in the DHS ALL–038 system of records notice.

DHS is issuing this Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act. The system of records notice is published elsewhere in this **Federal Register**. This newly established system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

The Privacy Act allows government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a Notice of Proposed Rulemaking to make clear to the public the reasons why a particular exemption is claimed.

DHS is claiming exemptions from certain requirements of the Privacy Act for DHS/ALL–038 Insider Threat Program System of Records. Some information in DHS/ALL–038 Insider Threat Program System of Records relates to official DHS national security, law enforcement, and intelligence activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to: preclude subjects of these activities from frustrating these

processes; avoid disclosure of insider threat techniques; protect the identities and physical safety of confidential informants and law enforcement personnel; ensure DHS' ability to obtain information from third parties and other sources; protect the privacy of third parties; and safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived on a case by case basis.

A notice of system of records DHS/ALL–038 Insider Threat Program System of Records is also published in this issue of the **Federal Register**.

List of Subjects in 6 CFR Part 5

Freedom of information, Privacy.

For the reasons stated in the preamble, DHS proposes to amend chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: Pub. L. 107–296, 116 Stat. 2135; (6 U.S.C. 101 *et seq.*); 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. In appendix C to part 5, add paragraph 74 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

74. The DHS/ALL–038 Insider Threat Program System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/ALL–038 Insider Threat Program System of Records System of Records is a repository of information held by DHS in connection with various missions and functions, including, but not limited to the enforcement of civil and criminal laws; investigations, inquiries, and proceedings there under; and national security and intelligence activities. The DHS/ALL–038 Insider Threat Program System of Records contains information that is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies.

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12), (f), (g)(1), and (h). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f).

Where a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

Exemptions from these particular subsections are justified on a case-by-case basis and determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS and the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an unreasonable administrative burden by requiring investigations to be continually reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with subsection (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: February 18, 2016.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–03923 Filed 2–25–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–3705; Directorate Identifier 2015–NM–168–AD]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Textron Aviation Inc. Model 680 airplanes. This proposed AD was prompted by Cessna's report of a manufacturing defect which affects the durability of the aft canted bulkhead metallic structure. The manufacturing defect directly affects the bond integrity of the vertical and horizontal stiffeners on the aft canted bulkhead metallic structure. This proposed AD would require repetitive inspections of the aft canted bulkhead, and repair if necessary. This proposed AD would also require a modification, which would terminate the repetitive inspections. We are proposing this AD to prevent disbonding of the horizontal and vertical stiffeners on the aft canted bulkhead. Loss of bond integrity could result in a structural failure that could lead to separation of the cruciform tail and loss of control of the airplane.

DATES: We must receive comments on this proposed AD by April 11, 2016.

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 Textron Aviation Inc., P.O. Box 7706, Wichita, KS 67277; telephone 316–517–6215; fax 316–517–5802; email *citationpubs@txtav.com;* Internet *https://support.cessna.com/custsupt/csupport/newlogin.jsp*. You may review this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–3705; 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: Paul Kalowski, Aerospace Engineer, Airframe Branch, ACE–118W, Wichita Aircraft Certification Office (ACO), FAA, 1801 Airport Road, Room 100, Dwight D. Eisenhower Airport, Wichita, KS 67209; phone: 316–946–4186; fax: 316–946–4107; email: *paul.kalowski@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–3705; Directorate Identifier 2015–NM–168–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD 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 proposed AD.

Discussion

This proposed AD was prompted by Cessna's report of a manufacturing defect that affects the durability of the aft canted bulkhead metallic structure. The manufacturing defect directly affects the bond integrity of the vertical and horizontal stiffeners on the aft canted bulkhead metallic structure. This disbonding is caused by a loss of durability in the metal-to-metal bondline, which resulted from a reduced autoclave cure cycle dwell time and temperature during manufacturing. This condition, if not detected and corrected, could result in a structural failure that could lead to separation of the cruciform tail and loss of control of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed the following Cessna service information.

- Cessna Service Letter SL680–53–05, Revision 2, dated September 30, 2015. The service information describes procedures for a general visual inspection for disbonding and paint cracking around the edges of the stiffeners on the aft canted bulkhead.
- Cessna Service Bulletin SB680–53–08, dated September 28, 2015. The service information describes procedures for modifying the airplane by installing additional stiffeners to the aft canted bulkhead.

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

FAA's Determination

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 accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

Differences Between This Proposed AD and the Service Information

Although Cessna Service Letter SL680–53–05, Revision 2, dated September 30, 2015, specifies reporting the inspection results to Cessna, this proposed AD would not require those actions.

Although Cessna Service Letter SL680–53–05, Revision 2, dated September 30, 2015, specifies that operators may contact the manufacturer for disposition of certain conditions, this proposed AD would require operators to repair those conditions in accordance with a method approved by the FAA.

Although Cessna Service Letter SL680–53–05, Revision 2, dated September 30, 2015; and Service Bulletin SB680–53–08, dated September 28, 2015; use the term ''debond'' to describe full or partial separation of a stiffener from the aft canted bulkhead structure, this proposed AD instead uses the term ''disbond.''

Costs of Compliance

We estimate that this proposed AD affects 123 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85 per inspection cycle.	$0	$85 per inspection cycle.	$10,455 per inspection cycle.
Modification	180 work-hours × $85 per hour = $15,300	3,190	$18,490	$2,274,270.

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company): Docket No. FAA–2016–3705; Directorate Identifier 2015–NM–168–AD.—

(a) Comments Due Date

We must receive comments by April 11, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (Type Certificate Previously Held by Cessna Aircraft Company), Model 680 airplanes, certificated in any category, as identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model 680 Sovereign airplanes (commonly known as Citation Sovereign airplanes), having serial numbers: 680–0001, –0002, –0006, –0025, –0030, –0031, –0032, –0046, –0051, –0057, –0064, –0066, –0067, –0082, –0104, –0108, –0112, –0118, –0120, –0125, –0132, –0139, –0140, –0141, –0144, –0147, –0148, –0149, –0153, –0157, –0160, –0162, –0163, –0164, –0166, –0167, –0169, –0170, –0171, –0173, –0174, –0175, –0176, –0177, –0178, –0179, –0180, –0182, –0183, –0185, –0186, –0192, –0193, –0196, –0200, –0202, –0204, –0205, –0206, –0208, –0211, –0216, –0220, –0221, –0222, –0227, –0229, –0230, –0231, –0234, –0235, –0236, –0238, –0241, –0242, –0243, –0245, –0246, –0249, –0252, –0253, –0255, –0256, –0257, –0258, –0260, –0262, –0268, –0270, –0271, –0280, –0282, –0283, –0284, –0285, –0289, –0291, –0292, –0296, –0297, –0300, –0301, –0302, –0303, –0304, –0306, –0307, –0313, –0315, –0317, –0318, –0322, –0323, –0324, –0327, –0328, –0329, –0333, –0334, –0336, –0337, –0339, –0340, –0342, –0344, –0346, –0347, –0348, and –0349.

(2) Model 680 Sovereign airplanes (commonly known as Citation Sovereign+ airplanes) having serial numbers: 680–0501, –0504, –0505, –0509, –0510, –0511, –0512, –0513, –0514, –0515, –0516, –0517, –0519, –0520, –0522, –0524, –0525, –0526, –0527, and –0531.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by Cessna's report of a manufacturing defect which affects the durability of the aft canted bulkhead metallic structure. The manufacturing defect directly affects the bond integrity of the vertical and horizontal stiffeners on the aft canted bulkhead metallic structure. We are issuing this AD to prevent disbonding of the horizontal and vertical stiffeners on the aft canted bulkhead. Loss of bond integrity could result in a structural failure that may lead to separation of the cruciform tail and loss of control of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

Before the accumulation of 7,000 total flight hours, or within 100 flight hours after the effective date of this AD, whichever occurs later, perform a general visual inspection for disbonding and paint cracking around the edges of the stiffeners on the aft canted bulkhead, in accordance with the Accomplishment Instructions of Cessna Service Letter SL680–53–05, Revision 2, dated September 30, 2015. Repeat the general visual inspection thereafter at intervals not to exceed 100 flight hours, until the modification required by paragraph (i) of this AD is accomplished.

(h) Repair

If, during any inspection required by paragraph (g) of this AD, any disbonding or cracked paint is found, before further flight, repair in accordance with a method approved by the Manager, Wichita Aircraft Certification Office (ACO), ACE–118W, FAA.

(i) Modification

At the applicable compliance time specified in paragraph (i)(1) or (i)(2) of this

AD, modify the airplane by installing additional stiffeners on the aft canted bulkhead, in accordance with the Accomplishment Instructions of Cessna Service Bulletin SB680–53–08, dated September 28, 2015. Doing this modification terminates the repetitive inspections required by paragraph (g) of this AD.

(1) For airplanes that have accumulated 7,000 or more total flight hours as of the effective date of this AD: Within 1,800 flight hours or 24 months, whichever occurs first, after the effective date of this AD.

(2) For airplanes that have accumulated less than 7,000 total flight hours as of the effective date of this AD: Within 3,600 flight hours or 48 months, whichever occurs first, after the effective date of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraph (j)(1) or (j)(2) of this AD, which is not incorporated by reference in this AD.

(1) Cessna Service Letter SL680–53–05, dated December 22, 2014.

(2) Cessna Service Letter SL680–53–05, Revision 1, dated March 12, 2015.

(k) No Reporting Requirement

Although Cessna Service Bulletin SB680–53–08, dated September 28, 2015; and Cessna Service Letter SL680–53–05 Revision 2, dated September 30, 2015; specify to submit certain information to the manufacturer, this AD does not include that requirement.

(l) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO, ACE–118W, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD.

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

(n) Related Information

(1) For more information about this AD, contact Paul Kalowski, Aerospace Engineer, Airframe Branch, ACE–118W, FAA, Wichita ACO, 1801 Airport Road, Room 100, Dwight D. Eisenhower Airport, Wichita, KS 67209; phone: 316–946–4186; fax: 316–946–4107; email: *paul.kalowski@faa.gov.*

(2) For service information identified in this AD, contact Textron Aviation Inc., P.O. Box 7706, Wichita, KS 67277; telephone: 316–517–6215; fax: 316–517–5802; email: *citationpubs@txtav.com;* Internet: *https://support.cessna.com/custsupt/csupport/newlogin.jsp.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 18, 2016.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–04136 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2016–0003; FRL–9942–85–Region 10]

Approval and Promulgation of Implementation Plans; Spokane, Washington: Second 10-Year PM_{10} Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the limited maintenance plan submitted on January 4, 2016, by the State of Washington for the Spokane area, which includes the cities of Spokane, Spokane Valley, Millwood and surrounding unincorporated areas in Spokane County, Washington. This plan addresses the second 10-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). A limited maintenance plan is used to meet Clean Air Act requirements for formerly designated nonattainment areas that meet certain qualification criteria. The EPA is proposing to determine Washington's submittal meets the limited maintenance plan criteria. The Spokane area currently has monitored PM_{10} levels well below the National Ambient Air Quality Standards (NAAQS) and levels have not increased since the area was redesignated to attainment in 2005. The EPA is also proposing to approve minor updates to the Spokane Regional Clean Air Agency (SRCAA) regulations controlling PM_{10} related to the maintenance plan.

DATES: Comments must be received on or before March 28, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2016–0003 at *http://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.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' is used, it is intended to refer to the EPA.

Table of Contents

I. Background

The Spokane area was designated as nonattainment for PM_{10} by operation of law upon enactment of the Clean Air Act Amendments in 1990 (56 FR 56694, November 6, 1991). The Washington Department of Ecology (Ecology) and SRCAA worked with the community to establish PM_{10} pollution control

strategies. Primary control strategies include a residential wood smoke control program, paving unpaved streets, requirements for improved sweeping and sanding practices on paved roads, and regulatory orders at the Kaiser Aluminum and Chemical Corporation Trentwood facility for PM_{10}. The Spokane area attained the PM_{10} NAAQS in 1994, with continued attainment ever since.

The EPA partially approved the PM_{10} attainment plan for the Spokane area on January 27, 1997 (62 FR 3800). The EPA then approved the remaining attainment plan elements and a 10-year maintenance plan, redesignating the area from nonattainment to attainment effective August 30, 2005 (70 FR 38029, published July 1, 2005). The purpose of the current limited maintenance plan is to fulfill the second 10-year planning requirement, section 175A(b) of the Clean Air Act, to ensure compliance through 2025.

II. The Limited Maintenance Plan Option for PM_{10} Areas

A. Requirements for the Limited Maintenance Plan Option

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} nonattainment areas. See memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' (limited maintenance plan option memo). The limited maintenance plan option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard ten years into the future. Thus, the EPA provided the maintenance demonstration for areas meeting the criteria outlined in the memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the State Implementation Plan (SIP) are no longer necessary.

To qualify for the limited maintenance plan option the State must demonstrate the area meets the criteria described below. First, the area should have attained the PM_{10} NAAQS. Second, the most recent five years of air quality data at all monitors in the area, called the 24-hour average design value, should be at or below 98 micrograms per cubic meter ($\mu g/m^3$). Third, the State should expect only limited growth in on-road motor vehicle PM_{10} emissions and should have passed a motor vehicle regional emissions analysis test. Lastly, the memo identifies core provisions that must be included in all limited maintenance plans. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

B. Conformity Under the Limited Maintenance Plan Option

The transportation conformity rule and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While qualification for the limited maintenance plan option does not exempt an area from the need to affirm conformity, conformity may be demonstrated without submitting an emissions budget. Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM_{10} NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period and therefore a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in 40 CFR 93.158 (a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the maintenance period because it is unreasonable to expect that qualifying areas would experience so much growth in that period that a NAAQS violation would result. While areas with maintenance plans approved under the limited maintenance plan option are not subject to the budget test, the areas remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

- Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113;
- Transportation plans and projects comply with the fiscal constraint element as set forth in 40 CFR 93.108;
- The MPO's interagency consultation procedures meet the applicable requirements of 40 CFR 93.105;
- Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;
- The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;
- Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and
- Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

In approving the 2nd 10-year limited maintenance plan, the Spokane maintenance area will continue to be exempt from performing a regional emissions analysis, but must meet project-level conformity analyses as well as the transportation conformity criteria mentioned above.

III. Review of the State's Submittal

A. Has the State demonstrated that the maintenance areas qualify for the limited maintenance plan option?

As discussed above, the limited maintenance plan option memo outlines the requirements to be met for an area to qualify. First, the area should be attaining the PM_{10} NAAQS. Under 40 CFR 50.6, the primary and secondary PM_{10} NAAQS are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 $\mu g/m^3$ is equal to or less than one. The EPA determined that the Spokane area attained the PM_{10} NAAQS and formally redesignated the area from nonattainment to attainment, beginning the first 10-year maintenance period effective August 30, 2005 (70 FR 38029, published July 1, 2005). We have evaluated the most recent monitoring data that shows that the Spokane area continues to attain the PM_{10} NAAQS with the number of annual exceedances equal to 0.3 for the period 2012 through 2014, well below the 1.0 threshold for meeting the NAAQS.[1]

[1] The data evaluated includes a 2013 flagged exceptional event that has not been fully evaluated by the EPA to date. If this flagged data were factored

Second, the average design value for the past five years of monitoring data must be at or below the critical design value of 98 μg/m³ for the PM_{10} NAAQS. The critical design value is a margin of safety in which an area has a one in ten probability of exceeding the NAAQS. The 5-year average design value for Spokane based on PM_{10} monitoring data from 2009 through 2014 is 80 μg/m³. The EPA reviewed the data and methodology provided by the State and finds that the Spokane area 5-year average design value is below the critical design value of 98 μg/m³ outlined in the limited maintenance plan option memo and therefore, meets the requirement for the limited maintenance plan option.

Third, the area must meet the motor vehicle regional emissions analysis test described in the limited maintenance plan option memo. The State submitted an analysis showing that growth in on-road mobile PM_{10} emissions sources was minimal and would not threaten the assumption of maintenance that underlies the limited maintenance plan policy. Using the EPA's methodology, the State calculated total growth in on-road motor vehicle PM_{10} emissions over the ten-year period for the Spokane area. This calculation is derived using Attachment B of the EPA's limited maintenance plan memo, where the projected percentage increase in vehicle miles traveled over the next ten years (VMT_{pi}) is multiplied by the on-road mobile portion of the attainment year inventory (DV_{mv}), including both primary and secondary PM_{10} emissions and re-entrained road dust. The EPA reviewed the calculations in the State's limited maintenance plan submittal and concurs with the determination that the area meets the motor vehicle regional emissions analysis test. This test is met when ($VMT_{pi} \times DV_{mv}$) plus the design value for the most recent five years of quality assured data is below the limited maintenance plan threshold of 98 μg/m³. The result for Spokane is 82 μg/m³.

As described above, the Spokane maintenance area meets the qualification criteria set forth in the limited maintenance plan option memo. To ensure these requirements continue to be met, the State has committed to evaluate monitoring data annually to ensure the area continues to qualify for the limited maintenance plan option. The State will report this information to the EPA in the annual monitoring network report.

B. Does the State have an approved attainment emissions inventory?

Pursuant to the limited maintenance plan option memo, the State's submission should include an emissions inventory which can be used to demonstrate attainment of the relevant NAAQS. The inventory should represent emissions during the same five-year period associated with air quality data used to determine whether the area meets the applicability requirements of the limited maintenance plan option.

The limited maintenance plan submittal includes an emissions inventory based on the State's 2011 Triennial Emissions Inventory. This inventory is prepared as part of the 2011 National Emissions Inventory under the EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The information was supplemented with annual 2011 industrial emissions reported to SRCAA and Ecology. The 2011 base years represent the most recent emissions inventory data available and is consistent with the data used to determine applicability of the limited maintenance plan option (*i.e.,* having no violations of the PM_{10} NAAQS). The most significant emission source categories for the Spokane area are residential wood combustion and dust from paved and unpaved roads. The 2011 emission inventory results compare favorably to the 2002 emission inventory submitted with the first 10-year limited maintenance plan. Particulate matter from residential wood combustion has declined by almost one half. These emission were 2,052 tons per year (tpy) in 2002 versus 1,062 tpy in 2011. Particulate matter from unpaved roads declined from 5,855 tpy in 2002 to 623 tpy in 2011. The only significant source category from the 2002 emission inventory to increase was particulate matter from paved roads, which increased from 325 tpy in 2002 to 623 tpy in 2011. Emissions from point sources remained relatively stable at 147 tpy in 2002 and 160 tpy in 2011. The EPA reviewed and is proposing to approve the emissions inventory and methodology. The emissions inventory data supports the State's conclusion that the existing control measures in place will continue to protect and maintain the PM_{10} NAAQS.

C. Does the limited maintenance plan include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR Part 58?

The limited maintenance plan memo states, ''[t]o verify the attainment status of the area over the maintenance period, the maintenance plan should contain a provision to assure continued operation of an appropriate, EPA-approved air quality monitoring network, in accordance with 40 CFR part 58.'' SRCAA currently operates a Federal Equivalent Method (FEM) Tapered Element Oscillating Microbalance (TEOM) PM_{10} monitor. SRCAA commits to maintaining a PM_{10} NAAQS compliance monitor through the limited maintenance plan period to verify the attainment status of the area, confirm continued qualification for the limited maintenance plan option, and to provide a means for triggering contingency measures if needed. The EPA last approved the State's monitoring network in a letter dated October 28, 2015, included in the docket for this action. Table 1 shows 98th percentile PM_{10} monitored values at the site to provide a sense of trends since the area came into attainment in 2005.

TABLE 1—98TH PERCENTILE PM_{10} TRENDS IN MICROGRAMS PER CUBIC METER [μG/M³]

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
89	72	61	65	48	43	43	67	49	60

into the analysis, the calculated number of annual exceedances would drop to 0.0.

D. Does the plan meet the Clean Air Act requirements for contingency provisions?

Clean Air Act section 175A states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the relevant NAAQS which may occur after redesignation of the area to attainment. SRCAA Regulation 1 Section 6.15.G contains additional requirements for road paving should the EPA find that the Spokane area has violated the PM_{10} NAAQS. The EPA approved this provisions into the SIP on April 12, 1999 (64 FR 17545). Similarly, Regulation 1 Sections 8.07.A.5 and 8.09 provide for prohibition of the use of uncertified woodstoves for the sole purpose of meeting Clean Air Act requirements for contingency measures, which the EPA approved into the SIP on January 27, 1997 (62 FR 3800). These contingency provisions remain in effect today.

IV. Proposed Action

The EPA is proposing to approve the limited maintenance plan submitted by the State of Washington, on January 4, 2016, for the Spokane PM_{10} area. If finalized, the EPA's approval of this limited maintenance plan will satisfy the section 175A Clean Air Act requirements for the second 10-year period in the Spokane PM_{10} area. Additionally, Ecology and SRCAA requested that the EPA update the Washington SIP to include minor regulatory changes associated with the limited maintenance plan adopted in 2004 and 2007, since the EPA's last approval (64 FR 17545, April 12, 1999). These regulatory changes update and clarify the general PM_{10} control measures, including minor revisions to the emission reduction strategies for both paved and unpaved roads. In a prior approval on January 27, 1997, the EPA inadvertently approved SRCAA section 6.05(A) which is a nuisance provision addressing the deposition of particulate and not related to attainment or maintenance of the NAAQS (62 FR 3800). Ecology and SRCAA requested, and the EPA proposes to approve, correcting the SIP to remove this nuisance provision. A full copy of the regulatory changes, in redline/strikeout format, is included in Appendix D of the State submittal. The EPA reviewed these changes and is proposing to approve and incorporate by reference the updated versions of SRCAA Regulation I, sections 6.05, 6.14, and 6.15, shown in the table below.

SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) REGULATIONS FOR PROPOSED APPROVAL AND INCORPORATION BY REFERENCE

State/Local citation	Title/Subject	State/Local effective date	Explanation
	Regulation I		
6.05	Particulate Matter and Preventing Particulate Matter from Becoming Airborne.	04/10/04	Except 6.05(A).
6.14	Standards for Control of Particulate Matter on Paved Surfaces.	06/03/07	
6.15	Standards for Control of Particulate Matter on Unpaved Roads.	06/03/07	

V. Incorporation by Reference

In accordance with requirements of 1 CFR 51.5, the EPA is proposing to revise our incorporation by reference of 40 CFR 52.2470(c)—Table 9 ''Additional Regulations Approved for the Spokane Regional Clean Air Agency (SRCAA) Jurisdiction'' to reflect the regulations shown in the Proposed Action section. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the appropriate EPA office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

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

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

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. This SIP revision is not approved to apply in Indian reservations in the State or any other area where the EPA or an Indian tribe has demonstrated that a tribe has

jurisdiction. Consistent with EPA policy, the EPA provided a consultation opportunity to the Spokane Tribe in a letter dated May 21, 2015. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 12, 2016.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2016–04081 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2015–0764; FRL–9942–96–OAR]

RIN 2060–AS73

Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing an extension of the public comment period for the proposed rule titled ''Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems.'' The public comment period for this proposal began on January 29, 2016. This document announces the extension of the deadline for public comment from February 29, 2016 to March 15, 2016.

DATES: The public comment period for the proposed rule published January 29, 2016 (81 FR 4987) is extended. Comments must be received on or before March 15, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0764 to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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.*

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReporting@epa.gov.* For technical information, please go to the Greenhouse Gas Reporting Program Web site, *http://www.epa.gov/ghgreporting/index.html.* To submit a question, select Help Center, followed by ''Contact Us.''

SUPPLEMENTARY INFORMATION:

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of this proposal will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's GHGRP Web site at *http://www.epa.gov/ghgreporting/index.html.*

Additional Information on Submitting Comments

To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Carole Cook, U.S. EPA, Office of Atmospheric Programs, Climate Change Division, Mail Code 6207A, Washington, DC 20460, telephone (202) 343–9263, email address: *GHGReporting@epa.gov.*

Background

In this action, the EPA is providing notice that it is extending the comment period on the proposed rule titled ''Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems,'' which was published on January 29, 2016 (81 FR 4987). The previous deadline for submitting public comment on that rule was February 29, 2016. The EPA is extending that deadline to March 15, 2016. This extension will provide the general public additional time for participation and comments.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: February 22, 2016.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2016–04196 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2015–0526; FRL–9942–95–OAR]

RIN 2060–AS60

2015 Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking; extension of public comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the proposed rule titled ''2015 Revisions and Confidentiality Determinations for Data Elements under the Greenhouse Gas Reporting Rule''. The public comment period for this proposal began on January 29, 2016. This document announces the extension of the deadline for public comments from February 29, 2016 to March 30, 2016.

DATES: *Comment Due Date:* The comment due date of February 29, 2016, for the proposed rule published on January 15, 2016, at 81 FR 2536, is extended to March 30, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2015–0526, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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.*

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGReporting@epa.gov.* For technical information, please go to the Greenhouse Gas Reporting Program Web site, *http://www.epa.gov/ghgreporting/index.html.* To submit a question, select Help Center, followed by ''Contact Us.''

SUPPLEMENTARY INFORMATION:

Worldwide Web (WWW)

In addition to being available in the docket, an electronic copy of today's proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on the EPA's Greenhouse Gas Reporting Rule Web site at *http://www.epa.gov/ghgreporting.*

Additional Information on Submitting Comments

To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in adition to the copy you submit to the official docket, to Carole Cook, U.S. EPA, Office of Atmospheric Program, Climate Change Division, Mail Code 6207A, Washington, DC 20460, telephone (202) 343–9263, email address: *GHGReporting@epa.gov.*

Background

In this action, the EPA is providing notice that it is extending the comment period on the proposed rule titled ''2015 Revisions and Confidentiality Determinations for Data Elements under the Greenhouse Gas Reporting Rule'', which was published on January 15, 2016 (81 FR 2536). The previous deadline for submitting public comment on that rule was February 29, 2016. The EPA is extending that deadline to March 30, 2016. This extension will provide the general public additional time for participation and comments.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: February 22, 2016.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2016–04197 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2014–0054; FXES11130900000C2–167–FF09E32000]

RIN 1018–BA46

Endangered and Threatened Wildlife and Plants; Removal of Solidago albopilosa (White-Haired Goldenrod) From the Federal List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the comment period on our September 1, 2015, proposed rule to remove the plant *Solidago albopilosa* (white-haired goldenrod) from the Federal List of Endangered and Threatened Plants. We are reopening the comment period for 30 days in order to conduct peer review and provide interested parties an additional opportunity to comment on the proposed rule and draft post delisting monitoring plan. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final listing determination.

DATES: To allow us adequate time to consider your comments on the proposed rule, we must receive your comments on or before March 28, 2016.

ADDRESSES: *Written comments:* You may submit comments on the proposed rule and draft post-delisting monitoring plan by one of the following methods:

- *Federal eRulemaking Portal:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the docket number for the proposed rule, which is FWS–R4–ES–2014–0054. Then click on the Search button. On the resulting page, you may submit a comment by clicking on ''Comment Now!'' Please ensure that you have found the correct rulemaking before submitting your comment.
- *By U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2014–0054, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

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

Document availability: Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0054. A copy of the draft post-delisting monitoring plan can be viewed at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2014–0054, or at the Kentucky Ecological Services Field Office's Web site at *http://www.fws.gov/frankfort/.*

FOR FURTHER INFORMATION CONTACT: Virgil Lee Andrews, Jr., Field Supervisor, U.S. Fish and Wildlife Service, Kentucky Ecological Services Field Office, 330 West Broadway, Suite 265, Frankfort, KY 40601; telephone (502) 695–0468. Individuals who are hearing-impaired or speech-impaired may call the Federal Information Relay Service at (800) 877–8339 for TTY assistance 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: On September 1, 2015, we published a proposed rule (80 FR 52717) to remove the plant *Solidago albopilosa* (white-haired goldenrod) from the Federal List of Endangered and Threatened Plants based on a thorough review of the best available scientific and commercial data, which indicate that this species has recovered and no longer meets the definition of an endangered or a threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). We sought information, data, and comments from the public regarding the proposal and the associated draft post-delisting monitoring plan for 60 days, ending November 2, 2015. We are reopening the comment period on that proposed rule and the associated draft post-delisting monitoring plan for an additional 30 days (see **DATES**). We will accept written

comments and information during this reopened comment period. We are specifically soliciting comments from peer reviewers (see *Peer Review,* below), but we are providing all interested parties with this additional time to submit information. Please refer to the proposed rule for more information on our proposed action and the specific information we seek.

You may submit your comments and materials concerning the proposed rule or the associated draft post-delisting monitoring plan by one of the methods listed in **ADDRESSES**. 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. All comments and recommendations, including names and addresses, will become part of the administrative record.

If you submit information via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If you mail or hand-deliver a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review, but we cannot guarantee that we will be able to do so. To ensure that the electronic docket for this rulemaking is complete and all comments we receive are publicly available, we will post all hardcopy submissions on *http://www.regulations.gov*.

Peer Review

In accordance with our policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), and the OMB's Final Information Quality Bulletin for Peer Review, dated December 16, 2004, we are soliciting the expert opinions of at least three appropriate and independent specialists regarding the science in our proposed rule published on September 1, 2015 (80 FR 52717), and the associated draft post-delisting monitoring plan. The purpose of such review is to ensure that we base our decisions on scientifically sound data, assumptions, and analyses. We are sending peer reviewers copies of the proposed rule and the draft post-delisting monitoring plan. We are inviting peer reviewers to comment, during this reopened public comment period, on the specific assumptions and conclusions regarding the proposed delisting and draft post-delisting monitoring plan. We will summarize the opinions of these reviewers in the final decision documents, and we will consider their input and any additional information we receive as part of our process of making a final decision on the proposal and the draft post-delisting monitoring plan. Such communication may lead to a final decision that differs from the proposal.

Dated: February 17, 2016.

Stephen Guertin,

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

[FR Doc. 2016–04095 Filed 2–25–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 36

[Docket No. FWS–R7–NWRS–2014–0005; FF07R06000 167 FXRS12610700000]

RIN 1018–BA31

Non-Subsistence Take of Wildlife, and Public Participation and Closure Procedures, on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and rescheduled public open house and hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the comment period for our January 8, 2016, proposed rule to amend our regulations for National Wildlife Refuges (refuges) in Alaska. This action ensures that the public has an additional opportunity to comment on the proposed rule. We are also rescheduling the Kodiak open house and public hearing to March 2, 2016.

DATES:

Comment submission: Submit your comments on the proposed rule on or before April 7, 2016. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

Public meetings: The rescheduled open house and public hearing in Kodiak will be held on March 2, 2016; the open house will be held from 4:00 p.m. to 5:00 p.m., and the public hearing will be held from 5:30 p.m. to 7:30 p.m.

ADDRESSES:

Document availability: You may obtain copies of the proposed rule and associated draft environmental assessment at *http://www.regulations.gov* at Docket No. FWS–R7–NWRS–2014–0005.

Comment submission: You may submit comments on the proposed rule by any one of the following methods:

(1) Electronically: Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R7–NWRS–2014–0005, which is the docket number for this rulemaking. Then click on the Search button. On the resulting page, you may submit a comment by clicking on ''Comment Now!''

(2) By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R7–NWRS–2014–0005; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

(3) At open houses or public hearings: Written comments will be accepted by Service personnel at any of the nine scheduled open houses or public hearings. Public testimony will be recorded and submitted for the record at only the public hearings via a court reporter.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

Public meetings: The rescheduled open house and public hearing will be held at the Kodiak National Wildlife Refuge Visitor Center, 402 Center Ave., Kodiak, Alaska; 907–487–2600. For the dates and times of the other open houses and public hearings, see our **Federal Register** document announcing these open houses and public hearings (81 FR 886; January 8, 2016).

FOR FURTHER INFORMATION CONTACT: Stephanie Brady, Chief of Conservation Planning and Policy, National Wildlife Refuge System, Alaska Regional Office, 1011 E. Tudor Rd., Mail Stop 211, Anchorage, AK 99503; telephone (907) 306–7448.

SUPPLEMENTARY INFORMATION: On January 8, 2016, we published a proposed rule (81 FR 887) to clarify how our existing mandates for the conservation of natural and biological diversity, biological integrity, and environmental health on refuges in Alaska relate to predator control; to

prohibit several particularly effective methods and means for take of predators; and to update our public participation and closure procedures. The proposed rule would not change Federal subsistence regulations or restrict the taking of fish or wildlife for subsistence uses under Federal subsistence regulations.

We received multiple requests from several entities, including the Alaska Congressional Delegation and the Governor of Alaska, to extend the comment period on the proposed rule. In order to provide all interested parties an additional opportunity to review and comment on our proposed rule, we are extending the comment period on the proposed rule for an additional 30 days, until April 7, 2016.

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final rulemaking. Our final determination concerning the proposed rulemaking will take into consideration all written comments and any additional information we receive.

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

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Authority

The authority for this action is 5 U.S.C. 301; 16 U.S.C. 460k *et seq.,* 664, 668dd–668ee, 715i, and 3101 *et seq.*

Dated: February 19, 2016.

Michael J. Bean,

Deputy Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 2016–04133 Filed 2–25–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150623546–6098–01]

RIN 0648–BF18

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendments to the Reef Fish, Spiny Lobster, Queen Conch, and Corals and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement measures described in Amendment 7 to the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI) (Reef Fish FMP), Amendment 6 to the FMP for the Spiny Lobster Fishery of Puerto Rico and the USVI (Spiny Lobster FMP), Amendment 5 to the FMP for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the USVI (Coral FMP), and Amendment 4 to the FMP for the Queen Conch Resources of Puerto Rico and the USVI (Queen Conch FMP), as prepared by the Caribbean Fishery Management Council (Council). In combination, these amendments represent the Application of Accountability Measures (AM) Amendment (AM Application Amendment). If implemented, the AM Application Amendment would resolve an existing inconsistency between language in the FMPs and the regulations implementing the application of AMs in the U.S. Caribbean exclusive economic zone (EEZ). The purpose of the AM Application Amendment is to ensure the authorizing FMPs are consistent with the regulations governing AMs in the Caribbean EEZ. Additionally, this proposed rule would clarify the AM closure provisions, the application of the spiny lobster ACL in the Puerto Rico management area of the Caribbean EEZ, and the minimum size limit for queen conch in the Caribbean EEZ.

DATES: Written comments must be received on or before March 28, 2016.

ADDRESSES: You may submit comments on the proposed rule identified by ''NOAA–NMFS–2015–0124'' by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0124,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to María del Mar López, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

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

FOR FURTHER INFORMATION CONTACT: María del Mar López, telephone: 727–824–5305; email: *maria.lopez@noaa.gov.*

SUPPLEMENTARY INFORMATION: In the Caribbean EEZ, the reef fish, spiny lobster, queen conch, and corals and reef associated plants and invertebrates fisheries are managed under their respective FMPs. The FMPs were prepared by the Council and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The final rule implementing Amendment 2 to the Queen Conch FMP and Amendment 5 to the Reef Fish FMP (2010 Caribbean Annual Catch Limit (ACL) Amendment) established ACLs and AMs for species/species groups that were at the time experiencing overfishing (*i.e.,* parrotfish, snapper, grouper, queen conch) (76 FR 82404,

December 30, 2011). The final rule implementing Amendment 3 to the Queen Conch FMP, Amendment 6 to the Reef Fish FMP, Amendment 5 to the Spiny Lobster FMP, and Amendment 3 to the Coral FMP (2011 Caribbean ACL Amendment) established ACLs and AMs for the remaining Council-managed species/species groups which were not undergoing overfishing at the time or for which the overfishing status was unknown (*e.g.,* grunts, squirrelfish, jacks) (76 FR 82414, December 30, 2011). As described at § 622.12(a) for reef fish, spiny lobster, and corals and at § 622.491(b) for queen conch , the current AM regulations in the Caribbean EEZ require NMFS to shorten the length of the fishing season for a species/species group in the year following a determination that the applicable 3-year landings average exceeded the respective ACL, unless NMFS determines that the exceedance is due to enhanced data collection and monitoring efforts. The extent to which fishing seasons are shortened equates to the number of days necessary to remove the overage in pounds and to therefore constrain landings to the ACL. Pursuant to regulations at §§ 622.12(a) and 622.491(b), any such AM-based closures remain in effect only during the particular fishing year in which they are implemented. However, the AM closure language in the four authorizing FMPs states that any AM-based closure ''will remain in effect until modified by the Council,'' thereby carrying these closures over from year to year, unless or until the closures are revised by subsequent Council action.

The AM Application Amendment would correct this inconsistency, between the authorizing FMPs and the regulatory language at §§ 622.12(a) and 622.491(b), by revising the applicable text within the four FMPs to be consistent with the language in the regulations. Specifically, the phrase in the four authorizing FMPs that states ''The needed changes will remain in effect until modified by the Council,'' which describes the duration of AMs, would be removed from the four FMPs. The result of this proposed change would be that under both the authorizing FMPs and AM-based closure regulatory language, any AM-based closure would only apply for the fishing year in which it was implemented. This approach is consistent with the intent of the Council and the regulations used by NMFS to apply AMs in the Caribbean EEZ. As this proposed change would only revise the language in the respective FMPs, no changes to the codified text would result from the AM Application Amendment.

Additional Proposed Changes to Codified Text Not Part of the AM Application Amendment

This proposed rule would also revise items in the codified text that are not part of the AM Application Amendment. Specifically, NMFS proposes to clarify the closure provisions when an ACL has been exceeded and an AM is implemented, based on the Council's intent as expressed in the 2010 and 2011 Caribbean ACL Amendments (76 FR 82404, December 30, 2011 and 76 FR 82414, December 30, 2011). NMFS also proposes to clarify the application of the spiny lobster ACL for the Puerto Rico management area of the EEZ to be consistent with the Council's intent expressed in the 2011 ACL Caribbean Amendment and to clarify minimum size requirements for queen conch.

The 2010 and 2011 Caribbean ACL Amendments established AMs and ACLs and allocated those ACLs among three Caribbean island management areas, *i.e.,* the Puerto Rico, St. Croix, and St. Thomas/St. John management areas of the EEZ, as specified in Appendix E to part 622, except for the ACLs for tilefish and aquarium trade species, which are for the Caribbean EEZ as a whole. The ACLs for species/species groups in the Puerto Rico management area, except for spiny lobster, are further allocated between the commercial and recreational sectors, and AMs apply to each of these sectors separately. Through this rule, NMFS proposes to clarify that the spiny lobster ACL for the Puerto Rico management area is applied as a single ACL for both the commercial and recreational sectors, consistent with the intent of the Council in the 2011 Caribbean ACL Amendment (76 FR 82414, December 30, 2011). The current regulations, as described in § 622.12(a)(1)(i)(R), specify only a commercial ACL for spiny lobster in the Puerto Rico management area. No recreational ACL is specified for spiny lobster in Puerto Rico. The intent of the Council in the 2011 Caribbean ACL Amendment was to manage the spiny lobster commercial and recreational sectors for the Puerto Rico management area under the same ACL, derived from commercial landings. The Council intended that this single ACL would be the AM trigger for both sectors for spiny lobster in the Puerto Rico management area. NMFS proposes to add paragraph § 622.12(a)(1)(iii) to the regulatory text to specify that the spiny lobster ACL applies to both sectors in the Puerto Rico management area. The actual ACL value would not change through this proposed rule.

The ACLs for species/species groups in the St. Croix and St. Thomas/St. John management areas are not allocated between sectors, and if AMs are triggered they are applied to both the commercial and recreational sector.

If an AM is triggered by an ACL being exceeded based on the 3-year landings average, and NMFS determines that the exceedance was not due to enhanced data collection and monitoring efforts, NMFS files a notification with the Office of the Federal Register to reduce the length of the following fishing season for the applicable species or species groups that year by the amount necessary, to ensure landings do not again exceed the applicable ACL. The current regulations do not specifically state what restrictions on fishing occur during such a closure.

NMFS proposes to add § 622.12(b) to the regulatory text to specify that, if AMs are triggered as a result of an ACL overage and NMFS reduces the length of the fishing season for a species or species group, certain closure provisions would apply to species with Caribbean-wide ACLs, Caribbean reef fish species, and Caribbean spiny lobster.

For Caribbean reef fish species in the Puerto Rico management area, § 622.12(b)(1)(i) through (iii) would be added to specify what restrictions apply during a commercial closure, recreational closure, or a closure of both sectors. In the event that the commercial fishing season is reduced for a species or species group due to a Puerto Rico commercial ACL overage, all harvest or possession of the indicated species or species group in or from the Puerto Rico management area would be limited to the bag and possession limits specified in § 622.437, and the sale or purchase of the indicated species or species group in or from the Puerto Rico management area would be prohibited during the closure. If the recreational fishing season is reduced for a species or species group due to a Puerto Rico recreational ACL overage, the bag and possession limits for the indicated species or species group would be zero during the closure. If both the commercial and recreational sectors for a species or species group in the Puerto Rico management area are closed, such species or species groups may not be harvested, possessed, purchased, or sold and the bag and possession limits for such species or species groups would be zero.

For Caribbean reef fish species and spiny lobster in the St. Croix and St. Thomas/St. John island management

areas, and species or species groups with Caribbean-wide ACLs, § 622.12(b)(2) would be added to specify that, if AMs are triggered as a result of an ACL overage and the fishing season is reduced for a species or species group, such species or species groups in or from the applicable management area of the Caribbean EEZ may not be harvested, possessed, purchased, or sold, and the bag and possession limits for such species in or from the applicable management area of the Caribbean EEZ would be zero.

For Caribbean spiny lobster in the Puerto Rico management area, § 622.12(b)(1)(iv) would be added to clarify that, if the AM is triggered due to a spiny lobster ACL overage, the commercial and recreational fishing seasons are reduced. During such a closure, spiny lobster in or from the Puerto Rico management area may not be harvested, possessed, purchased, or sold, and the bag and possession limits for spiny lobster in or from the Puerto Rico management area would be zero.

Additionally, through this proposed rule, NMFS would revise § 622.492(a) to clarify the minimum size limit for a Caribbean queen conch. Currently, § 622.492(a) states that the minimum size limit is ''9 inches (22.9 cm) in length, that is, from the tip of the spire to the distal end of the shell, and 3/8 inch (9.5 cm) in lip width at its widest point.'' However, this provision goes on to state that ''A queen conch with a length of at least 9 inches (22.9 cm) or a lip width of at least 3/8 inch (9.5 mm) is not undersized.'' The use of ''and'' in the first sentence and ''or'' in the second sentence of this provision has caused confusion among the public about whether both of these measurements are required to meet the minimum size limit for queen conch. Therefore, NMFS proposes to change the ''and'' to ''or'' in the first sentence and to remove the second sentence in paragraph (a) of § 622.492. The purpose of this change is to clarify that only one of the measurement descriptions must be met to fulfill the minimum size limit for Caribbean queen conch, consistent with the original intent of the Council in the Queen Conch FMP.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries has determined that this proposed rule is consistent with the U.S. Caribbean FMPs, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment. This proposed rule has been determined to be not significant for purposes of Executive Order 12866. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination is as follows:

The purpose of this proposed rule is to revise the language within U.S. Caribbean FMPs to make it consistent with current regulations concerning the application of AMs. Because it would produce no regulatory changes, the action would have no economic impact on the estimated 1,037 to 1,185 small businesses in the finfish (NAICS code 114111) and shellfish (NAICS code 114112) fishing industries of the U.S. Caribbean.

The rule would also include regulatory text to clarify the closure provisions for AMs, how the spiny lobster ACL is applied in the Puerto Rico management area, and the minimum size requirements for queen conch, all unrelated to the amendment. Because those clarifications would not affect current fishing practices, or change the manner in which fisheries in the Caribbean EEZ are regulated, they would not have an economic impact on the above-mentioned small businesses.

Because this proposed rule, if implemented, would not have a significant direct adverse economic effect on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Accountability measures, Caribbean, Fisheries, Fishing, Queen conch.

Dated: February 22, 2016.

Samuel D. Rauch III,

Deputy Assistant for Regulatory Programs, National Marine Fisheries Service.

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

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

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

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

■ 2. In § 622.12, remove paragraph (a)(1)(i)(R) and add paragraphs (a)(1)(iii) and (b) to read as follows:

§ 622.12 Annual catch limits (ACLs) and accountability measures (AMs) for Caribbean island management areas/ Caribbean EEZ.

* * * * *

(a) * * *

(1) * * *

(iii) *Spiny lobster.* The following ACL applies to landings of spiny lobster throughout the Puerto Rico management area—327,920 lb (148,742 kg).

* * * * *

(b) *Closure provisions*—(1) *Restrictions applicable after a Puerto Rico closure.* (i) *Restrictions applicable after a Puerto Rico commercial closure, except for spiny lobster.* During the closure period announced in the notification filed pursuant to paragraph (a)(1)(i) of this section, the commercial sector for species or species groups included in the notification is closed and such species or species groups in or from the Puerto Rico management area may not be purchased or sold. Harvest or possession of such species or species groups in or from the Puerto Rico management area is limited to the recreational bag and possession limits unless the recreational sector for the species or species group is closed and the restrictions specified in paragraph (b)(1)(iii) apply.

(ii) *Restrictions applicable after a Puerto Rico recreational closure, except for spiny lobster.* During the closure period announced in the notification filed pursuant to paragraph (a)(1)(ii) of this section, the recreational sector for species or species groups included in the notification is closed and the recreational bag and possession limits for such species or species groups in or from the Puerto Rico management area are zero. If the seasons for both the commercial and recreational sectors for such species or species groups are closed, the restrictions specified in paragraph (b)(1)(iii) apply.

(iii) *Restrictions applicable when both Puerto Rico commercial and Puerto Rico recreational sectors are closed, except for spiny lobster.* If the seasons for both the commercial and recreational sectors for a species or species group are closed, such species or species groups in or from the Puerto Rico management area may not be harvested, possessed, purchased, or sold, and the bag and possession limits for such species or species groups in or from the Puerto Rico management area are zero.

(iv) *Restrictions applicable after a spiny lobster closure in Puerto Rico.* During the closure period announced in the notification filed pursuant to paragraph (a)(1)(iii) of this section, both the commercial and recreational sectors are closed. Spiny lobster in or from the

Puerto Rico management area may not be harvested, possessed, purchased, or sold, and the bag and possession limits for spiny lobster in or from the Puerto Rico management area are zero.

(2) *Restrictions applicable after a St. Croix, St. Thomas/St. John, or Caribbean EEZ closure.* During the closure period announced in the notification filed pursuant to paragraph (a)(2), (3), or (4) of this section, such species or species groups in or from the applicable management area of the Caribbean EEZ may not be harvested, possessed, purchased, or sold, and the bag and possession limits for such species or species groups in or from the applicable management area of the Caribbean EEZ are zero.

■ 3. In § 622.492, paragraph (a) is revised to read as follows:

§ 622.492 Minimum size limit.

(a) The minimum size limit for Caribbean queen conch is either 9 inches (22.9 cm) in length, that is, from the tip of the spire to the distal end of the shell, or ⅜ inch (9.5 mm) in lip width at its widest point.

* * * * *

[FR Doc. 2016–04094 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 38
Friday, February 26, 2016

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

Food Safety and Inspection Service

[Docket No. FSIS–2016–0003]

Codex Alimentarius Commission: Meeting of the Codex Committee on Food Labeling

AGENCY: Office of the Deputy Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Deputy Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), are sponsoring a public meeting on April 13, 2016. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions to be discussed at the 43rd Session of the Codex Committee on Food Labeling in Foods (CCFL) of the Codex Alimentarius Commission (Codex), taking place in Ottawa, Canada May 9–13, 2016. The Deputy Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 43rd Session of the CCFL and to address items on the agenda.

DATES: The public meeting is scheduled for Wednesday, April 13, 2016, from 1:00 p.m.–3:00 p.m.

ADDRESSES: The public meeting will take place at the Food and Drug Administration (FDA), Harvey W. Wiley Federal Building, Center for Safety and Applied Nutrition (CFSAN), 5100 Paint Branch Parkway, Room 1A–003, College Park, MD 20740. Documents related to the 43rd Session of the CCFL will be accessible via the Internet at *http://www.codexalimentarius.org/meetings-reports/en/*.

Felicia Billingslea, U.S. Delegate to the 43rd Session of the CCFL, invites U.S. parties to submit their comments electronically to the following email address: *ccfl@fda.hhs.gov.*

Call-In-Number

If you wish to participate in the public meeting for the 43rd Session of the CCFL by conference call. Please use the call-in-number below:

Call-in-Number: 1–888–844–9904.

The participant code will be posted on the Web page below: *http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/us-codex-alimentarius/public-meetings*.

Registration

Attendees may register electronically to attend the public meeting by emailing *barbara.mcniff@fsis.usda.gov* by April 11, 2016. The meeting will be held in a Federal building. Early registration is encouraged as it will expedite entry into the building and parking area. Attendees should bring photo identification and plan for adequate time to pass through security screening systems. If you require parking, please include the vehicle make and tag number when you register. Attendees not able to attend the meeting in-person, but wish to participate may do so by phone.

For Further Information About the 43rd Session of the CCFL Contact: Office of Nutrition, Labeling, and Dietary Supplements, CFSAN/FDA, 5100 Paint Branch Parkway (HFS–800), College Park, MD 20740, Email: *ccfl@fda.hhs.gov*.

FOR FURTHER INFORMATION ABOUT THE PUBLIC MEETING CONTACT: Barbara McNiff, U.S. Codex Office, 1400 Independence Avenue SW., Room 4861, Washington, DC 20250, Telephone: (202) 690–4719, Fax: (202) 720–3157, Email: *Barbara.McNiff@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The CCFL is responsible for:

(a) Drafting provisions on labeling applicable to all foods;

(b) Considering, amending if necessary, and endorsing draft specific provisions on labeling prepared by the Codex Committee's drafting standards, codes of practice, and guidelines;

(c) Studying specific labeling problems assigned to it by the Commission; and

(d) Studying problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The Committee is hosted by Canada.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 43rd Session of the CCFL will be discussed during the public meeting:

- Matters referred to the Committee by the Codex Alimentarius Commission and by other Codex Subsidiary Bodies;
- Consideration of labelling provisions in draft Codex standards;
- Organic aquaculture (Proposed Draft Revision of the Guidelines for the Production, Processing, Labelling, and Marketing of Organically Produced Foods);
- Date Marking (Proposed Draft Revision of the General Standard for the Labelling of Prepackaged Foods);
- Labelling of non-retail containers (Discussion paper);
- Issues related to Internet sales of food (Discussion Paper);
- Proposal to revise the General Guidelines for the Use of the Term ''Halal''; and
- Other Business and Future Work.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat before the meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the April 13, 2016, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Felicia Billingslea for the 43rd Session of the CCFL (see **ADDRESSES**). Written comments should state that they relate to activities of the 43rd Session of the CCFL.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: *http://www.fsis.usda.gov/federal-register*.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe*. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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

How To File a Complaint of Discrimination

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

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

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

Email: program.intake@usda.gov.

Fax: (202) 690–7442.

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

Done at Washington, DC, on February 22, 2016.

Paulo Almeida,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. 2016–04106 Filed 2–25–16; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–848]

Certain Stilbenic Optical Brightening Agents From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stilbenic optical brightening agents (OBAs) from Taiwan. The period of review (POR) is May 1, 2014, through April 30, 2015. The review covers one producer/exporter of the subject merchandise, Teh Fong Ming International Co., Ltd. (TFM). We preliminarily find that TFM has sold subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* February 26, 2016.

FOR FURTHER INFORMATION CONTACT: Catherine Cartsos or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1757, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the *Order* [1] is OBAs and is currently classifiable under subheadings 3204.20.8000, 2933.69.6050, 2921.59.4000 and 2921.59.8090 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.[2]

Methodology

In accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we relied on facts available with an adverse inference with respect to TFM, the sole company in this review. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.*

Preliminary Results of Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 6.19 percent exists for TFM for the period May 1, 2014, through April 30, 2015.

Public Comment

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4]

Interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS. An

[1] *See Certain Stilbenic Optical Brightening Agents From Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 77 FR 27419 (May 10, 2012) (*Order*).

[2] A full description of the scope of the *Order* is contained in the memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Certain Stilbenic Optical Brightening Agents from Taiwan: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2014–2015'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.309(c)(2) and (d)(2) and 19 CFR 351.303 (for general filing requirements).

electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[5] Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of the administrative review, the Department shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries covered by this review. For the final results, if we continue to rely on adverse facts available to establish TFM's weighted average dumping margin, we will instruct CBP to apply an *ad valorem* assessment rate of 6.19 percent to all entries of subject merchandise during the POR which were produced and/or exported by TFM.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of OBAs from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for TFM will be equal to the weighted-average dumping margin established in the final results of this administrative review; (2) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise for the most recently completed segment of this proceeding; (3) the cash deposit rate for all other manufacturers or exporters will continue to be 6.19 percent.[6] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1).

Dated: February 19, 2016.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2016–04200 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–828]

Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

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

SUMMARY: For the preliminary results of administrative review of the antidumping duty order on stainless steel butt-weld pipe fittings from Italy, the Department of Commerce (the Department) preliminarily determines that sales of subject merchandise by Filmag Italia Spa (Filmag) were made at less than normal value during the period of review.[1] The period of review is February 1, 2014, through January 31, 2015. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* February 26, 2016.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3931 or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

For purposes of the order, the product covered is certain stainless steel butt-weld pipe fittings. Stainless steel butt-weld pipe fittings are under 14 inches in outside diameter (based on nominal pipe size), whether finished or unfinished. The product encompasses all grades of stainless steel and ''commodity'' and ''specialty'' fittings. Specifically excluded from the definition are threaded, grooved, and bolted fittings, and fittings made from any material other than stainless steel.

The butt-weld fittings subject to the order is currently classifiable under subheading 7307.23.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive. A full description of the scope of the order is contained in the memorandum from Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, titled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Butt-Weld Pipe Fittings from Italy; 2014–2015'' (Preliminary Decision Memorandum), which is issued concurrent with and hereby adopted by this notice.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access to ACCESS is available to registered users at *http://access.trade.gov* and is available to all parties in the Central Records Unit, Room B8024 of the main Department of

[5] *See* 19 CFR 351.310(c).

[6] The all-others rate established in the *Order.*

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 80 FR 18202 (April 3, 2015).

Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Tolling of Deadline

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the preliminary results of this review is now February 22, 2016.[2]

Methodology

The Department is conducting this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price has been calculated in accordance with section 772 of the Act. Normal value has been calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

We preliminarily determine that, for the period February 1, 2014, through January 31, 2015, the following dumping margin exists:

Manufacturer/exporter	Weighted-average margin (percent)
Filmag Italia Spa	35.86

Disclosure and Public Comment

The Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results of review within five days after the date of publication of this notice.[3] Interested parties may submit case briefs to the Department in response to these preliminary results no later than 30 days after the publication of these preliminary results.[4] Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs.[5]

Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[6] Case and rebuttal briefs should be filed using ACCESS.[7] Case and rebuttal briefs must be served on interested parties.[8] Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[9] Parties should confirm the date, time, and location of the hearing by telephone two days before the scheduled date.

The Department intends to publish the final results of this administrative review, including the results of its analysis of issues addressed in any case or rebuttal brief, no later than 120 days after publication of these preliminary results, unless extended.[10]

Assessment Rates

Upon completion of this administrative review, the Department shall determine, and Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If the respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer- or customer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the period of review to the total customs value of the sales used to calculate those duties in accordance with 19 CFR 351.212(b)(1). Where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). If the respondent's weighted-average dumping margin is zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* ''{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed.'' [11]

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Filmag will be that established in the final results of this administrative review; (2) for previously reviewed or investigated companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or in the investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent review period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the all-others rate of 26.59 percent, the rate established in the investigation of this proceeding.[12] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a reminder to importers of their responsibility

[2] *See* Memorandum to the file from Ron Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, regarding ''Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,'' dated January 27, 2016.

[3] *See* 19 CFR 351.224(b)

[4] *See* 19 CFR 351.309(c)(1)(ii).

[5] *See* 19 CFR 351.309(d)(1) and (2).

[6] *See* 19 CFR 351.309(c)(2).

[7] *See generally* 19 CFR 351.303.

[8] *See* 19 CFR 351.303(f).

[9] *See* 19 CFR 351.310(d).

[10] *See* section 751(a)(3)(A) of the Act; 19 CFR 351.213(h).

[11] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8102 (February 14, 2012) (*Final Modification for Reviews*).

[12] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fittings from Italy,* 65 FR 81830 (December 27, 2000).

under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 19, 2016.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Date of Sale
4. Comparisons to Normal Value
   A. Product Comparisons
   B. Determination of Comparison Method
   C. Export Price
   D. Normal Value
   1. Home Market Viability
   2. Level of Trade
   3. Cost of Production
   4. Calculation of Normal Value Based on Comparison Market Prices
   5. Price-to-Constructed Value Comparison
   E. Currency Conversion
5. Recommendation

[FR Doc. 2016–04198 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Outreach and Education Advisory Panel (OEAP) will meet.

DATES: The meeting will be held on April 13, 2016, from 10 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at CFMC Office, 270 Muñoz Rivera Avenue, Suite 401 San Juan, Puerto Rico 00918.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The OEAP will meet to discuss the items contained in the following agenda:

—Call to Order
—Adoption of Agenda
—OEAP Members
—OEAP Chairperson's Report:
  Hawaii Communications Meeting
  Timing closures Public Hearings
—Status of:
  —Sustainable Seafood Campaign
  —Island-based FMPs
  —CFMC Report
  —2017 Calendar
  —USVI activities
  —PR Commercial Fisheries Project (PEPCO)—Helena Antoun
  —MREP-Caribbean: Helena Antoune
  —Fact Sheets/Infographics/small posters on:
  New lobster traps
  Octopus life cycle
  Forage fish
  Handling Fresh Tuna fish
  Essential Fish Habitats
—Other Business

The OEAP meeting will convene on April 13, 2016, from 10 a.m. until 5 p.m. The meeting is open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: February 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–04170 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council (CFMC); Public Meetings

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

ACTION: Notice of Caribbean Fishery Management Council's Scientific and Statistical Committee (SSC), District Advisory Panels (DAPs) and one day Council Meeting.

SUMMARY: The Caribbean Fishery Management Council's Scientific and Statistical Committee, the District Advisory Panels, and the Caribbean Council will hold a three-day meeting.

DATES: The meetings will be held on March 15–17, 2016. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Verdanza Hotel, Tartak St. San Juan, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone (787) 766–5926.

SUPPLEMENTARY INFORMATION: The Caribbean Fishery Management Council's SSC, the District Advisory Panels, and the Caribbean Council will hold a three-day meeting to discuss the items contained in the following agenda:

March 15–16, 2016

9 a.m.–5 p.m.

Joint SSC–DAPs–CFMC

—Call to Order
—Adoption of Agenda
—Dr. Richard Methot, NOAA Senior Scientist for Stock Assessment
  —Implementation of the Assessment Prioritization Process
—Island Based Fishery Management
  —Review Goals and Objectives of the IBFMPs
  —Review Action 1: Species Selection
  —Action 2: Species Complexes—SERO Update
—Recommendations to CFMC
—Future Action 3: Reference Points
  —ABC Control Rule
  —SEDAR 46 U.S. Caribbean Data Limited Species Update—SEFSC

March 17, 2016

9 a.m.–12 p.m.

SSC Meeting

—5 year CFMC Research Plan
—Finalize 5-year Research Plan
—Other Business

DAPs Individual Meeting

—Recommendations to the CFMC

CFMC Individual Meeting

—Review Goals and Objectives for the IBFMPs—Guidance to Staff
—ABC Control Rule

—Exempted Fishing Permit Application Submitted by Dept. of Natural and Environmental Resources, PR.

The District Advisory Panels will meet individually on March 17, 2015, from 9 a.m. to 12 p.m., to discuss their reaction to the information received at the SSC Meeting, and to provide their recommendations to the CFMC. The Caribbean Fishery Management Council will meet on March 17, 2016, from 9 a.m. to 12 p.m., to discuss the information received from the SSC meeting, the ABC Control Rule, and to review an exempted permit application.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone (787) 766–5926, at least 5 days prior to the meeting date.

Dated: February 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–04167 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE464

Meeting of the Advisory Committee to the United States Delegation to the International Commission for the Conservation of Atlantic Tunas

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

ACTION: Notice of Advisory Committee meeting.

SUMMARY: The Advisory Committee (Committee) to the U.S. Section to the International Commission for the Conservation of Atlantic Tunas (ICCAT) announces its annual spring meeting to be held March 10–11, 2016.

DATES: The open sessions of the Committee meeting will be held on March 10, 2016, 8:30 a.m. to 3:00 p.m.; and March 11, 2016, 9 a.m. to 12:15 p.m. Closed sessions will be held on March 10, 2016, 3:30 p.m. to 6 p.m., and on March 11, 2016, 8 a.m. to 9 a.m.

ADDRESSES: The meeting will be held at the Hilton DoubleTree Hotel, 8727 Colesville Rd., Silver Spring, MD 20910. The phone number is (301) 589–5200.

FOR FURTHER INFORMATION CONTACT: Rachel O'Malley at (301) 427–8373.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in open session to receive and discuss information on the 2015 ICCAT meeting results and U.S. implementation of ICCAT decisions; NMFS research and monitoring activities; global and domestic initiatives related to ICCAT; the Atlantic Tunas Convention Act-required consultation on any identification of countries that are diminishing the effectiveness of ICCAT; the results of the meetings of the Committee's Species Working Groups; and other matters relating to the international management of ICCAT species. The public will have access to the open sessions of the meeting, but there will be no opportunity for public comment. The agenda is available from the Committee's Executive Secretary upon request (see **FOR FURTHER INFORMTION CONTACT**).

The Committee will meet in its Species Working Groups for part of the afternoon of March 10, 2016, and for one hour on the morning of March 11, 2016. These sessions are not open to the public, but the results of the species working group discussions will be reported to the full Advisory Committee during the Committee's open session on March 11, 2016.

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 Rachel O'Malley at (301) 427–8373 at least 5 days prior to the meeting date.

Dated: February 22, 2016.

John Henderschedt,

Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service.

[FR Doc. 2016–04206 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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 Herring Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, March 15, 2016 at 10 a.m.

ADDRESSES: The meeting will be held at the DoubleTree by Hilton, 50 Ferncroft Road, Danvers, MA 01950; phone: (978) 777–2500; fax: (978) 750–7911.

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 Advisory Panel plans to review/discuss herring coverage target alternatives in the IFM Amendment. The panel will also review/discuss economic and biological impacts of herring coverage target alternatives. They will also develop recommendations to the Herring Committee for preliminary preferred alternatives for the herring fishery in the IFM Amendment. The panel will receive a brief update on Amendment 8 to the Herring FMP. Other business will be discussed as necessary.

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 these meetings. 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.

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

Dated: February 23, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–04171 Filed 2–25–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition And Deletions

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

ACTION: Addition to and Deletions from the Procurement List.

SUMMARY: This action adds a product to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products and a service from the Procurement List previously furnished by such agencies.

DATES: *Effective Date:* 3/27/2016.

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: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Addition

On 12/18/2015 (80 FR 79031–79032), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide the product and impact of the addition on the current or most recent contractors, the Committee has determined that the product listed below is 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 organization that will furnish the product to the Government.

2. The action will result in authorizing small entities to furnish the product 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 product proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product is added to the Procurement List:

Product

NSN—Product Name: 5180–00–596–1501—Pipefitter's Tool Kit
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
Mandatory for: U.S. Army
Contracting Activity: U.S. Army Tank and Automotive Command, Warren, MI
Distribution: C-List

Deletions

On 1/15/2016 (81 FR 2198–2199) and 2/5/2016 (81 FR 6241), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may 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 deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Products

NSNs—Product Names:
7195–01–567–9528—Bulletin Bar, Cork, Map Rail, 36″ x 1″, Aluminum Frame
7195–01–567–9529—Bulletin Board, Cork, Map Rail, 48″ x 1″, Aluminum Frame
7195–01–567–9530—Bulletin Bar, Cork, Map Rail, 24″ x 1″, Aluminum Frame
Mandatory Source of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Contracting Activities: Department of Veterans Affairs, NAC, Hines, IL; General Services Administration, FSS Household and Industrial Furniture, Arlington, VA
NSNs—Product Names:
7105–00–260–1390—Mirror, Glass, 11⅜ x 13⅜′
7105–00–264–5997—Mirror, Glass, 20 x 60′
Mandatory Source of Supply: UNKNOWN
Contracting Activity: General Services Administration, Fort Worth, TX
NSNs—Product Names:
8415–00–NSH–1276—Gortex, Women's Shell Trousers—Small/Short
8415–00–NSH–1277—Gortex, Women's Shell Trousers—Small/Long
8415–00–NSH–1278—Gortex, Women's Shell Trousers -Medium/Short
8415–00–NSH–1279—Gortex, Women's Shell Trousers—Medium/Long
8415–00–NSH–1280—Gortex, Women's Shell Trousers—Large/Short
8415–00–NSH–1281—Gortex, Women's Shell Trousers—Large/Long
8415–00–NSH–1282—Gortex, Women's Shell Trousers—Xlarge/Short
8415–00–NSH–1283—Gortex, Women's Shell Trousers—Xlarge/Long
8415–00–NSH–0591—Trousers, MPS, Navy, Women's, Sage Green, XSR
8415–00–NSH–0592—Trousers, MPS, Navy, Women's, Sage Green, SR
8415–00–NSH–0593—Trousers, MPS, Navy, Women's, Sage Green, MR
8415–00–NSH–0594—Trousers, MPS, Navy, Women's, Sage Green, LR
8415–00–NSH–0595—Trousers, MPS, Navy, Women's, Sage Green, XLR
8415–00–NSH–0994—Trousers, Shell Outer Layer, MPS, Navy, Women's, Black, X Small Short
8415–00–NSH–0995—Trousers, Shell Outer Layer, MPS, Navy, Women's, Black, X Small Long
8415–00–NSH–0547—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, XSR
8415–00–NSH–0548—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, SR
8415–00–NSH–0549—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, MR
8415–00–NSH–0550—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, ML
8415–00–NSH–0551—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, LR
8415–00–NSH–0552—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, LL
8415–00–NSH–0553—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, XLR
8415–00–NSH–0554—Gortex Shell Jacket, MPS, Army, Men's, Sage Green, XLL
8415–00–NSH–0877—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, X Small Short
8415–00–NSH–0878—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, X Small Long
8415–00–NSH–0879—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, Small Short

8415–00–NSH–0880—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, Small Long
8415–00–NSH–0881—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, Medium Short
8415–00–NSH–0882—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, Large Short
8415–00–NSH–0883—Gortex Shell Jacket, MPS, Navy, Men's, Sage Green, X Large Short
8415–00–NSH–0555—Gortex Shell Jacket, MPS, Army, Women's, Sage Green, XSR
8415–00–NSH–0556—Gortex Shell Jacket, MPS, Army, Women's, Sage Green, SR
8415–00–NSH–0557—Gortex Shell Jacket, MPS, Army, Women's, Sage Green, MR
8415–00–NSH–0558—Gortex Shell Jacket, MPS, Army, Women's, Sage Green, LR
8415–00–NSH–0559—Gortex Shell Jacket, MPS, Army, Women's, Sage Green, XLR
8415–00–NSH–0884—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, X Small Short
8415–00–NSH–0885—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, X Small Long
8415–00–NSH–0886—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Small Short
8415–00–NSH–0887—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Small Long
8415–00–NSH–0888—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Medium Short
8415–00–NSH–0889—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Medium Long
8415–00–NSH–0890—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Large Short
8415–00–NSH–0891—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, Large Long
8415–00–NSH–0892—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, X Large Short
8415–00–NSH–0893—Gortex Shell Jacket, MPS, Navy, Women's, Sage Green, X Large Long
8415–00–NSH–0583—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, XSR
8415–00–NSH–0584—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, SR
8415–00–NSH–0585—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, MR
8415–00–NSH–0586—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, ML
8415–00–NSH–0587—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, LR
8415–00–NSH–0588—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, LL
8415–00–NSH–0589—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, XLR
8415–00–NSH–0590—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, XLL
8415–00–NSH–0596—Gortex Shell Trousers, MPS, Navy, Men's, Sage Green, LS
8415–00–NSH–0991—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, X Small Short
8415–00–NSH–0992—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, X Small Long
8415–00–NSH–0993—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, Small Short
8415–00–NSH–0996—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, Small Long
8415–00–NSH–0997—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, Medium Short
8415–00–NSH–0998—Gortex Shell Trousers, Shell Outer Layer, MPS, Navy, Men's, Black, X Large Short

Mandatory Sources of Supply: Group Home Foundation, Inc., Belfast, ME; Peckham Vocational Industries, Inc., Lansing, MI

Contracting Activities: Naval Air Systems Command, Patuxent River, MD; Army Contracting Command—Aberdeen Proving Ground, Natick Contracting Division, Natick, MA

Service

Service Type: Parts Sorting Service

Mandatory for: Oklahoma City Air Logistics Center, Bldg 3, Suite 20, Tinker AFB, OK

Mandatory Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK

Contracting Activity: Dept of the Air Force, FA7014 AFDW PK, Andrews AFB, MD

Patricia Briscoe,

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

[FR Doc. 2016–04175 Filed 2–25–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

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

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

Comments Must Be Received on or Before: 3/27/2016.

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

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

Additions

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

The following products are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN—Product Name: MR 10659—Container Set, Soup and Salad, includes Shipper 20659

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

NSN—Product Name: MR 849—Whisk, Wire Looped

Mandatory Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH

NSN—Product Name: MR 753—Pillow, Jumbo

Mandatory Source of Supply: Georgia Industries for the Blind, Bainbridge, GA

NSN—Product Name: MR 1188—MR Towel Set, Christmas, includes Shipper 11188

Mandatory Source of Supply: Alphapointe, Kansas City, MO

Mandatory for: The requirements of military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4.

Contracting Activity: Defense Commissary Agency, Fort Lee, VA

Distribution: C-List

Deletions

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

Products

NSNs—Product Names

MR 523—Candle, Air Freshening, Potpourri
MR 524—Candle, Air Freshening, Dewdrop
MR 525—Candle, Air Freshening, Rose
MR 526—Candle, Air Freshening, Mulberry
MR 528—Candle, Air Freshening, Wildflower
MR 529—Candle with Glass Holder
MR 531—Candle, Air Freshening, Peach

Mandatory Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX

MR 808—Spoon, Basting, SS Trim
MR 811—Fork, Serving, SS Trim
MR 824—Mandolin Slicer

MR 987—Towel, Super Absorbent, Orange, 20″ x 23″, 3 Pack
Mandatory Source of Supply: Industries for the Blind, Inc., West Allis, WI
MR 1049—Amazing Mop, Microfiber, 16″
MR 1059—Refill, Amazing Mop, Microfiber, 16″
Mandatory Source of Supply: Alphapointe, Kansas City, MO
MR 3209—Ouchless Latex Elastic, Goody Hair Care Products
Mandatory Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: Defense Commissary Agency, Fort Lee, VA
NSNs—Product Names
6515–01–466–2710—Combat Arms Ear Plug, Dual Ended, Universal Size
6515–00–SAM–0016—Combat Arms Ear Plug, Dual Ended
Mandatory Source of Supply: Access: Supports for Living Inc., Middletown, NY
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA

Patricia Briscoe,

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

[FR Doc. 2016–04174 Filed 2–25–16; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery; Request for Nominations

AGENCY: Department of the Army, DoD.

ACTION: Notice; request for nominations.

SUMMARY: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of Defense, through the Secretary of the Army, independent advice and recommendations on Arlington National Cemetery, including, but not limited to cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations. The Committee is comprised of no more than nine (9) members. Subject to the approval of the Secretary of Defense, the Secretary of the Army appoints no more than seven (7) of these members. The purpose of this notice is to solicit nominations from a wide range of highly qualified persons to be considered for appointment to the Committee. Nominees may be appointed as members of the Committee and its sub-committees for terms of service ranging from one to four years. This notice solicits nominations to fill Committee membership vacancies that may occur through July 20, 2016. Nominees must be preeminent authorities in their respective fields of interest or expertise.

DATES: All nominations must be received at (see **ADDRESSES**) no later than April 30, 2016.

ADDRESSES: Interested persons may submit a resume for consideration by the Department of the Army to the Committee's Designated Federal Officer at the following address: Advisory Committee on Arlington National Cemetery, ATTN: Designated Federal Officer (DFO) (Ms. Yates), Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Ms. Renea C. Yates, Designated Federal Officer, by email at *renea.c.yates.civ@mail.mil* or by telephone 877–907–8585.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Arlington National Cemetery was established pursuant to Title 10, United States Code, Section 4723. The selection, service and appointment of members of the Committee are covered by the Committee Charter, available on the Arlington National Cemetery Web site *http://www.arlingtoncemtery.mil/AboutUs/Charter.aspx.* The substance of these provisions of the Charter is as follows:

a. Selection. The Committee Charter provides that the Committee shall be comprised of no more than nine members, all of whom are preeminent authorities in their respective fields of interest or expertise. Of these, no more than seven members are nominated by the Secretary of the Army.

By direction of the Secretary of the Army, all resumes submitted in response to this notice will be presented to and reviewed by a panel of three senior Army leaders. Potential nominees shall be prioritized after review and consideration of their resumes for: Demonstrated technical/professional expertise; preeminence in a field(s) of interest or expertise; potential contribution to membership balance in terms of the points of view represented and the functions to be performed; potential organizational and financial conflicts of interest; commitment to our Nation's veterans and their families; and published points of view relevant to the objectives of the Committee. The panel will provide the DFO with a prioritized list of potential nominees for consideration by the Executive Director, Army National Military Cemeteries, in making an initial recommendation to the Secretary of the Army. The Executive Director, Army National Military Cemeteries; the Secretary of the Army; and the Secretary of Defense are not limited or bound by the recommendations of the Army senior leader panel. Sources in addition to this **Federal Register** notice may be utilized in the solicitation and selection of nominations.

b. Service. The Secretary of Defense may approve the appointment of a Committee member for a one-to-four year term of service; however, no member, unless authorized by the Secretary of Defense, may serve on the Committee or authorized subcommittee for more than two consecutive terms of service. The Secretary of the Army shall designate the Committee Chair from the total Advisory Committee membership. The Committee meets at the call of the DFO, in consultation with the Committee Chair. It is estimated that the Committee meets four times per year.

c. Appointment. The operations of the Committee and the appointment of members are subject to the Federal Advisory Committee Act (Pub. L. 92–463, as amended) and departmental implementing regulations, including Department of Defense Instruction 5105.04, Department of Defense Federal Advisory Committee Management Program, available at *http://www.dtic.mil/whs/directives/corres/pdf/510504p.pdf.* Appointed members who are not full-time or permanent part-time Federal officers or employees shall be appointed as experts and consultants under the authority of Title 5, United States Code, Section 3109 and shall serve as special government employees. Committee members appointed as special government employees shall serve without compensation except that travel and per diem expenses associated with official Committee activities are reimbursable.

Additional information about the Committee is available on the Internet at: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/Charter.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–04182 Filed 2–25–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS–2016–0005]

Negotiation of a Reciprocal Defense Procurement Memorandum of Understanding With the Ministry of Defense of Estonia

AGENCY: Department of Defense (DoD).

ACTION: Notice.

SUMMARY: On behalf of the U.S. Government, DoD is contemplating negotiating and concluding a Reciprocal Defense Procurement (RDP) Memorandum of Understanding (MOU) with the Ministry of Defense of Estonia. DoD is requesting industry feedback regarding its experience in public defense procurements conducted by or on behalf of the Estonian Ministry of Defense or Armed Forces.

DATES: Submit written comments to the address shown below on or before March 28, 2016.

ADDRESSES: Submit comments to Defense Procurement and Acquisition Policy, Attn: Lt. Col. Judy Anderson, 3060 Defense Pentagon, Room 5E621, Washington, DC 20301–3060; or by email to *judy.p.anderson1.mil@mail.mil*.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Judy Anderson, Senior Analyst, Office of the Under Secretary of Defense for Acquisition, Technology and Logistics (OUSD(AT&L)), Defense Procurement and Acquisition Policy, Contract Policy and International Contracting; Room 5E621, 3060 Defense Pentagon, Washington, DC 20301–3060; telephone (703) 695–7197.

SUPPLEMENTARY INFORMATION: DoD has concluded Reciprocal Defense Procurement (RDP) Memorandums of Understanding (MOUs) with 23 ''qualifying countries'' at the level of the Secretary of Defense and his counterpart. The purpose of an RDP MOU is to promote rationalization, standardization, and interoperability of conventional defense equipment with allies and other friendly governments. These MOUs provide a framework for ongoing communication regarding market access and procurement matters that enhance effective defense cooperation.

RDP MOUs generally include language by which the Parties agree that their defense procurements will be conducted in accordance with certain implementing procedures. These procedures relate to—

- Publication of notices of proposed purchases;
- The content and availability of solicitations for proposed purchases;
- Notification to each unsuccessful offeror;
- Feedback, upon request, to unsuccessful offerors concerning the reasons they were not allowed to participate in a procurement or were not awarded a contract; and
- Provision for the hearing and review of complaints arising in connection with any phase of the procurement process to ensure that, to the extent possible, complaints are equitably and expeditiously resolved.

Based on the MOU, each country affords the other country certain benefits on a reciprocal basis consistent with national laws and regulations. The benefits that the United States accords to the products of qualifying countries include—

- Offers of qualifying country end products are evaluated without applying the price differentials otherwise required by the Buy American statute and the Balance of Payments Program;
- The chemical warfare protection clothing restrictions in 10 U.S.C. 2533a, and the specialty metals restriction in 10 U.S.C. 2533b(a)(1) do not apply to products manufactured in a qualifying country; and
- Customs, taxes, and duties are waived for qualifying country end products and components of defense procurements.

If DoD (for the United States Government) concludes an RDP MOU with the Ministry of Defense of Estonia, then Estonia would be listed as one of the ''qualifying countries'' in the definition of ''qualifying country'' at DFARS 225.003, and offers of products of Estonia or that contain components from Estonia would be afforded the benefits available to all qualifying countries. This also means that U.S. products would be exempt from any analogous ''Buy Estonia'' and ''Buy European Union'' laws or policies applicable to procurements by the Estonia Ministry of Defense or Armed Forces.

While DoD is evaluating Estonia's laws and regulations in this area, DoD would benefit from U.S. industry's experience in participating in Estonia's public defense procurements. DoD is, therefore, asking U.S. firms that have participated or attempted to participate in procurements by or on behalf of Estonia's Ministry of Defense or Armed Forces to let us know if the procurements were conducted with transparency, integrity, fairness, and due process in accordance with published procedures, and if not, the nature of the problems encountered.

DoD is also interested in comments relating to the degree of reciprocity that exists between the United States and Estonia when it comes to the openness of defense procurements to offers of products from the other country.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–04186 Filed 2–25–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Inland Waterways Users Board Meeting Notice

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open Federal advisory committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the U.S. Army Corps of Engineers, Inland Waterways Users Board (Board). This meeting is open to the public. For additional information about the Board, please visit the committee's Web site at *http://www.iwr.usace.army.mil/Missions/Navigation/InlandWaterwaysUsersBoard.aspx.*

DATES: The Army Corps of Engineers, Inland Waterways Users Board will meet from 9:00 a.m. to 1:00 p.m. on April 1, 2016. Public registration will begin at 8:15 a.m.

ADDRESSES: The Board meeting will be conducted at the Hotel Monaco—Pittsburgh, 620 William Penn Place, Pittsburgh, PA 15219, at 412–471–1170, reservations at 855–338–3837, *http://www.monaco-pittsburgh.com.*

FOR FURTHER INFORMATION CONTACT: Mr. Mark R. Pointon, the Designated Federal Officer (DFO) for the committee, in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GM, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by telephone at 703–428–6438; and by email at *Mark.Pointon@usace.army.mil.* Alternatively, contact Mr. Kenneth E. Lichtman, the Alternate Designated Federal Officer (ADFO), in writing at the Institute for Water Resources, U.S. Army Corps of Engineers, ATTN: CEIWR–GW, 7701 Telegraph Road, Casey Building, Alexandria, VA 22315–3868; by

telephone at 703–428–8083; and by email at *Kenneth.E.Lichtman@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act 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.

Purpose of the Meeting: The Board is chartered to provide independent advice and recommendations to the Secretary of the Army on construction and rehabilitation project investments on the commercial navigation features of the inland waterways system of the United States. At this meeting, the Board will receive briefings and presentations regarding the investments, projects and status of the inland waterways system of the United States and conduct discussions and deliberations on those matters. The Board is interested in written and verbal comments from the public relevant to these purposes.

Proposed Agenda: At this meeting the agenda will include the status of funding for inland navigation projects and studies in FY 2016 and budgeted in FY 2017, the status of the Inland Waterways Trust Fund, the status of the Olmsted Locks and Dam Project and the Locks and Dams 2, 3, and 4 Monongahela River Project, status of the Inland Marine Transportation System (IMTS) Capital Investment Strategy (CIS), follow up to the Lock Performance Monitoring System (LPMS) reporting modifications and reporting navigation notices to maritime interests, and discussion of the Board's 2015 Annual Report.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the April 1, 2016 meeting. The final version will be provided at the meeting. All materials will be posted to the Web site after the meeting.

Public Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.1 65, and subject to the availability of space, this meeting is open to the public. Registration of members of the public who wish to attend the meeting will begin at 8:15 a.m. on the day of the meeting. Seating is limited and is on a first-to-arrive basis. Attendees will be asked to provide their name, title, affiliation, and contact information to include email address and daytime telephone number at registration. Any interested person may attend the meeting, file written comments or statements with the committee, or make verbal comments from the floor during the public meeting, at the times, and in the manner, permitted by the committee, as set forth below.

Special Accommodations: The meeting venue is fully handicap accessible, with wheelchair access. Individuals requiring special accommodations to access the public meeting or seeking additional information about public access procedures, should contact Mr. Pointon, the committee DFO, or Mr. Lichtman, the ADFO, at the email addresses or telephone numbers listed in the **FOR FURTHER INFORMATION CONTACT** section, at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Board about its mission and/or the topics to be addressed in this public meeting. Written comments or statements should be submitted to Mr. Pointon, the committee DFO, or Mr. Lichtman, the committee ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section in the following formats: Adobe Acrobat or Microsoft Word. The comment or statement must include the author's name, title, affiliation, address, and daytime telephone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the committee DFO or ADFO at least five (5) business days prior to the meeting so that they may be made available to the Board for its consideration prior to the meeting. Written comments or statements received after this date may not be provided to the Board until its next meeting. Please note that because the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection.

Verbal Comments: Members of the public will be permitted to make verbal comments during the Board meeting only at the time and in the manner allowed herein. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three business (3) days in advance to the committee DFO or ADFO, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The committee DFO and ADFO will log each request to make a comment, in the order received, and determine whether the subject matter of each comment is relevant to the Board's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of the meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the DFO and ADFO.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–04181 Filed 2–25–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Training and Information for Parents of Children With Disabilities—Parent Training and Information Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY:

Overview Information

Training and Information for Parents of Children with Disabilities—Parent Training and Information Centers Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.328M.

DATES:

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 11, 2016.

Deadline for Intergovernmental Review: June 10, 2016.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Priority: This competition has one absolute priority. In accordance with 34 CFR 75.105(b)(2)(iv) and (v), this priority is from allowable activities

specified in the statute, or otherwise authorized in the statute (see sections 671 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Parent Training and Information Centers.

Background

The purpose of this priority is to fund one regional Pacific Parent Training and Information Center (PTI) designed to meet the information and training needs of parents of infants, toddlers, children, and youth with disabilities, ages birth through 26 (collectively, ''children with disabilities''), and the information and training needs of youth with disabilities, living in American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau. The 2015 notice inviting applications for new awards for CFDA 84.328M included the Pacific region. However, we received no applications for the Pacific region PTI. The fiscal year 2015 funding was used to supplement the PTI in Hawaii to provide services in the Pacific and help build the organizational capacity of eligible Pacific entities to respond to this notice.

More than 35 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by strengthening the ability of parents to participate fully in the education of their children at school and at home (see section 601(c)(5)(B) of IDEA). PTIs help parents set high expectations for their children with disabilities and provide parents with the information and training they need to help their children meet those expectations. The following Web site provides further information on the work of currently funded PTIs: *www.parentcenterhub.org.*

Consistent with section 671(b) of IDEA, PTIs help families: (a) Navigate systems that provide early intervention, special education, general education, postsecondary options, and related services; (b) understand the nature of their children's disabilities; (c) learn about their rights and responsibilities under IDEA; (d) expand their knowledge of evidence-based (as defined in this notice) education practices to help their children succeed; (e) strengthen their collaboration with professionals; (f) locate resources available for themselves and their children, which connects them to their local communities; and (g) advocate for improved student achievement, increased graduation rates, and improved postsecondary outcomes for all children through participation in school reform activities. In addition, PTIs have helped youth with disabilities have high expectations for themselves, understand their rights and responsibilities, and learn self-advocacy skills. PTIs have also partnered with Federal, State, and local agencies, providing expertise on how to better support families and youth with disabilities as they access IDEA services.

The PTI to be funded through this priority will build on the program's history by helping youth become effective self-advocates and by providing parents with information, individual assistance, and training to enable them to: (a) Ensure that their children are included in general education classrooms and extracurricular activities with their peers; (b) help their children meet developmental and academic goals; (c) help their children meet challenging expectations established for all children, including college- and career-ready academic standards; and (d) prepare their children to achieve positive postsecondary outcomes that lead to lives that are as productive and independent as possible.

Priority

The Department intends to fund one grant to establish and operate one PTI to serve the Pacific region. Based on the quality of applications received, the Department intends to fund this PTI to serve the following outlying areas in the Pacific: American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands and the freely associated States as authorized in section 610 of IDEA: The Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. For purposes of this notice, the covered jurisdictions will be referred to as ''States.''

At a minimum, the PTI must: (a) Increase parents' [1] capacity to help their children with disabilities [2] improve their early learning, school-aged, and postsecondary outcomes; and (b) increase youth with disabilities' capacity to be effective self-advocates.

To be considered for funding under this priority, an applicant must meet the application, programmatic, and administrative requirements of this priority. Applicants must—

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will, within the area served by the center—

(1) Address the needs of parents of children with disabilities for high-quality services that increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must—

(i) Present appropriate information on the needs of parents, including underserved parents, low-income parents, parents with limited English proficiency, parents of incarcerated youth with disabilities, and parents with disabilities;

(ii) Demonstrate knowledge of best practices in providing training and information to a variety of audiences, including underserved parents, low-income parents, parents with limited English proficiency, parents of incarcerated youth with disabilities, and parents with disabilities;

(iii) Demonstrate knowledge of best practices in outreach and family-centered services;

(iv) Demonstrate knowledge of current evidence-based education practices and policy initiatives to improve outcomes in early intervention and early childhood, general and special education, transition services, and postsecondary options; and

(v) Demonstrate knowledge of how to identify and work with appropriate partners in the Pacific, including local providers and lead agencies providing Part C services under IDEA; State and local educational agencies; State child welfare agencies; disability-specific systems and entities serving families, such as the State's protection and advocacy system; and other nonprofits serving families in order to improve outcomes; and

(2) Address the needs of youth with disabilities for high-quality services that increase their capacity to be effective self-advocates. To meet this requirement, the applicant must—

(i) Present appropriate information on the needs of youth with disabilities, including underserved youth, incarcerated youth, youth in foster care, and youth with limited English proficiency;

[1] Section 602(23) of IDEA defines ''parent'' to include natural, adoptive, and foster parents; guardians; individuals acting in the place of natural or adoptive parents, and individuals assigned to be surrogate parents.

[2] The term ''disabilities'' refers to the full range of disabilities described in section 602(3) of IDEA.

(ii) Demonstrate knowledge of best practices in providing training and information to youth with disabilities;

(iii) Demonstrate knowledge of current evidence-based education practices and policy initiatives in self-advocacy; and

(iv) Demonstrate knowledge of how to work with appropriate partners serving youth with disabilities, including State and local agencies, other nonprofits, and Independent Living Centers that are providing assistance such as postsecondary education options, employment training, and supports.

(b) Demonstrate, in the narrative section of the application, under ''Quality of the Project Services,'' how the proposed project will—

(1) Use a project logic model (see paragraph (f)(1) of this priority) to guide the development of project plans and activities within the area served by the center;

(2) Develop and implement an outreach plan to inform parents of children with disabilities of how they can benefit from the services provided by the PTI, including—

(i) Parents of children who may be inappropriately identified as having a disability;

(ii) Underserved parents, including parents who are underserved based on race or ethnicity;

(iii) Parents with limited English proficiency;

(iv) Low-income parents; and

(v) Parents with disabilities;

(3) Develop and implement an outreach plan to inform youth with disabilities of how they can benefit from the services provided by the PTI;

(4) Provide high-quality services that increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase parents' knowledge of—

(A) The nature of their children's disabilities, including their children's strengths and academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for their children and how to help them meet those expectations;

(C) The local, State, and Federal resources available to assist them and their children and local resources that strengthen their connection to their communities;

(D) IDEA, Federal IDEA regulations, and State implementation of IDEA, including—

(*1*) Their rights and responsibilities under IDEA, including procedural safeguards and dispute resolution;

(*2*) Their role on Individualized Family Service Plan (IFSP) and Individualized Education Program (IEP) Teams and how to effectively participate on IFSP and IEP Teams; and

(*3*) How services are provided under IDEA;

(E) Other relevant educational and health care legislation, including the Elementary and Secondary Education Act of 1965, as amended (ESEA); section 504 of the Rehabilitation Act of 1973, as amended (section 504); and the Americans with Disabilities Act of 1990 (ADA);

(F) Transition services at all levels, including: Part C early intervention to Part B preschool, preschool to elementary school, elementary school to secondary school, secondary school to postsecondary education and workforce options, and re-entry of incarcerated youth to school and the community;

(G) How their children can have access to the general education curriculum, including access to college- and career-ready academic standards and assessments, extracurricular and enrichment opportunities available to all children, and other initiatives to make students college- and career-ready;

(H) How their children can have access to inclusive early learning programs, inclusive general education classrooms and settings, and extracurricular and enrichment opportunities available to all children;

(I) Evidence-based early intervention and education practices that improve early learning, school-aged, and postsecondary outcomes;

(J) School reform efforts to improve student achievement and increase graduation rates; and

(K) The use of data to inform instruction and advance school reform efforts;

(ii) Increase parents' capacity to—

(A) Effectively support their children with disabilities and participate in their children's education;

(B) Communicate effectively and work collaboratively in partnership with early intervention service providers, school-based personnel, related services personnel, and administrators;

(C) Resolve disputes effectively; and

(D) Participate in school reform activities to improve outcomes for children;

(5) Provide high-quality services that increase youth with disabilities' capacity to be effective self-advocates. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase the knowledge of youth with disabilities about—

(A) The nature of their disabilities, including their strengths and of their academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for themselves and how to meet those expectations;

(C) The resources available to support their success in secondary and postsecondary education and employment and full participation in their communities;

(D) IDEA, section 504, ADA, and other legislation and policies that affect people with disabilities;

(E) Their rights and responsibilities while receiving services under IDEA and after transitioning to post-school programs, services, and employment;

(F) How they can participate on IEP Teams; and

(G) Supported decisionmaking necessary to transition to adult life; and

(ii) Increase the capacity of youth with disabilities to advocate for themselves, including communicating effectively and working in partnership with providers;

(6) Use various methods to deliver services, including in-person and remotely through the use of technology;

(7) Use best practices to provide training and information to adult learners and youth;

(8) Establish cooperative partnerships with any Community Parent Resource Centers under section 672 of IDEA; and

(9) Network with local, State, and national organizations and agencies, such as the Part C State Interagency Coordination Council, the Part B State Advisory Panel, and protection and advocacy agencies that serve parents and families of children with disabilities, to better support families and children with disabilities to effectively and efficiently access IDEA services.

(c) Demonstrate, in the narrative section of the application, under ''Quality of the Evaluation Plan,'' how—

(1) The applicant will evaluate how well the goals or objectives of the proposed project, as described in its logic model, have been met by undertaking a formative evaluation and a summative evaluation, including a description of how the applicant will measure the outcomes proposed in the logic model (see paragraph (f)(1) of this priority). The description must include—

(i) Proposed evaluation methodologies, including proposed instruments, data collection methods, and analyses; and

(ii) Proposed criteria for determining if the project has reached and served youth with disabilities and parents, including underserved parents of children with disabilities; and

(2) The proposed project will use the evaluation results to examine its implementation and its progress toward achieving intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed personnel, consultants, and contractors have the qualifications and experience to carry out the proposed activities and achieve the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority);

(2) The applicant will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability, as appropriate; and

(3) The applicant and key partners have adequate resources to carry out the proposed activities.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority) will be achieved on time and within budget;

(2) The time of key personnel, consultants, and contractors will be sufficiently allocated to the project;

(3) The proposed management plan will ensure that the services provided are of high quality;

(4) The board of directors will be used to provide appropriate oversight to the project;

(5) The proposed project benefits from a diversity of perspectives, including those of parents, providers, and administrators in the area to be served by the center;

(6) The proposed project will ensure that the Annual Performance Reports submitted to the Department will—

(i) Be accurate and timely;

(ii) Include information on the projects' outputs and outcomes; and

(iii) Include, at a minimum, the number and demographics of parents and youth to whom the PTI provided information and training, the parents' and youth's unique needs, and the levels of service provided to them; and

(7) The project management and staff will—

(i) Make use of the technical assistance (TA) and products provided by the Center on Parent Information and Resources, Regional Parent Technical Assistance Centers (PTACs), Native American PTAC, Military PTAC, and other TA centers funded by the Office of Special Education Programs (OSEP), as appropriate, in order to serve parents of children with disabilities and youth with disabilities as effectively as possible;

(ii) Participate in developing individualized TA plans with the Regional PTAC as appropriate; and

(iii) Facilitate one site visit from the Regional PTAC during the grant cycle.

(f) In the narrative or appendices as directed, the applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model [3] communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

(2) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(3) Include, in the budget, attendance by the project director at one OSEP meeting in Washington DC annually, to be determined by OSEP; and

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director and other authorized representatives.

(4) Include a statement in the narrative about how the project will maintain a Web site that meets government or industry-recognized standards for accessibility and that includes, at a minimum, a current calendar of upcoming events, free informational publications for families, and links to Webinars or other online multimedia resources.

Definitions

For the purposes of this priority:

Evidence-based means supported by strong theory.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1471 and 1481.

[3] The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.osepideasthatwork.org/logicModel/index.asp.*

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grant.

Estimated Available Funds: $200,000.

Contingent on the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Parent organizations.

Note: Section 671(a)(2) of IDEA defines a ''parent organization'' as a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention; and

(ii) Individuals with disabilities; and

(3) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who are ages birth through 26, and have the full range of disabilities described in section 602(3) of IDEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: Nonprofit organizations.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:* (a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.328M.

To obtain a copy from the program office, contact: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington DC 20202–5076. Telephone: (202) 245–6595. If you use a TDD or TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section.

3. *Submission Dates and Times:*

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 11, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 10, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the

SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Parent Training and Information Centers competition, CFDA number 84.328M, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Parent Training and Information Centers competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.328, not 84.328M).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov*. In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from

Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. FAX: (202) 245–7590.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328M), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

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

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

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

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

(1) A private metered postmark.

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

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328M), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the

applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition, the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Training and Information for Parents of Children with Disabilities program. The measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice. Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6595.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register**

and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Dated: February 23, 2016.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–04254 Filed 2–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Alaska Native and Native Hawaiian-Serving Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Alaska Native and Native Hawaiian-Serving Institutions (ANNH) Program.

Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.031R and 84.031V.

Dates:

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 26, 2016.

Deadline for Intergovernmental Review: June 27, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The ANNH Program provides grants to eligible institutions of higher education (IHEs) that have an undergraduate enrollment of at least 20 percent Alaska Native or 10 percent Native Hawaiian students to allow such institutions to plan, develop, undertake, and carry out activities to improve and expand their capacity to serve Alaska Native and Native Hawaiians. Examples of authorized activities for the ANNH Program are in section 317(c) of the Higher Education Act of 1965, as amended (HEA).

Priorities: This notice contains one absolute priority, two competitive preference priorities, and one invitational priority. The absolute priority is from the Department's notice of final supplemental priorities and definitions for discretionary grant programs (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425). In accordance with 34 CFR 75.105(b)(2)(ii), the competitive preference priorities are from 34 CFR 75.226.

Absolute Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Supporting High-Need Students.

(a) Projects that are designed to improve:

(i) Academic outcomes;

(ii) Learning environments; or

(iii) Both,

(b) For one or more of the following groups of students:

(i) High-need students.

(ii) Students with disabilities.

(iii) English learners.

(iv) Disconnected youth or migrant youth.

(v) Low-skilled adults.

Competitive Preference Priorities: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award one additional point to an application that meets Competitive Preference Priority 1 and three additional points to an application that meets Competitive Preference Priority 2. Applicants may address only one of the competitive preference priorities and must clearly indicate in their application which competitive preference priority they are addressing. Applicants that apply under Competitive Preference Priority 2, but whose applications do not meet the moderate evidence of effectiveness standard, may still be considered under Competitive Preference Priority 1 to determine whether their applications meet the evidence of promise standard.

In assessing the relevance of the research cited to the proposed project, the Secretary will consider, among other factors, the portion of the requested funds that will be dedicated to the evidence-based strategies or activities.

These priorities are:

Competitive Preference Priority 1 (One additional point) Applications supported by evidence of effectiveness that meets the conditions set out in the definition of ''evidence of promise.''

Competitive Preference Priority 2 (Three additional points) Applications supported by evidence of effectiveness that meets the conditions set out in the definition of ''moderate evidence of effectiveness.''

Invitational Priority: For FY 2016 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Projects that support activities that strengthen Native language preservation and revitalization.

Definitions: The following definitions are from 34 CFR 77.1 and the Supplemental Priorities.

Disconnected youth means low-income individuals, ages 14–24, who are homeless, are in foster care, are involved in the justice system, or are not working or not enrolled in (or at risk of dropping out of) an educational institution.

Evidence of promise means there is empirical evidence to support the theoretical linkage(s) between at least one critical component and at least one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice. Specifically, evidence of promise means the conditions in both paragraphs (i) and (ii) of this definition are met:

(i) There is at least one study that is a—

(A) Correlational study with statistical controls for selection bias;

(B) Quasi-experimental design study that meets the What Works Clearinghouse Evidence Standards with reservations; or

(C) Randomized controlled trial that meets the What Works Clearinghouse Evidence Standards with or without reservations.

(ii) The study referenced in paragraph (i) of this definition found a statistically significant or substantively important (defined as a difference of 0.25 standard deviations or larger) favorable association between at least one critical component and one relevant outcome presented in the logic model for the proposed process, product, strategy, or practice.

High-minority school means a school as that term is defined by a local educational agency (LEA), which must define the term in a manner consistent with its State's Teacher Equity Plan, as required by section 1111(b)(8)(C) of the Elementary and Secondary Education

Act of 1965, as amended. The applicant must provide the definition(s) of high-minority schools used in its application.

High-need students means students who are at risk of educational failure or otherwise in need of special assistance and support, such as students who are living in poverty, who attend high-minority schools, who are far below grade level, who have left school before receiving a regular high school diploma, who are at risk of not graduating with a diploma on time, who are homeless, who are in foster care, who have been incarcerated, who have disabilities, or who are English learners.

Large sample means an analytic sample of 350 or more students (or other single analysis units), or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units).

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

Low-skilled adult means an adult with low literacy and numeracy skills.

Moderate evidence of effectiveness means one of the following conditions is met:

(i) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(ii) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample. **Note:** Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental design by identifying a comparison group that is similar to the treatment group in important respects. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards with reservations (but not What Works Clearinghouse Evidence Standards without reservations).

Randomized controlled trial means a study that employs random assignment of, for example, students, teachers, classrooms, schools, or districts to receive the intervention being evaluated (the treatment group) or not to receive the intervention (the control group). The estimated effectiveness of the intervention is the difference between the average outcome for the treatment group and for the control group. These studies, depending on design and implementation, can meet What Works Clearinghouse Evidence Standards without reservations.

Regular high school diploma means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State's academic content standards or a higher diploma and does not include a General Education Development (GED) credential, certificate of attendance, or any alternative award.

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program.

State means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19*.

Program Authority: 20 U.S.C. 1059d.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget (OMB) Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The Supplemental Priorities.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,588,546.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Range of Awards: $400,000–$500,000.

Estimated Average Size of Awards: $450,000 per year.

Maximum Award: $500,000 per year.

We will reject any application that proposes a budget exceeding $500,000 for a single budget period of 12 months.

Estimated Number of Awards: 7–8.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* (a) An IHE is eligible to receive funds under the ANNH Program if it qualifies as an Alaska Native or Native Hawaiian-Serving Institution. At the time of application, an Alaska Native-Serving Institution must have an enrollment of undergraduate students that is at least 20 percent Alaska Native (34 CFR 607.2(e)); and a Native Hawaiian-Serving Institution must have an enrollment of undergraduate students that is at least 10 percent Native Hawaiian (34 CFR 607.2(f)).

At the time of submission of their applications, applicants must certify their total undergraduate headcount enrollment and that either 20 percent of the IHE's enrollment is Alaska Native or 10 percent is Native Hawaiian. An assurance form, which is included in the application materials for this competition, must be signed by an official for the applicant and submitted.

To qualify as an eligible institution under the ANNH Program, an institution must also be—

(i) Accredited or preaccredited by a nationally recognized accrediting

agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(ii) Legally authorized by the State in which it is located to be a junior college or to provide an educational program for which it awards a bachelor's degree; and

(iii) Designated as an ''eligible institution'' by demonstrating that it: (1) Has an enrollment of needy students as described in 34 CFR 607.3; and (2) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student, as described in 34 CFR 607.4.

Note: The notice announcing the FY 2016 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on November 19, 2015 (80 FR 72422). Only institutions that the Department determines are eligible, or are granted a waiver, may apply for a grant in this program.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements.

IV. Application and Submission Information

1. *Address to Request Application Package:* Robyn Wood or Don Crews, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. You may contact these individuals at the following email addresses or telephone numbers:

Robyn.Wood@ed.gov; (202) 502–7437
Don.Crews@ed.gov; (202) 502–7574

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

You can obtain an application via the Internet using the following address: *www.Grants.gov*.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting one of the program contact people listed in this section.

2. *Content and Form of Application Submission:*

Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative is where you, the applicant, address the selection criteria, the absolute priority, the competitive preference priorities, and the invitational priority that reviewers use to evaluate your application. We have established mandatory page limits. You must limit the section of the application narrative that addresses:

- The selection criteria to no more than 50 pages.
- The absolute priority to no more than three pages.
- A competitive preference priority, to no more than three pages, if you address one.
- The invitational priority to no more than two pages, if you address it.

Accordingly, under no circumstances may the application narrative exceed 58 pages. Include a separate heading for each priority that you address.

For the purpose of determining compliance with the page limits, each page on which there are words will be counted as one full page. Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margins.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, and captions and all text in charts, tables, figures, and graphs. These items may be single-spaced. Charts, tables, figures, and graphs in the application narrative count toward the page limits.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch). However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit does not apply to the Application for Federal Assistance (SF 424); the Supplemental Information for SF 424 Form; the Budget Information Summary Form (ED Form 524) and Budget Narrative; and the assurances and certifications. The page limit also does not apply to the table of contents, the one-page abstract, the resumes, the bibliography, the letters of support, program profile, or the studies. If you include any attachments or appendices, these items will be counted as part of the application narrative for purposes of the page-limit requirement. You must include your complete response to the selection criteria and priorities in the application narrative.

We will reject your application if you exceed the page limits.

3. *Submission Dates and Times:*

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 26, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact one of the program contact persons listed under *For Further Information Contact* in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 27, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference the regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are

awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Alaska Native-Serving Institutions Program (CFDA number 84.031N) and the Native Hawaiian-Serving Institutions Program (CFDA number 84.031W) must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the ANNH Program at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.031, not 84.031R or 84.031V).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov

will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact one of the program contact people listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Robyn Wood, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Room 7E311, Washington, DC 20202. Fax: (202) 205–0063.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031R or 84.031V), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

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

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

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

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

(1) A private metered postmark.

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

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application, by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.031R or 84.031V), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your

grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 607.22(a) through (g). We will award up to 100 points to an application under the selection criteria; the total possible points for each criterion are noted in parentheses.

a. *Quality of the applicant's comprehensive development plan.* (Maximum 25 points). The extent to which—

1. The strengths, weaknesses, and significant problems of the institution's academic programs, institutional management, and fiscal stability are clearly and comprehensively analyzed and result from a process that involved major constituencies of the institution;

2. The goals for the institution's academic programs, institutional management, and fiscal stability are realistic and based on comprehensive analysis;

3. The objectives stated in the plan are measurable, related to institutional goals, and, if achieved, will contribute to the growth and self-sufficiency of the institution; and

4. The plan clearly and comprehensively describes the methods and resources the institution will use to institutionalize practice and improvements developed under the proposed project, including, in particular, how operational costs for personnel, maintenance, and upgrades of equipment will be paid with institutional resources.

b. *Quality of activity objectives.* (Maximum 15 points). The extent to which the objectives for each activity are—

1. Realistic and defined in terms of measurable results; and

2. Directly related to the problems to be solved and to the goals of the comprehensive development plan.

c. *Quality of implementation strategy.* (Maximum 20 points). The extent to which—

1. The implementation strategy for each activity is comprehensive;

2. The rationale for the implementation strategy for each activity is clearly described and is supported by the results of relevant studies or projects; and

3. The timetable for each activity is realistic and likely to be attained.

d. *Quality of key personnel.* (Maximum 7 points). The extent to which—

1. The past experience and training of key professional personnel are directly related to the stated activity objectives; and

2. The time commitment of key personnel is realistic.

e. *Quality of project management plan.* (Maximum 10 points). The extent to which—

1. Procedures for managing the project are likely to ensure efficient and effective project implementation; and

2. The project coordinator and activity directors have sufficient authority to conduct the project effectively, including access to the president or chief executive officer.

f. *Quality of evaluation plan.* (Maximum 15 points). The extent to which—

1. The data elements and the data collection procedures are clearly described and appropriate to measure the attainment of activity objectives and to measure the success of the project in achieving the goals of the comprehensive development plan; and

2. The data analysis procedures are clearly described and are likely to produce formative and summative results on attaining activity objectives and measuring the success of the project on achieving the goals of the comprehensive development plan.

g. *Budget.* (Maximum 8 points). The extent to which the proposed costs are necessary and reasonable in relation to the project's objectives and scope.

2. *Review and Selection Process:* Awards will be made in rank order according to the average score received from a panel of three readers.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Tie-breaker for Development Grants.* To resolve ties in the reader scores of applications for grants, the Department will award one additional point to an application from an IHE that has an endowment fund for which the current market value, per Full Time Equivalent (FTE) enrolled student, is less than the average current market value of the endowment funds, per FTE enrolled student at comparable institutions that offer similar instruction. In addition, to resolve ties in the reader scores of applications for grants, the Department will award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditures for library materials per FTE enrolled student at comparable institutions that offer similar instruction. We also will add one additional point to an application from an IHE that proposes to carry out one or more of the following activities—

(a) Faculty development;

(b) Funds and administrative management;

(c) Development and improvement of academic programs;

(d) Acquisition of equipment for use in strengthening management and academic programs;

(e) Joint use of facilities; and

(f) Student services.

For the purpose of these funding considerations, we will use the most recent complete data available (*e.g.,* for FY 2016, we will use 2013–2014 data).

If a tie remains after applying the tie-breaker mechanism above, priority will be given to applicants that have the lowest endowment values per FTE enrolled student.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of the ANNH Program:

(a) The percentage change, over the five-year period, of the number of full-time degree-seeking undergraduates enrolled at ANNHs. Note that this is a long-term measure, which will be used to periodically gauge performance;

(b) The percentage of first-time, full-time degree-seeking undergraduate students at four-year ANNHs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same ANNH;

(c) The percentage of first-time, full-time degree-seeking undergraduate students at two-year ANNHs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same ANNH;

(d) The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year ANNHs who graduate within six years of enrollment; and

(e) The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year ANNHs who graduate within three years of enrollment.

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contacts

For Further Information Contact: Robyn Wood or Don Crews, Office of Postsecondary Education, U.S. Department of Education, 400 Mary1and Avenue SW., Room 7E311, Washington, DC 20202. You may contact these individuals at the following email addresses or telephone numbers:

Robyn.Wood@ed.gov; (202) 502–7437

Don.Crews@ed.gov; (202) 502–7574

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact persons listed under *For Further Information Contact* in this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Dated: February 23, 2016.

Lynn B. Mahaffie,

Deputy Assistant Secretary for Policy, Planning, and Innovation, Delegated the duties of the Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–04226 Filed 2–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Training and Information for Parents of Children With Disabilities—Community Parent Resource Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY:

Overview Information: Training and Information for Parents of Children with Disabilities—Community Parent Resource Centers Notice inviting applications for new awards for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.328C.

DATES:

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 11, 2016.

Deadline for Intergovernmental Review: June 10, 2016.

Full Text of Announcement

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Priority: In accordance with 34 CFR 75.105(b)(2)(iv) and (v), this priority is from allowable activities specified in the statute, or otherwise authorized in the statute (see sections 671 and 681(d) of the Individuals with Disabilities Education Act (IDEA)).

Absolute Priority: For FY 2016 and any subsequent year in which we make

awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Community Parent Resource Centers.

Background: The purpose of this priority is to fund 30 Community Parent Resource Centers (CPRCs) designed to meet the specific needs of parents of children with disabilities, and youth with disabilities, who experience significant isolation from available sources of information and support in the geographically defined communities served by the centers. These parents can include, for example, low-income parents, parents with limited English proficiency, and parents with disabilities. Youth can include, for example, youth living in low-income households and youth with limited English proficiency.

More than 35 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by strengthening the ability of parents to participate fully in the education of their children at school and at home (see section 601(c)(5)(B) of IDEA). Since the Department first funded CPRCs over 20 years ago, the CPRC program has helped parents in their communities set high expectations for children with disabilities and has provided parents with the information and training they need to help their children meet those expectations. Information about the Office of Special Education's parent training and information program can be found at: *www.parentcenterhub.org.*

CPRCs, consistent with section 671(b) of IDEA, help families in the geographically defined communities identified by the applicant: (a) Navigate systems that provide early intervention, special education, general education, postsecondary options, and related services; (b) understand the nature of their children's disabilities; (c) learn about their rights and responsibilities under IDEA; (d) expand their knowledge of evidence-based, as defined in this notice, education practices to help their children succeed; (e) strengthen their collaboration with professionals; (f) locate resources available for themselves and their children, which connects them to their local communities; and (g) advocate for improved student achievement, increased graduation rates, and improved postsecondary outcomes for all children through participation in school reform activities. In addition, CPRCs may help youth with disabilities in their communities have high expectations for themselves and understand their rights and responsibilities. In addition, effective CPRCs can partner with local agencies, providing expertise on how to better support families in their communities and help them access other community supports that empower families.

The CPRCs to be funded through this priority will provide parents with information, individual assistance, and training to enable them to: (a) Advocate for their children's access to appropriate services, including access to general education classrooms and extracurricular activities; (b) help their children meet developmental and academic goals; (c) help their children meet challenging expectations established for all children; and (d) prepare their children to achieve positive postsecondary outcomes that lead to lives that are as productive and independent as possible. In addition, all CPRCs will be required to help youth with disabilities become effective self-advocates.

Priority: At a minimum, the CPRCs must: (1) Increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes; and (2) increase youth with disabilities' capacity to be effective self-advocates. To be considered for funding under this priority, an applicant must meet the application, programmatic, and administrative requirements of this priority. Applicants must—

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the needs of parents of children with disabilities who experience significant isolation from available sources of information and support for services that increase the parents' capacity to help their children improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must—

(i) Present appropriate information on the characteristics and needs of parents in the identified community who experience significant challenges identifying reliable sources of information and support, including, for example, low-income parents, parents with limited English proficiency, parents of incarcerated youth with disabilities, and parents with disabilities;

(ii) Present appropriate information about the identified community, including a description of its geographic area, population demographics, and the resources available in the community to support all families;

(iii) Demonstrate knowledge of best practices in providing training and information to parents and youth in the identified community;

(iv) Demonstrate knowledge of current evidence-based education practices and policy initiatives to improve outcomes in early intervention and early childhood, general and special education, transition services, and postsecondary options, including, if applicable to its community, the Promoting the Readiness of Minors in Supplemental Security Income (PROMISE) initiative; and

(v) Demonstrate knowledge of how to identify and work with appropriate partners in the community, including agencies providing Part C services under IDEA; local educational agencies (LEAs); child welfare agencies; disability-specific resources serving families, such as local service providers; and other community nonprofits serving families; and

(2) Address the needs of youth with disabilities for services that increase their capacity to be effective self-advocates. To meet this requirement, the applicant must—

(i) Present appropriate information on the needs of youth with disabilities in the identified community who experience significant isolation from available sources of information and support, including for example, youth who are low-income, homeless, or limited English proficient, have dropped out of school, or are in foster care or involved in the juvenile justice system;

(ii) Demonstrate knowledge of best practices in providing training and information to youth with disabilities in the identified community;

(iii) Demonstrate knowledge of best practices in self-advocacy; and

(iv) Demonstrate knowledge of how to work with appropriate partners serving youth with disabilities in the identified community, including local agencies, other nonprofits, and Independent Living Centers that provide assistance such as postsecondary education options, employment training, and supports.

(b) Demonstrate, in the narrative section of the application, under ''Quality of the Project Services,'' how the proposed project will—

(1) Use a project logic model (see paragraph (f)(1) of this priority) to guide the development of project plans and activities within the identified community;

(2) Develop and implement an outreach plan to inform parents of children with disabilities and youth with disabilities in the identified

community of how they can benefit from the services provided by the CPRC;

(3) Provide services that increase parents' capacity to help their children with disabilities improve their early learning, school-aged, and postsecondary outcomes. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase parents' knowledge of—

(A) The nature of their children's disabilities, including their children's strengths and academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for their children and how to help them meet those expectations;

(C) The local, State, and Federal resources available to assist them and their children, and local resources that strengthen their connection to their community;

(D) IDEA, Federal IDEA regulations, and State implementation of IDEA, including parents' role on Individualized Family Service Plan (IFSP) and Individualized Education Program (IEP) Teams and how to effectively participate on IFSP and IEP Teams;

(E) Other relevant educational and health care legislation, including the Elementary and Secondary Education Act of 1965, as amended (ESEA); section 504 of the Rehabilitation Act of 1973, as amended (section 504); and the Americans with Disabilities Act of 1990 (ADA);

(F) Transition services at all levels, including: Part C early intervention to Part B preschool, preschool to elementary school, elementary school to secondary school, and secondary school to postsecondary education and workforce options;

(G) How their children can have access to the general education curriculum, including access to college- and career-ready academic standards and assessments; inclusive early learning programs; inclusive general education classrooms and settings; vocational education; extracurricular and enrichment opportunities available to all children; and other initiatives to make students college- and career-ready;

(H) Evidence-based early intervention and education practices that improve early learning, school-aged, and postsecondary outcomes;

(I) Local school reform efforts to improve student achievement and increase graduation rates; and

(J) The use of data to inform instruction and advance school reform efforts;

(ii) Increase parents' capacity to—

(A) Effectively support their children with disabilities and participate in their children's education;

(B) Communicate effectively and work collaboratively in partnership with early intervention service providers, school-based personnel, related services personnel, and administrators;

(C) Resolve disputes effectively; and

(D) Participate in school reform activities to improve outcomes for all children;

(4) Provide services that increase youth with disabilities' capacity to be effective self-advocates. To meet this requirement, the applicant must include information as to how the services will—

(i) Increase the knowledge of youth with disabilities about—

(A) The nature of their disabilities, including their strengths, and their academic, behavioral, and developmental challenges;

(B) The importance of having high expectations for themselves and how to meet those expectations;

(C) The resources available to support their success in secondary and postsecondary education and employment and full participation in their communities;

(D) IDEA, section 504, ADA, and other legislation and policies that affect people with disabilities;

(E) Their rights and responsibilities while receiving services under IDEA and after transitioning to post-school programs, services, and employment;

(F) How they can participate on IEP Teams; and

(G) Supported decisionmaking necessary to transition to adult life; and

(ii) Increase the capacity of youth with disabilities to advocate for themselves, including communicating effectively and working in partnership with providers;

(5) Use various methods to deliver services that are appropriate in the context of the identified community;

(6) Use best practices to provide training and information to adult learners and youth in the identified community;

(7) Establish cooperative partnerships with any Parent Training and Information Center and any other CPRCs funded in the State under sections 671 and 672 of IDEA, respectively; and

(8) Network with local and State organizations and agencies, such as the Part C State Interagency Coordinating Council, the Part B State Advisory Panel, and protection and advocacy agencies that serve parents and families of children with disabilities, to better support the families and children with disabilities in the identified community to effectively and efficiently access IDEA services.

(c) Demonstrate, in the narrative section of the application, under ''Quality of the Evaluation Plan,'' how—

(1) The applicant will evaluate how well the goals or objectives of the proposed project, as described in its logic model, have been met, including a description of how the applicant will measure the outcomes proposed in the logic model (see paragraph (f)(1) of this priority). The description must include—

(i) Proposed evaluation methodologies appropriate to the scope of the project and the identified community, including proposed instruments, data collection methods, and analyses; and

(ii) Proposed criteria for determining if the project has reached and served families and youth in the identified community; and

(2) The proposed project will use the evaluation results to examine its implementation and its progress toward achieving intended outcomes.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how—

(1) The proposed personnel, consultants, and contractors have the qualifications and experience to carry out the proposed activities and achieve the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority);

(2) The applicant will encourage applications for employment from persons who are members of groups that have historically been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability, as appropriate; and

(3) The applicant and key partners have adequate resources to carry out the proposed activities.

(e) Demonstrate, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the intended outcomes identified in the project logic model (see paragraph (f)(1) of this priority) will be achieved on time and within budget;

(2) The time of key personnel, consultants, and contractors will be sufficiently allocated to the project;

(3) The proposed management plan will ensure that the services provided are of high quality;

(4) The board of directors will be used to provide appropriate oversight to the project;

(5) The proposed project benefits from a diversity of perspectives, including those of parents, providers, and

administrators in the identified community;

(6) The proposed project will ensure that the Annual Performance Reports submitted to the Department will—

(i) Be accurate and timely;

(ii) Include information on the projects' outputs and outcomes; and

(iii) Include, at a minimum, the number and demographics of parents and youth to whom the CPRC provided information and training, and the levels of service provided to them; and

(7) The project management and staff will—

(i) Make use of the technical assistance (TA) and products provided by the Center on Parent Information and Resources, Regional Parent Technical Assistance Centers (PTACs), Native American PTAC, Military PTAC, and other TA centers funded by the Office of Special Education Programs (OSEP), as appropriate, including the PROMISE TA Center, in order to serve parents of children with disabilities and youth with disabilities as effectively as possible;

(ii) Participate in developing individualized TA plans with the Regional PTAC as appropriate; and

(iii) Facilitate one site visit from the Regional PTAC during the grant cycle.

(f) In the narrative or appendices as directed, the applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.osepideasthatwork.org/logicModel/index.asp.*

(2) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative; and

(3) Include, in the budget, attendance by the project director at one OSEP meeting in Washington DC annually, to be determined by OSEP;

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director and other authorized representatives.

Definitions: For the purposes of this priority:

Evidence-based means supported by strong theory.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1471 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applications from this competition.

Estimated Average Size of Awards: $100,000.

Maximum Award: We will reject any application that proposes a budget exceeding $100,000 for a single budget period of 12 months.

Estimated Number of Awards: 30.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Local parent organizations.

Note: Section 671(a)(2) of IDEA defines a ''parent organization'' as a private nonprofit organization (other than an institution of higher education) that—

(a) Has a board of directors—

(1) The majority of whom are parents of children with disabilities ages birth through 26;

(2) That includes—

(i) Individuals working in the fields of special education, related services, and early intervention; and

(ii) Individuals with disabilities; and

(3) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(b) Has as its mission serving families of children with disabilities who are ages birth through 26, and have the full range of disabilities described in section 602(3) of IDEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Eligible Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: State educational agencies; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:*

(a) Recipients of funding under this program must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, from the Education Publications Center (ED Pubs), or from the program office.

To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.328C.

To obtain a copy from the program office, contact: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6595. If you use a TDD or TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section; or if you apply standards other than those specified in the application package.

3. *Submission Dates and Times:*

Applications Available: February 26, 2016.

Deadline for Transmittal of Applications: April 11, 2016.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 10, 2016.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Community Parent Resource Centers competition, CFDA number 84.328C, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Community Parent Resource Centers competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.328, not 84.328C).

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through Grants.gov, please refer to the Grants.gov Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the project narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. This notification indicates receipt by Grants.gov only, not receipt by the Department. Grants.gov will also notify you automatically by email if your application met all the Grants.gov validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by Grants.gov, the Department will retrieve your application from Grants.gov and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by Grants.gov, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on

the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328C), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

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

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

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

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

(1) A private metered postmark.

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

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.328C), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted

applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Training and Information for Parents of Children with Disabilities program. The measures focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice. Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6595.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, Potomac Center Plaza, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Dated: February 23, 2016.

Michael K. Yudin,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–04256 Filed 2–25–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2242–078—Oregon]

Eugene Water and Electric Board; Notice of Designation of Certain Commission Personnel as Non-Decisional

Commission staff members Ryan Hansen (Office of Energy Projects 202–502–8074; *ryan.hansen@ferc.gov*) and Katherine Liberty (Office of the General Counsel 202–502–6491; *katherine.liberty@ferc.gov*) are assigned to help resolve environmental and other issues associated with development of a settlement agreement for the Carmen-Smith Project.

As ''non-decisional'' staff, Mr. Hansen and Ms. Liberty will not participate in an advisory capacity in the Commission's review of any offer of settlement or settlement agreement, or deliberations concerning the disposition of the relicense application.

Different Commission ''advisory staff'' will be assigned to review any offer of settlement or settlement agreement, and to process the relicense application, including providing advice to the Commission with respect to the agreement and the application. Non-decisional staff and advisory staff are prohibited from communicating with one another concerning the settlement and the relicense application.

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04154 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket No.
Pavant Solar, LLC	EG15–115–000
Campbell County Wind Farm, LLC.	EG16–15–000
OCI Alamo 6 LLC	EG16–16–000
OCI Alamo 7 LLC	EG16–17–000
OCI Solar TRE LLC	EG16–18–000
BIF III Holtwood LLC	EG16–19–000
Black Oak Wind, LLC	EG16–20–000
Central Antelope Dry Ranch C LLC.	EG16–21–000
Shelby County Energy Center, LLC.	EG16–22–000
Golden Hills Interconnection, LLC.	EG16–23–000
Blythe Solar 110, LLC	EG16–24–000
NextEra Blythe Solar Energy Center, LLC.	EG16–25–000

Take notice that during the months of November 2015 and January 2016, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04151 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–17–000]

Millennium Pipeline Company, L.L.C.; Notice of Schedule for Environmental Review of the Valley Lateral Project

On November 13, 2015, Millennium Pipeline Company, L.L.C. (Millennium) filed an application in Docket No. CP16–17–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Valley Lateral Project (Project), and would provide approximately 130,000 dekatherms per day (Dth/d) of firm transportation service to CPV Valley, LLC to serve a new natural gas combined-cycle electric generator in the Town of Wawayanda, New York (CPV Valley Energy Center).

On November 30, 2015, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—May 9, 2016

90-day Federal Authorization Decision Deadline—August 7, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Millennium proposes to construct, install, own, and maintain the proposed Valley Lateral Project, which would involve construction of an approximately 7.9-mile, 16-inch diameter lateral pipeline from Millennium's existing mainline in Orange County, New York to the CPV Valley Energy Center. The Project would also involve construction of a new meter station within the CPV Valley Energy Center property, and pig launcher and receiver facilities.

Background

On July 6, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Valley Lateral Project and Request for Comments on Environmental Issues* (NOI). The NOI was issued during the pre-filing review of the Project in Docket No. PF15–23–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from the U.S. Environmental Protection Agency (EPA) and 48 comments from individual stakeholders. The primary issues raised by commentors are purpose and need, land use, visual impacts, vegetation and wildlife, cumulative impacts, alternatives, air quality and climate change, safety, and socioeconomic impacts.

The EPA and New York State Department of Agriculture and Markets are cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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.*

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, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP16–17), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04144 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC16–76–000.

Applicants: Cedar Creek Wind Energy, LLC.

Description: Application Under Section 203 of the FPA of Cedar Creek Wind Energy, LLC.

Filed Date: 2/19/16.

Accession Number: 20160219–5215.

Comments Due: 5 p.m. ET 3/11/16.

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

Docket Numbers: ER14–1579–000.

Applicants: PJM Interconnection, L.L.C.

Description: Report Filing: Potomac Electric submits Refund Report under Cancellation of SA No. 3555 to be effective N/A.

Filed Date: 2/22/16.

Accession Number: 20160222–5042.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–976–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: OATT Formula Rate—Attachment T (Temporary Schedule 10) to be effective 4/19/2016.

Filed Date: 2/19/16.

Accession Number: 20160219–5187.

Comments Due: 5 p.m. ET 3/11/16.

Docket Numbers: ER16–977–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of the Solar Wind WMPA SA No. 3205, Queue No. W4–011 to be effective 2/22/2016.

Filed Date: 2/22/16.

Accession Number: 20160222–5035.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–978–000.

Applicants: AEP Texas Central Company.

Description: § 205(d) Rate Filing: TCC-Rocksprings Val Verde Wind Interconnection Agreement First Amend & Restated to be effective 2/1/2016.

Filed Date: 2/22/16.

Accession Number: 20160222–5037.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–979–000.

Applicants: Niagara Mohawk Power Corporation, Inc., New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Cost Reimbursement Agreement (SA 2264) between NMPC and the Oneida Indian Nation to be effective 12/14/2015.

Filed Date: 2/22/16.

Accession Number: 20160222–5039.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–980–000.

Applicants: Midcontinent Independent System Operator, Inc., MidAmerican Energy Company.

Description: § 205(d) Rate Filing: 2016–02–22_SA 2314 MidAmerican Lehigh-Webster 3rd Rev IA to be effective 2/23/2016.

Filed Date: 2/22/16.

Accession Number: 20160222–5040.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–981–000.

Applicants: Consolidated Edison Company of New York, Inc., New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Con Edison and Central Hudson Facilities Agreement, SA# 2263 to be effective 4/22/2016.

Filed Date: 2/22/16.

Accession Number: 20160222–5107.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–982–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2016–02–22_SA 2017 ITC Midwest-Barton Wind 4th Rev GIA (G540/G548) to be effective 8/1/2014.

Filed Date: 2/22/16.

Accession Number: 20160222–5109.

Comments Due: 5 p.m. ET 3/14/16.

Docket Numbers: ER16–983–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Amended LGIA Mojave Solar LLC to be effective 4/22/2016.

Filed Date: 2/22/16.

Accession Number: 20160222–5131.

Comments Due: 5 p.m. ET 3/14/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04149 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–37–000]

Central Hudson Gas & Electric Corporation; Tucson Electric Power Company; UNS Electric, Inc; UniSource Energy Development Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On February 22, 2016, the Commission issued an order in Docket No. EL16–37–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Central Hudson Gas & Electric Corporation, Tucson Electric Power Company, UNS Electric, Inc. and UniSource Energy Development Company's (collectively Applicants) market based rates in the Tucson Electric balancing authority area. *Central Hudson Gas & Electric Corporation, et al.,* 154 FERC ¶ 61,124 (2016).

The refund effective date in Docket No. EL16–37–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04153 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC16–73–000.

Applicants: Big Sandy Peaker Plant, LLC, High Desert Power Project, LLC, TPF Generation Holdings, LLC, Wolf Hills Energy, LLC.

Description: Joint Application for Authorization of Transaction under Section 203 of Big Sandy Peaker Plant, LLC, et al.

Filed Date: 2/16/16.

Accession Number: 20160216–5407.
Comments Due: 5 p.m. ET 3/8/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–54–000.
Applicants: Solar Star California XLI, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Solar Star California XLI, LLC.
Filed Date: 2/9/16.
Accession Number: 20160209–5269.
Comments Due: 5 p.m. ET 3/1/16.

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

Docket Numbers: ER16–116–001.
Applicants: ISO New England Inc., Eversource Energy Service Company (as agent).
Description: Tariff Amendment: Eversource Energy Service Company—Docket No. ER16–116 to be effective 4/16/2015.
Filed Date: 2/17/16.
Accession Number: 20160217–5000.
Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–952–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Third Amended Lockhart PPA, RS No. 332 to be effective 1/1/2015.
Filed Date: 2/17/16.
Accession Number: 20160217–5079.
Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–953–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: Third Amended Due West PPA, RS No. 329 to be effective 1/1/2015.
Filed Date: 2/17/16.
Accession Number: 20160217–5080.
Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–954–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: DARD Pump Parameter Changes to be effective 3/31/2017.
Filed Date: 2/17/16.
Accession Number: 20160217–5108.
Comments Due: 5 p.m. ET 3/9/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 17, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04155 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–36–000]

Arizona Public Service Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On February 22, 2016, the Commission issued an order in Docket No. EL16–36–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of Arizona Public Service Company's market based rates in the Tucson Electric balancing authority area. *Arizona Public Service Company,* 154 FERC ¶ 61,123 (2016).

The refund effective date in Docket No. EL16–36–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04152 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 516–490]

South Carolina Electric & Gas Co.; 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 and waters.
b. *Project No:* 516–490.
c. *Date Filed:* February 3, 2016.
d. *Applicant:* South Carolina Electric & Gas Co.
e. *Name of Project:* Saluda Hydroelectric Project.
f. *Location:* Saluda River in Lexington, Newberry, Richland, and Saluda counties, South Carolina.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.
h. *Applicant Contact:* William Argentieri, Manager Civil Engineering, 100 SCANA Parkway, Cayce, SC 29033–3701, (803) 217–9162.
i. *FERC Contact:* Mark Carter at (678) 245–3083, or email: *mark.carter@ferc.gov*.
j. *Deadline for filing comments, motions to intervene, and protests:* March 18, 2016.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–516–490.

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:* South Carolina Electric & Gas Co. proposes to construct a 2-megawatt solar array on 10 acres of project lands that it owns on and adjacent to a closed landfill used to store byproducts of the nearby McMeekin coal plant. Although the majority of the site has been previously disturbed, minor re-grading and minimal tree clearing would be necessary at the site.

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: February 17, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04159 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Rover Pipeline, Panhandle Backhaul, and Trunkline Backhaul Projects

	Docket Number
Rover Pipeline, LLC	CP15–93–000
Panhandle Eastern Pipe Line Company, LP.	CP15–94–000
Trunkline Gas Company, LLC	CP15–96–000

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a draft environmental impact statement (EIS) for the Rover Pipeline, Panhandle Backhaul, and Trunkline Backhaul Projects (Projects), proposed by Rover Pipeline, LLC (Rover), Panhandle Eastern Pipe Line Company, LP (Panhandle), and Trunkline Gas Company, LLC (Trunkline), respectively, in the above-referenced dockets. Rover requests authorization to construct, operate, and maintain certain natural gas pipeline facilities to transport about 3.25 billion cubic feet per day (Bcf/d) of stranded natural gas from Marcellus and Utica production areas in West Virginia, Pennsylvania, and Ohio to markets in the United States and Canada. Panhandle requests authorization to modify existing facilities and install an interconnection with Rover in Defiance County, Ohio to accommodate 0.75 Bcf/d of east-to-west firm transportation service. Trunkline would modify existing facilities, including piping at the existing Panhandle-Trunkline Interconnect in Douglas County, Illinois to provide 0.75 Bcf/d of north-to-south firm transportation service.

The draft EIS assesses the potential environmental effects of the construction and operation of the Projects in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the Projects would have some adverse and significant environmental impacts; however, these impacts would be reduced to acceptable levels with the implementation of Rover's, Panhandle's, and Trunkline's proposed mitigation and the additional measures recommended by staff in the draft EIS.

The U.S. Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers (COE), the U.S. Fish and Wildlife Service (FWS), the Ohio Environmental Protection Agency (OHEPA), and the West Virginia Department of Environmental Protection (WVDEP) participated as cooperating agencies in the preparation of the EIS. Cooperating agencies have jurisdiction by law or special expertise with respect to resources potentially affected by the proposals and participate in the NEPA analysis. Although the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Projects.

The draft EIS addresses the potential environmental effects of the construction and operation of the following facilities:

- 510.7 miles of new 24- to 42-inch-diameter natural gas pipeline and appurtenant facilities that include 10 new compressor stations, 19 new meter stations, 5 new tie-ins, 78 mainline valves, and 11 pig launcher and receiver facilities.[1]
- modifications by Panhandle at four existing compressor stations, one interconnection, and three valve sites; and
- modifications by Trunkline at four existing compressor stations and one meter station.

The FERC staff mailed copies of the draft 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; newspapers and libraries in the project area; and parties to this proceeding. Paper copy versions of this EIS were mailed to those specifically requesting them; all others received a CD version. In addition, the draft 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.

Any person wishing to comment on the draft EIS may do so. To ensure consideration of your comments on the

[1] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

proposal in the final EIS, it is important that the Commission receive your comments on or before April 11, 2016.

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received, whether filed in written form or provided verbally. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the applicable project docket number (CP15–93–000, CP15–94–000, or CP15–96–000) with your submission:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

(4) In lieu of sending written or electronic comments, the Commission invites you to attend one of the public comment meetings its staff will conduct in the Project area to receive comments on the draft EIS. The date, time, and location of the public comment meetings will be published in a separate Notice and will be mailed to all those receiving the draft EIS and posted on the FERC Web site (*www.ferc.gov*). The meetings will be recorded by a court reporter to ensure comments are accurately recorded. Transcripts will be placed into the formal record of the Commission proceeding and available for public review.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR part 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Questions?

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.,* CP15–93, CP15–94, or CP15–96). 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: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04142 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

[2] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1 4751–001]

Alpine Pacific Utilities, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On January 22, 2016, Alpine Pacific Utilities, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Fresno Dam Site Water Power Project (Fresno Dam Project or project) to be located in Hill County, Montana near the town of Kremlin at the existing Bureau of Reclamation Fresno Dam located on the Milk River. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would utilize the existing outlet structure on Fresno Dam. The proposed project would consist of the following new facilities: (1) A 48-inch-diameter, 100-foot-long bifurcated penstock leading from the existing outlet works; (2) a powerhouse containing two turbines/generating units with a combined installed capacity of 1.348 megawatts; (3) a tailrace discharging flows into the existing dam spillway; (4) a transformer in a 25-square-foot switchyard; (5) an approximately 1-mile-long, 12.74-kilovolt overhead transmission line connecting to existing Hill County Electric and Northwest Electric transmission systems; and (6) appurtenant facilities. The proposed project would have an average annual generation of 4,700 megawatt-hours

Applicant Contact: Justin D. Ahmann, Alpine Pacific Utilities, LLC, 111 Legend Trail, Kalispell, MT 59901.

FERC Contact: Ryan Hansen, phone: (202) 502–8074, or email *ryan.hansen@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 Days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments,

motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14751–001.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14751) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 17, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04161 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER16–64–001.
Applicants: Tallbear Seville LLC.
Description: Report Filing: Refund Report to be effective N/A.
Filed Date: 2/19/16.
Accession Number: 20160219–5133.
Comments Due: 5 p.m. ET 3/11/16.

Docket Numbers: ER16–778–001.
Applicants: MATL LLP.
Description: Tariff Amendment: MATL Amendment of Pending Tariff Filing to be effective 3/26/2016.
Filed Date: 2/19/16.
Accession Number: 20160219–5046.
Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: ER16–970–000.
Applicants: MATL LLP.
Description: § 205(d) Rate Filing: MATL Concurrrence to be effective 3/26/2016.
Filed Date: 2/19/16.
Accession Number: 20160219–5042.
Comments Due: 5 p.m. ET 3/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04145 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR16–25–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b)(1)/.: COH 2–16–2016 SOC to be effective 2/1/2016; Filing Type: 980.
Filed Date: 2/16/16.
Accession Number: 201602165220.
Comments/Protests Due: 5 p.m. ET 3/8/16.

Docket Number: PR16–17–001.
Applicants: Acadian Gas Pipeline System.
Description: Tariff filing per 284.123(b), (e), (g): Amended SOC Update per FERC Order 809 to be effective 4/1/2016; Filing Type: 1270.
Filed Date: 2/17/2016.
Accession Number: 201602175169.
Comments Due: 5 p.m. ET 3/9/16.
284.123(g) Protests Due: 5 p.m. ET 3/28/16.

Docket Number: PR16–20–001.
Applicants: Enterprise Texas Pipeline LLC.
Description: Tariff filing per 284.123(b), (e), (g): Amended SOC Update per FERC Order 809 to be effective 4/1/2016; Filing Type: 1270.
Filed Date: 2/18/2016.
Accession Number: 201602185053.
Comments Due: 5 p.m. ET 3/10/16.
284.123(g) Protests Due: 5 p.m. ET 3/29/16.

Docket Number: PR16–23–001.
Applicants: Enterprise Intrastate LLC.
Description: Tariff filing per 284.123(b), (e), (g): Amended SOC Update per FERC Order 809 to be effective 4/1/2016; Filing Type: 1270.
Filed Date: 2/18/2016.
Accession Number: 201602185045.
Comments Due: 5 p.m. ET 3/10/16.
284.123(g) Protests Due: 5 p.m. ET 3/29/16.

Docket Number: PR16–23–002.
Applicants: Enterprise Intrastate LLC.
Description: Tariff filing per 284.123(b), (e), (g): Amended Section 18.5 & 18.6 of SOC Update per FERC Order 809 to be effective 4/1/2016; Filing Type: 1270.
Filed Date: 2/18/2016.
Accession Number: 201602185192.
Comments Due: 5 p.m. ET 3/10/16.
284.123(g) Protests Due: 5 p.m. ET 3/29/16.

Docket Numbers: RP16–614–000.
Applicants: Midcontinent Express Pipeline LLC.
Description: Annual Report of Operational Purchases and Sales of Midcontinent Express Pipeline LLC under RP16–614.
Filed Date: 2/18/16.
Accession Number: 20160218–5075.
Comments Due: 5 p.m. ET 3/1/16.

Docket Numbers: RP16–615–000.
Applicants: WPX Energy Holdings, LLC,Terra Energy Partners LLC,WPX Energy Marketing, LLC,WPX Energy Rocky Mountain, LLC.
Description: Joint Petition of WPX Energy Holdings, LLC, WPX Energy Marketing, LLC, WPX Energy Rocky Mountain, LLC and Terra Energy Partners LLC for Temporary Waiver of Capacity Release and Certain Other Regulations and Policies and Related Tariff Provisions.
Filed Date: 2/18/16.
Accession Number: 20160218–5156.
Comments Due: 5 p.m. ET 2/29/16.

Docket Numbers: RP16–616–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Fuel Retention Rates—Spring 2016 to be effective 4/1/2016.
Filed Date: 2/19/16.
Accession Number: 20160219–5000.
Comments Due: 5 p.m. ET 3/2/16.

Docket Numbers: RP16–617–000.
Applicants: Southwest Gas Storage Company.
Description: § 4(d) Rate Filing: Housekeeping and Contracting Provisions to be effective 3/21/2016.

Filed Date: 2/19/16.

Accession Number: 20160219–5011.

Comments Due: 5 p.m. ET 3/2/16.

Docket Numbers: RP16–618–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Bidding Requirements Waiver for State-Regulated Electric Reliability Programs to be effective 4/1/2016.

Filed Date: 2/19/16.

Accession Number: 20160219–5050.

Comments Due: 5 p.m. ET 3/2/16.

Docket Numbers: RP16–619–000.

Applicants: National Fuel Gas Supply Corporation.

Description: § 4(d) Rate Filing: Fuel Tracker (04/01/16) to be effective 4/1/2016.

Filed Date: 2/19/16.

Accession Number: 20160219–5161.

Comments Due: 5 p.m. ET 3/2/16.

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.

Filings in Existing Proceedings

Docket Numbers: RP16–234–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Report Filing: Refund Report in Docket Nos. RP16–234 and RP10–1398.

Filed Date: 2/18/16.

Accession Number: 20160218–5140.

Comments Due: 5 p.m. ET 3/1/16.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 22, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04157 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–552–000]

Northern Natural Gas Company; Notice of Schedule for Environmental Review of the Gaines County Crossover Compressor Station Project

On September 9, 2015, Northern Natural Gas Company (Northern) filed an application in Docket No. CP15–552–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate a new compressor station in Gaines County, Texas. The proposed project is known as the Gaines County Crossover Compressor Station Project (Project), and would deliver an additional 210 million standard cubic feet of natural gas per day to supply natural gas for electrical power plants.

On September 22, 2015, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—May 9, 2016

90-day Federal Authorization Decision Deadline—August 7, 2016

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

The Project would include installation of two compressor units with a combined horsepower of 18,089. The suction side of the compressor station would be connected to Northern's existing 30-inch-diameter Spraberry to Plains Pipeline. The station would discharge to Northern's existing 30-inch-diameter Kermit to Beaver Pipeline. The proposed Project would also include the installation of two compressor buildings, a control building, an auxiliary building, associated above-grade and below-grade piping, and valves and instrumentation.

Background

On October 22, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Gaines County Crossover Compressor Station and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received one comment from the Bureau of Indian Affairs recommending consultation with four different tribes with historic traditions in the area. No issues of environmental concern were raised by the commentor.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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.*

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, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP15–552), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04146 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: EC16–74–000.

Applicants: Black Hills Colorado IPP, LLC.

Description: Application for Authorization under Section 203 of the Federal Power Act of Black Hills Colorado IPP, LLC.

Filed Date: 2/17/16.

Accession Number: 20160217–5171.

Comments Due: 5 p.m. ET 3/9/16.

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

Docket Numbers: ER10–1350–006.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. submits Compliance Filing Pursuant to Opinion No. 545.

Filed Date: 2/16/16.

Accession Number: 20160216–5413.

Comments Due: 5 p.m. ET 3/8/16.

Docket Numbers: ER16–780–001.

Applicants: Southwest Power Pool, Inc.

Description: Tariff Amendment: 1166R27 Oklahoma Municipal Power Authority NITSA and NOA to be effective 1/1/2016.

Filed Date: 2/17/16.

Accession Number: 20160217–5160.

Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–955–000.

Applicants: Red Horse Wind 2, LLC.

Description: Baseline eTariff Filing: Shared Facilities Agreement to be effective 4/4/2016.

Filed Date: 2/17/16.

Accession Number: 20160217–5125.

Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–956–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Aurora Solar LLC Sorrel I Solar Farm Project to be effective 2/18/2016.

Filed Date: 2/17/16.

Accession Number: 20160217–5126.

Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–957–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA NextEra Energy Resources, LLC Ord Mountain Project to be effective 2/18/2016.

Filed Date: 2/17/16.

Accession Number: 20160217–5127.

Comments Due: 5 p.m. ET 3/9/16.

Docket Numbers: ER16–958–000.

Applicants: Red Horse III, LLC.

Description: § 205(d) Rate Filing: Concurrence filing to be effective 4/4/2016.

Filed Date: 2/17/16.

Accession Number: 20160217–5154.

Comments Due: 5 p.m. ET 3/9/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 17, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04156 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11841–027]

Ketchikan Public Utilities; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application to amend license.

b. *Project No.:* 11841–027.

c. *Date Filed:* March 18 and 30, 2015, as supplemented on June 17 and December 16, 2015.

d. *Applicant:* Ketchikan Public Utilities.

e. *Name of Project:* Whitman Lake Hydroelectric Project.

f. *Location:* The project is located on Whitman Creek in Ketchikan Gateway Borough, approximately four miles east of the City of Ketchikan, Alaska.

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

h. *Applicant Contact:* Ms. Jennifer Holstrom, PE, Senior Project Engineer, Ketchikan Public Utilities, 1065 Fair Street, Ketchikan, AK 99901, (907) 228–4733.

i. *FERC Contact:* Mr. Christopher Chaney, (202) 502–6778, or *christopher.chaney@ferc.gov*.

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the date of issuance of this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–11841–027) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* The applicant requests approval of revised Exhibits A, F, and G to rectify discrepancies between the facilities and the project boundary authorized in the license and the as-built project configuration and boundary. The changes incorporated into the revised exhibits include: (1) The location, size, and configuration of the Achilles Diversion Dam, and the alignments of the associated access road and pipeline; (2) the lengths, sizes, undergrounding, and alignments of the Unit 1 and Unit 2 penstocks; (3) the sizes of the valve house and head tank; (4) the location and size of the powerhouse; (5) the location of the switchyard; (6) the length, alignment, and undergrounding of the transmission line; (7) the length of the tailrace; and (8) the incorporation of the Whitman Creek Gaging Station into 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/docs-filing/elibrary.asp*. Enter the docket number

excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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. 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 Responsive 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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 22, 2016.

Nathanial J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04160 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 309–087]

Brookfield Power Piney and Deep Creek, LLC; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application to amend temporary variance of reservoir elevation requirements of license article 402.

b. *Project No.:* 309–087.

c. *Date Filed:* January 27, 2016.

d. *Applicant:* Brookfield Power Piney and Deep Creek, LLC.

e. *Name of Project:* Piney Hydroelectric Project.

f. *Location:* The project is located on the Clarion River in Clarion County, Pennsylvania.

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

h. *Applicant Contact:* Mr. Randy Garletts, Brookfield Power Piney and Deep Creek, LLC, 14 River View Terrace, Oakland, MD 21550, (301) 387–6616.

i. *FERC Contact:* Mr. Mark Pawlowski, (202) 502–6052, or *Mark.Pawlowski@ferc.gov*.

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 15 days from the date of issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–309–087) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* The applicant proposes to modify the timing and duration of the temporary variance of article 402 and Water Quality Certificate conditions 1.1 and 1.2 of the project license issued on March 30, 2015. The licensee requests authorization to operate the Project with a maximum reservoir elevation of 1087.5 ± 0.5 ft msl during the months of April through December, from 2016 through 2018 in order to replace the existing 14 radial spillway gates.

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/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

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. 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 Responsive 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 protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 17, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04158 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–70–000]

Impulsora Pipeline, LLC; Notice of Application To Amend

Take notice that on February 4, 2016, Impulsora Pipeline, LLC (Impulsora) filed in the above referenced docket an application pursuant to section 3 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations seeking to amend its section 3 authorizations and its Presidential Permit which were issued in an order by the Commission on May 14, 2015 (May 14 Order). Specifically, Impulsora requests termination of its authorization to construct and operate the 12-inch-diameter pipeline, but retain authorization to construct and operate the 36-inch-diameter pipeline authorized in the May 14 Order, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Kenneth Simon, Latham & Watkins, LLP, 555 Eleventh Street NW., Suite 1000, Washington, DC 20004, or call (202) 637–2397, or by email *ken.simmon@lw.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on March 11, 2016.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04150 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP16–76–000]

Cameron Interstate Pipeline LLC; Notice of Application To Amend

Take notice that on February 18, 2016, Cameron Interstate Pipeline LLC (Cameron), 488 8th Avenue, San Diego, California 92101, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations to amend the certificate of public convenience and necessity granted to Cameron on June 19, 2014 in Docket No. CP13–27–000, to decrease the diameter of 3.58 miles of pipeline from 42 to 36 inches, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to William D. Rapp, Cameron Interstate Pipeline LLC, 488 8th Avenue, San Diego, CA 92101, by telephone at (619) 699–5050.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on February 29, 2016.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04147 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC16–75–000.

Applicants: Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Summit Solar Desert Sunlight, LLC.

Description: Joint Application for Authorization under FPA Section 203 of Desert Sunlight 250, LLC, et.al.

Filed Date: 2/18/16.

Accession Number: 20160218–5214.

Comments Due: 5 p.m. ET 3/10/16.

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

Docket Numbers: ER16–967–000.

Applicants: Midcontinent Independent System Operator, Inc., Entergy New Orleans, Inc.

Description: § 205(d) Rate Filing: 2016–02–18_ENO Pricing Zone Filing to be effective 9/1/2016.

Filed Date: 2/18/16.

Accession Number: 20160218–5163.

Comments Due: 5 p.m. ET 3/10/16.

Docket Numbers: ER16–968–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Silicon Valley Power Work Performance Agreement for Relay Testing to be effective 2/19/2016.

Filed Date: 2/18/16.

Accession Number: 20160218–5200.

Comments Due: 5 p.m. ET 3/10/16.

Docket Numbers: ER16–969–000.

Applicants: Commonwealth Edison Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: ComEd submits revisions to Attach. H–13—McHenry wholesale distribution charge to be effective 2/19/2016.

Filed Date: 2/19/16.

Accession Number: 20160219–5018.

Comments Due: 5 p.m. ET 3/11/16.

Docket Numbers: ER16–971–000.
Applicants: Public Service Company of New Mexico.
Description: Compliance filing: PNM/Navopache eTariff Compliance Filing—NITSA and NOA to be effective 1/1/2016.
Filed Date: 2/19/16.
Accession Number: 20160219–5047.
Comments Due: 5 p.m. ET 3/11/16.
Docket Numbers: ER16–972–000.
Applicants: Public Service Company of New Mexico.
Description: Compliance filing: PNM/Navopache eTariff Compliance Filing—PSA to be effective 11/1/2015.
Filed Date: 2/19/16.
Accession Number: 20160219–5048.
Comments Due: 5 p.m. ET 3/11/16.
Docket Numbers: ER16–973–000.
Applicants: Public Service Company of New Mexico.
Description: Tariff Cancellation: Notice of Cancellation of Records to be effective 11/1/2015.
Filed Date: 2/19/16.
Accession Number: 20160219–5049.
Comments Due: 5 p.m. ET 3/11/16.
Docket Numbers: ER16–974–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–02–19_SA 2898 Ameren Illinois-Ford County Wind Farm GIA (J375) to be effective 2/20/2016.
Filed Date: 2/19/16.
Accession Number: 20160219–5079.
Comments Due: 5 p.m. ET 3/11/16.
Docket Numbers: ER16–975–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: Joint Notice of Termination of Small Generator Interconnection Service Agreement No. 1483 Among the New York Independent System Operator, Inc., Niagara Mohawk Power Corporation and Green Power Energy LLC.
Filed Date: 2/19/16.
Accession Number: 20160219–5081.
Comments Due: 5 p.m. ET 3/11/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04141 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL16–41–000]

Morongo Transmission LLC; Notice of Petiton for Declaratory Order

Take notice that on February 19, 2016, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure of the Federal Energy Regulatory Commission's (Commission), 18 CFR 385.207(a)(2) (2015), Morongo Transmission LLC (Morongo) filed a petition for declaratory order stating that amounts invested by Morongo Transmission in the West of Devers Transmission Upgrade Project in excess of $400 million will receive the same rate treatment that the Commission authorized in its August 25, 2014 order,[1] as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding 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) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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 an 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 March 21, 2016.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04148 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

[1] *Morongo Transmission LLC,* 148 FERC 61,139 (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–504–000]

Dominion Carolina Gas Transmission, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Columbia to Eastover Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this environmental assessment for the Columbia to Eastover Project (Project) proposed by Dominion Carolina Gas Transmission, L.L.C. in the above-referenced docket. Dominion Carolina Gas requests authorization to construct, install, own, operate and maintain certain facilities located in Calhoun, Richland, and Lexington Counties, South Carolina. This Project would enable Dominion Carolina Gas to provide 18 million cubic feet per day of firm transportation service to the existing International Paper Plant in Eastover, South Carolina.

Specifically, the proposed Project includes the following facilities:

- 28 miles of new 8-inch-diameter pipeline;

- a pig launcher;
- a joint new pig receiver and meter and regulator station;
- cathodic protection; and
- eight mainline valves along the pipeline.

The environmental assessment assesses the potential environmental effects of the construction and operation of the Project in accordance with the National Environmental Policy Act. The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The environmental assessment has been placed in the public files of the FERC and is available for public viewing on the FERC's Web site at *www.ferc.gov* using the eLibrary link. A limited number of copies of the environmental assessment are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Conference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Copies of the environmental assessment have been mailed 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; libraries in the Project area; and parties to this proceeding.

Any person wishing to comment on the environmental assessment may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that the FERC receives your comments in Washington, DC on or before March 21, 2016.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (CP15–504–000) with your submission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. An eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing''; or

(3) You may file a paper copy of your comments at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Although your comments will be considered by the Commission, simply filing comments will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the Project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–504). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *http://www.ferc.gov/docs-filing/esubscription.asp.*

[1] See the previous discussion on the methods for filing comments.

Dated: February 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–04143 Filed 2–25–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9025–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www2.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs)
Filed 02/15/2016 Through 02/19/2016
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: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20160041, Final, FTA, NC, Durham-Orange Light Rail, Contact: Stanley A. Mitchell 404–865–5600, Under MAP 21 section 1319, FTA has issued a Final EIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20160042, Final, USACE, CA, San Elijo Lagoon Restoration Project, Review Period Ends: 03/28/2016, Contact: Meris Guerrero 760–602–4836

EIS No. 20160043, Draft Supplement, USFWS, OH, Ballville Dam Project, Comment Period Ends: 04/11/2016, Contact: Brian Elkington 612–713–5168

EIS No. 20160044, Draft Supplement, BOEM, LA, Gulf of Mexico OCS Oil and Gas Lease Sale: 2017 Central Planning Area Lease Sale 247, Comment Period Ends: 04/11/2016, Contact: Gary Goeke 504–736–3233

EIS No. 20160045, Final, TVA, TN, Floating Houses Policy Review, Review Period Ends: 03/28/2016, Contact: Matthew Higdon 865–632–8051

EIS No. 20160046, Draft, FERC, OH, Rover Pipeline, Panhandle Backhaul,

and Trunkline Backhaul Projects, Comment Period Ends: 04/11/2016, Contact: Kevin Bowman 202–502–6287

Dated: February 23, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–04184 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9942–74–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by Preserve Pepe'ekeo Health and Environment (''PPHE'') in the United States District Court for the District of Hawai'i: *PPHE* v. *McCarthy,* Civil Action No. 1:15–cv–00412–ACK–BMK (D. Haw.). On October 10, 2015, Plaintiff filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA''), failed to perform a non-discretionary duty to grant or deny within 60 days a petition submitted by PPHE on September 13, 2014 requesting that EPA object to a CAA Title V permit issued by the Environmental Management Division of the Clean Air Branch, Hawaii Department of Health, to Hu Honua Bioenergy, LLC, authorizing the operation of the Hu Honua Bioenergy Facility located in Pepe'ekeo, Hawaii. The proposed consent decree would establish a deadline for EPA to take such action.

DATES: Written comments on the proposed consent decree must be received by *March 28, 2016.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2016–0055, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Anthony Moffa, Air and Radiation Law Office (2322A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–1087; email address: *moffa.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by PPHE seeking to compel the Administrator to take actions under CAA section 505(b)(2). Under the terms of the proposed consent decree, EPA would agree to sign its response granting or denying the petition filed by PPHE regarding the Hu Honua Bioenergy Facility located in Pepe'ekeo, Hawaii, pursuant to section 505(b)(2) of the CAA, on or before September 16, 2016.

Under the terms of the proposed consent decree, EPA would expeditiously deliver notice of EPA's response to the Office of the Federal Register for review and publication following signature of such response. In addition, the proposed consent decree outlines the procedure for the Plaintiffs to request costs of litigation, including attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2016–0055) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (''OEI'') Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, Confidential Business Information (''CBI''), or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any

disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: February 5, 2016.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2016–03753 Filed 2–25–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0719]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before April 26, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0719.

Title: Quarterly Report of Local Exchange Carriers Listing Payphone Automatic Number Identifications (ANIs).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 400 respondents; 1,600 responses.

Estimated Time per Response: 3.5 hours (8 hours for the initial submission; 2 hours per subsequent submission—for an average of 3.5 hours per response).

Frequency of Response: Quarterly reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154, 201–205, 215, 218, 219, 220, 226 and 276 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,600 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the respondents wish confidential treatment of their information, they may request confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission adopted rules and policies governing the payphone industry under section 276(b)(1)(A) of the Telecommunications Act of 1996 (the Act) and established ''a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call.'' Pursuant to this mandate, and as required by section 64.1310(d) of the Commission's rules, Local Exchange Carriers (LECs) must provide to carriers required to pay compensation pursuant to section 64.1300(a), a quarterly report listing payphone ANIs. Without provision of this report, resolution of disputed ANIs would be rendered very difficult. Carriers would not be able to discern which ANIs pertain to payphones and therefore would not be able to ascertain which dial-around calls were originated by payphones for compensation purposes. There would be no way to guard against possible fraud. Without this collection, lengthy investigations would be necessary to verify claims. The report allows carriers to determine which dial-around calls are made from payphones. The information must be provided to third parties. The requirement would be used to ensure that LECs and the carriers required to pay compensation pursuant to 47 CFR 64.1300(a) of the Commission's rules comply with their obligations under the Telecommunications Act of 1996.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–04129 Filed 2–25–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0788]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before April 26, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0788.

Title: DTV Showings/Interference Agreements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 300 respondents; 300 responses.

Estimated Hours per Response: 5 hours.

Frequency of Response: On occasion reporting requirement, Third Party Disclosure requirement.

Total Annual Burden: 1,500 hours.

Total Annual Costs: $3,900,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 73.623 requires applicants to submit a technical showing to establish that their proposed facilities will not result in additional interference to TV broadcast operations. The Commission permits broadcasters to agree to proposed TV facilities that do not conform to the allotted parameters, even though they might be affected by potential new interference. The Commission will consider granting applications on the basis of interference agreements if it finds that such grants will serve the public interest. These agreements must be signed by all parties to the agreement. In addition, the Commission needs the following information to enable such public interest determinations: A list of parties predicted to receive additional interference from the proposed facility; a showing as to why a grant based on the agreements would serve the public interest; and technical studies depicting the additional interference. The technical showings and interference agreements will be used by FCC staff to determine if the public interest would be served by the grant of the application and to ensure that the proposed facilities will not result in additional interference.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–04130 Filed 2–25–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0214, 3060–0316 and 3060–1207]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before March 28, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1207.

Title: Sections 25.701, Other DBS Public Interest Obligations, and 25.702, Other SDARS Public Interest Obligations.

Form Number: None.

Type of Review: New collection.

Respondents: Business or other for profit entities.

Number of Respondents and Responses: 3 respondents and 3 responses.

Estimated Hours per Response: 18 hrs.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Total Annual Burden: 54 hours.

Total Annual Cost: $592.

Obligation to Respond: Required to be obtained or retained for benefits. The statutory authority for this information collection is contained in sections 154, 301, 302, 303, 307, 309, 319, 332, 605, and 721 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order (''R&O'') in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, expanding the requirement that public inspection files be posted to the FCC-hosted online public file database to satellite TV (also referred to as ''Direct Broadcast Satellite'' or ''DBS'') providers and to satellite radio (also referred to as ''satellite Digital Audio Radio Services'' or ''SDARS'') licensees, among other entities. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

The Commission first adopted a public inspection file requirement for broadcasters more than 40 years ago. The public file requirement grew out of Congress' 1960 amendment of Sections 309 and 311 of the Communications Act of 1934. Finding that Congress, in enacting these provisions, was guarding ''the right of the general public to be informed, not merely the rights of those who have special interests,'' the Commission adopted the public inspection file requirement to ''make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in dialogue with broadcast licensees.'' The information provided in the public file enables citizens to engage in an informed dialog with their local video provider or to file complaints regarding provider operations. Satellite TV (also known as ''Direct Broadcast Satellite'' or ''DBS'') providers and satellite radio (also referred to as ''Satellite Digital Audio Radio Services'' or ''SDARS'') licensees have public and political file requirements modeled, in large part, on the longstanding broadcast requirements. With respect to DBS providers, the Commission adopted public and political inspection file requirements in 1998 in conjunction with the imposition of certain public interest obligations, including political broadcasting requirements, on those entities. DBS providers were required to ''abide by political file obligations similar to those requirements placed on terrestrial broadcasters and cable systems'' and were also required to maintain a public file with records relating to other DBS public interest obligations. The Commission imposed equal employment opportunity and political broadcast requirements on SDARS licensees in 1997, noting that the rationale behind imposing these requirements on broadcasters also applies to satellite radio.

47 CFR 25.701(d) requires each DBS provider to keep and permit public inspection of a complete and orderly record (political file) of all requests for DBS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. All records required to be retained by this section must be placed in the political file as soon as possible and retained for a period of two years. DBS providers must make available, by fax, email, or by mail upon telephone request, copies of documents in their political files and assist callers by answering questions about the contents of their political files. If a requester prefers access by mail, the DBS provider must pay for postage but may require individuals requesting documents to pay for photocopying. If a DBS provider places its political file on its Web site, it may refer the public to the Web site in lieu of mailing copies.

Any material required to be maintained in the political file must be made available to the public by either mailing or Web site access or both.

The R&O changes 47 CFR 25.701(d) to require DBS providers to place all new political file material required to be retained by this section in the online file hosted by the Commission. The R&O also eliminates the requirement that DBS providers honor requests by telephone for copies of political file materials if those materials are made available online.

47 CFR 25.701(f)(6) requires each DBS provider to maintain a public file containing a complete and orderly record of quarterly measurements of: channel capacity and yearly average calculations on which it bases its four percent reservation, as well as its responses to any capacity changes; a record of entities to whom noncommercial capacity is being provided, the amount of capacity being provided to each entity, the conditions under which it is being provided and the rates, if any, being paid by the entity; and a record of entities that have requested capacity, disposition of those requests and reasons for the disposition. All records required by this provision must be placed in a file available to the public as soon as possible and be retained for a period of two years.

The R&O changes 47 CFR 25.701(f)(6) to require DBS providers to place all public file material required to be retained by this section in the online file hosted by the Commission. The R&O also requires that each DBS provider place in the online file the records required to be placed in the public inspection file by 47 CFR 25.701(e)(commercial limits in children's programs) and by 47 CFR 25.601 and Part 76, Subpart E (equal employment opportunity requirements) and retain those records for the period required by those rules. In addition, the R&O requires each DBS provider to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the provider has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each DBS provider is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each DBS provider must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file (*e.g.,* posts to the FCC's online file database all public and political file material required to be maintained in the public inspection file) and also provides online access via the provider's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

47 CFR 25.702. The R&O adds this new rule. New 47 CFR 25.702(b) requires each SDARS licensee to maintain a complete and orderly record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with the disposition made by the provider of such requests, and the charges made, if any, if the request is granted. The disposition must include the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file. SDARS licensees are required to place all records required by this section in the political file as soon as possible and retain the record for a period of two years.

New 47 CFR 25.702(c) requires each SDARS applicant or licensee to place in the online file hosted by the Commission the records required to be placed in the public inspection file by 47 CFR 25.601 and 73.2080 (equal employment opportunities) and to retain those records for the period required by those rules. Each SDARS licensee must provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the licensee has a Web site, and provide on its Web site contact information for a representative who can assist any person with disabilities with issues related to the content of the public files. Each SDARS licensee is also required to include in the online public file the name, phone number, and email address of the licensee's designated contact for questions about the public file. In addition, each SDARS licensee must place the address of the provider's local public file in the Commission's online file unless the provider has fully transitioned to the FCC's online public file (*i.e.,* posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the licensee's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 76.1701 and 73.1943, Political Files.

Form Numbers: None.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents/Responses: 24,962 respondents; 64,374 responses.

Estimated Hours per Response: 1–52 hours per response.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Total Annual Burden: 2.093,149 hours.

Total Annual Cost: $3,653,372.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 151, 152, 154, (i) 303, 307 and 308 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: In 2012, the Commission replaced the decades-old requirement that commercial and noncommercial television stations maintain public files at their main studios with a requirement to post most of the documents in those files to a central, online public file hosted by the Commission. On January 28, 2016, the Commission adopted a Report and Order (''R&O'') in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees. The R&O expands the requirement that public inspection files be posted to an FCC-hosted online public file database to cable operators, satellite TV (also referred to as ''Direct Broadcast Satellite'' or ''DBS'') providers, broadcast radio licensees, and satellite radio (also referred to as ''Satellite Digital Audio Radio Services'' or ''SDARS'') licensees. The Commission stated that its goal is to

make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning these entities to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required entities to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

With respect to broadcast radio licensees, the Commission commenced the transition to an online file with commercial stations in larger markets with five or more full-time employees, while postponing temporarily all online file requirements for other radio stations. The R&O also requires stations to provide information to the online file regarding the location of the station's main studio.

With respect to cable operator public file requirements, the R&O phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements.

OMB Control Number: 3060–0316.

Title: 47 CFR Sections 76.1700, Records to be maintained locally by Cable System Operators; 76.1702, Equal Employment Opportunity; 76.1703, Commercial Records on Children's Programs; 76.1707, Leased Access; 76.1711, Emergency Alert System (EAS) Tests and Activation.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities.

Number of Respondents/Responses: 3,000 respondents; 3,000 responses.

Estimated Hours per Response: 18 hours.

Frequency of Response: Recordkeeping requirement.

Total Annual Burden: 54,000 hours.

Total Annual Cost: $591,840.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, and 573 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: The Commission prepared a system of records notice (SORN), FCC/MB–2, ''Broadcast Station Public Inspection Files,'' that covers the PII contained in the broadcast station public inspection files located on the Commission's Web site. The Commission will revise appropriate privacy requirements as necessary to include any entities and information added to the online public file in this proceeding.

Needs and Uses: The Commission is revising this collection to reflect the Commission's adoption of a Report and Order (''R&O'') in MB Docket No. 14–127, FCC 16–4, In the Matter of Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees, adopted on January 28, 2016. The R&O revised 47 CFR Sections 76.1700 and 76.1702(a).

The R&O expands to cable operators the requirement that public inspection files be posted to an FCC- hosted online public file database. The Commission stated that its goal is to make information that these entities are already required to make publicly available more accessible while also reducing costs both for the government and the public sector. The Commission took the same general approach to transitioning cable operators to the online file that it took with television broadcasters in 2012, tailoring the requirements as necessary to the different services. The Commission also took similar measures to minimize the effort and cost entities must undertake to move their public files online. Specifically, the Commission required cable operators to upload to the online public file only documents that are not already on file with the Commission or that the Commission maintains in its own database. The Commission also exempted existing political file material from the online file requirement and required that political file documents be uploaded only on a going-forward basis.

Section 76.1700 addresses the records to be maintained by cable system operators. The R&O revised Section 76.1700 to require that cable operators maintain their public inspection file online on the Web site hosted by the FCC. In addition, the Commission reorganized Section 76.1700 to more clearly address which records must be maintained in the public inspection file versus those that must be made available to the Commission or franchising authority upon request. Among other changes, the Commission clarified that proof-of-performance test data and signal leakage logs and repair data must be made available only to the Commission and, in the case of proof-of-performance test data, also to the franchisor, and not to the public. Accordingly, this information is not required to be included in the public inspection file or in the online public inspection file.

The Commission phased-in the requirement to commence uploading political file documents to the online file for smaller cable systems and exempted cable systems with fewer than 1,000 subscribers from all online public file requirements. The R&O also made several minor additional changes to the existing cable public file requirements—it requires operators, when first establishing their online public file, to provide a list of the zip codes served by the system and requires them to identify the employment unit(s) associated with the system. The R&O also requires cable systems to provide the contact information for their local file. In addition, each cable system must place the address of its local public file in the Commission's online file unless the system has fully transitioned to the FCC's online public file (*i.e.,* posts to the Commission's online public file all public and political file material required to be maintained in the public inspection file) and also provides online access via the system's own Web site to back-up political file material in the event the online file becomes temporarily unavailable.

Apart from these minor exceptions, the R&O does not adopt new or modified public inspection file requirements. The Commission's goal was simply to adapt the existing cable public file requirements to an online format.

47 CFR 76.1700 requires cable system operators to place the public inspection file materials required to be retained by the following rules in the online public file hosted by the Commission, with the exception of existing political file material which cable systems may continue to retain in their local public file until the end of the retention period: 76.1701 (political file), 76.1702 (EEO), 76.1703 (commercial records for children's programming), 76.1705 (performance tests—channels delivered); 76.1707 (leased access); and

76.1709 (availability of signals), 76.1710 (operator interests in video programming), 76.1715 (sponsorship identification), and 76.630 (compatibility with consumer electronics equipment. Cable systems with fewer than 5,000 subscribers may continue to retain their political file locally and are not required to upload new political file material to the online public file until March 1, 2018. In addition, cable systems may elect to retain the material required by 76.1708 (principal headend) locally rather than placing this material in the online public file.

47 CFR 76.1700(b) requires cable system operators to make the records required to be retained by the following rules available to local franchising authorities: 76.1704 (proof-of-performance test data) and 76.1713 (complaint resolution).

47 CFR 76.1700(c) requires cable system operators to make the records required to be retained by the following rules available to the Commission: 76.1704 (proof-of-performance test data), 76.1706 (signal leakage logs and repair records), 76.1711 (emergency alert system and activations), 76.1713 (complaint resolution), and 76.1716 (subscriber records).

47 CFR 76.1700(d) exempts cable television systems having fewer than 1,000 subscribers from the online public file and the public inspection requirements contained in 47 CFR 76.1701 (political file); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance test data); 76.1706 (signal leakage logs and repair records); and 76.1715 (sponsorship identifications).

47 CFR 76.1700(e) requires that public file material that continues to be retained at the system be retained in a public inspection file maintained at the office which the system operator maintains for the ordinary collection of subscriber charges, resolution of subscriber complaints, and other business or at any accessible place in the community served by the system unit(s) (such as a public registry for documents or an attorney's office). Public files must be available for public inspection during regular business hours.

47 CFR 76.1700(f) requires cable systems to provide a link to the public inspection file hosted on the Commission's Web site from the home page of its own Web site, if the system has a Web site, and provide contact information on its Web site for a system representative who can assist any person with disabilities with issues related to the content of the public files. A system also is required to include in the online public file the address of the system's local public file, if the system retains documents in the local file that are not available in the Commission's online file, and the name, phone number, and email address of the system's designated contact for questions about the public file. In addition, a system must provide on the online public file a list of the five digit ZIP codes served by the system.

47 CFR 76.1700(g) requires that cable operators make any material in the public inspection file that is not also available in the Commission's online file available for machine reproduction upon request made in person, provided the requesting party shall pay the reasonable cost of reproduction. Requests for machine copies must be fulfilled at a location specified by the system operator, within a reasonable period of time, which in no event shall be longer than seven days. The system operator is not required to honor requests made by mail but may do so if it chooses.

47 CFR 76.1702(a) requires that every employment unit with six or more full-time employees shall maintain for public inspection a file containing copies of all EEO program annual reports filed with the Commission and the equal employment opportunity program information described in 47 76.1702(b). These materials shall be placed in the Commission's online public inspection file for each cable system associated with the employment unit. These materials must be placed in the Commission's online public inspection file annually by the date that the unit's EEO program annual report is due to be filed and shall be retained for a period of five years. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multichannel video programming distributor that operates multiple units shall be maintained in the Commission's online public file for every cable system associated with the headquarters employment unit.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–04118 Filed 2–25–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0292]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before April 26, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0292.

Title: Section 69.605, Reporting and Distribution of Pool Access Revenues, Part 69–Access Charges.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,064 respondents; 12,757 responses.

Estimated Time per Response: 0.75 hours–1 hour.

Frequency of Response: Annual and monthly reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 201, 202, 203, 205, 218 and 403 of the Communications Act of 1934, as amended.

Total Annual Burden: 9,568 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission is requesting approval for an extension (no change in the reporting and/or third party disclosure requirements).

Due to consolidation in the telecommunications marketplace, there is a decrease in the Commission's burden estimates. Section 69.605 requires that access revenues and cost data shall be reported by participants in association tariffs to the association for computation of monthly pool revenues distributions. The association shall submit a report on or before February 1 of each calendar year describing the associations' cost study review process for the preceding calendar year as well as the results of that process. For any revisions to the cost study results made or recommended by the association that would change the respective carrier's calculated annual common line or traffic sensitive revenue requirement by ten percent or more, the report shall include the following information:

(1) Name of the carrier;

(2) A detailed description of the revisions;

(3) The amount of the revisions;

(4) The impact of the revisions on the carrier's calculated common line and traffic sensitive revenue requirements; and

(5) The carrier's total annual common line and traffic sensitive revenue requirement. The information is used to compute charges in tariffs for access service (or origination and termination) and to compute revenue pool distributions. Neither process could be implemented without the information.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2016–04131 Filed 2–25–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the notices must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 24, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Royal Financial, Inc.,* Chicago, Illinois; to merge with Park Bancorp, Inc., and indirectly acquire Park Federal Savings Bank, both in Chicago, Illinois, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, February 23, 2016.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2016–04132 Filed 2–25–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 142–3156]

ASUSTeK Computer, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 24, 2016.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/asusconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''ASUSTeK Computer Inc.,—Consent Agreement; File No. 142–3156'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/asusconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''ASUSTeK Computer Inc.,—Consent Agreement; File No. 142–3156'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Nithan Sannappa (202) 326–3185 or Jarad Brown (202) 326–2927, Bureau of Consumer Protection, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent

agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 23, 2016), on the World Wide Web at: *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 24, 2016. Write ''ASUSTeK Computer Inc.,—Consent Agreement; File No. 142–3156'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/asusconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''ASUSTeK Computer Inc.,—Consent Agreement; File No. 142–3156'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 24, 2016. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to ASUSTeK Computer, Inc. (''ASUS'').

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

ASUS is a hardware manufacturer that, among other things, sells routers, and related software and services, intended for consumer use. Routers forward data packets along a network. In addition to routing network traffic, consumer routers typically function as a hardware firewall for the local network, and act as the first line of defense in protecting consumer devices on the local network, such as computers, smartphones, internet-protocol (''IP'') cameras, and other connected appliances, against malicious incoming traffic from the internet. ASUS marketed its routers as including security features such as ''intrusion detection,'' and instructed consumers to ''enable the [router's] firewall to protect your local network against attacks from hackers.''

Many of ASUS's routers also include ''cloud'' software features called AiCloud and AiDisk that allow consumers to attach a USB storage device to their router and then wirelessly access and share files. ASUS publicized AiCloud as a ''private personal cloud for selective file sharing'' that featured ''indefinite storage and increased privacy'' and described the feature as ''the most complete, accessible, and secure cloud platform.'' Similarly, ASUS promoted AiDisk as a way to ''safely secure and access your treasured data through your router.''

The Commission's complaint alleges that, despite these representations, ASUS engaged in a number of practices that, taken together, failed to provide reasonable security in the design and maintenance of the software developed for its routers and related ''cloud'' features. The complaint challenges these failures as both deceptive and unfair. Among other things, the complaint alleges that ASUS failed to:

a. Perform security architecture and design reviews to ensure that the software is designed securely, including failing to:

i. Use readily-available secure protocols when designing features intended to provide consumers with access to their sensitive personal information. For example, ASUS designed the AiDisk feature to use FTP rather than a protocol that supports transit encryption;

ii. implement secure default settings or, at the least, provide sufficient information that would ensure that consumers did not unintentionally expose sensitive personal information;

iii. prevent consumers from using weak default login credentials. For example, respondent allowed consumers to retain weak default login credentials to protect critical functions, such as username ''admin'' and password ''admin'' for the admin console, and username ''Family'' and

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

password ''Family'' for the AiDisk FTP server;

b. perform reasonable and appropriate code review and testing of the software to verify that access to data is restricted consistent with a user's privacy and security settings;

c. perform vulnerability and penetration testing of the software, including for well-known and reasonably foreseeable vulnerabilities that could be exploited to gain unauthorized access to consumers' sensitive personal information and local networks, such as authentication bypass, clear-text password disclosure, cross-site scripting, cross-site request forgery, and buffer overflow vulnerabilities;

d. implement readily-available, low-cost protections against well-known and reasonably foreseeable vulnerabilities, as described in (c), such as input validation, anti-CSRF tokens, and session time-outs;

e. maintain an adequate process for receiving and addressing security vulnerability reports from third parties such as security researchers and academics;

f. perform sufficient analysis of reported vulnerabilities in order to correct or mitigate all reasonably detectable instances of a reported vulnerability, such as those elsewhere in the software or in future releases; and

g. provide adequate notice to consumers regarding (i) known vulnerabilities or security risks, (ii) steps that consumers could take to mitigate such vulnerabilities or risks, and (iii) the availability of software updates that would correct or mitigate the vulnerabilities or risks.

The Complaint further alleges that, due to these failures, ASUS has subjected its customers to a significant risk that their sensitive personal information and local networks will be subject to unauthorized access. For example, on or before February 1, 2014, a group of hackers exploited vulnerabilities and design flaws in ASUS's routers to gain unauthorized access to thousands of consumers' USB storage devices. Numerous consumers reported having their routers compromised, and some complained that a major search engine had indexed the files that the vulnerable routers had exposed, making them easily searchable online. Others claimed to be the victims of related identity theft, including a consumer who claimed identity thieves had gained unauthorized access to his USB storage device, which contained his family's sensitive personal information, such as login credentials, social security numbers, dates of birth, and tax returns. According to the consumer, the identity thieves used this information to make thousands of dollars of fraudulent charges to his financial accounts, requiring him to cancel accounts and place a fraud alert on his credit report. In addition, in April 2015, a malware researcher discovered a large-scale, active exploit campaign that reconfigured vulnerable routers so that the attackers could control and redirect consumers' web traffic. This exploit campaign specifically targeted numerous ASUS router models.

The proposed consent order contains provisions designed to prevent ASUS from engaging in the future in practices similar to those alleged in the complaint. Part I of the proposed consent order prohibits ASUS from misrepresenting: (1) The extent to which it maintains and protects the security of any covered device (including routers), or the security, privacy, confidentiality, or integrity of any covered information; (2) the extent to which a consumer can use a covered device to secure a network; and (3) the extent to which a covered device is using up-to-date software.

Part II of the proposed consent order requires ASUS to establish and implement, and thereafter maintain, a comprehensive security program that is reasonably designed to (1) address security risks related to the development and management of new and existing covered devices; and (2) protect the privacy, security, confidentiality, and integrity of covered information. The security program must contain administrative, technical, and physical safeguards appropriate to ASUS's size and complexity, nature and scope of its activities, and the sensitivity of the covered device's function or the sensitivity of the covered information. Specifically, the proposed order requires ASUS to:

a. Designate an employee or employees to coordinate and be accountable for the information security program;

b. identify material internal and external risks to the security of covered devices that could result in unauthorized access to or unauthorized modification of a covered device, and assess the sufficiency of any safeguards in place to control these risks;

c. identify material internal and external risks to the privacy, security, confidentiality, and integrity of covered information that could result in the unintentional exposure of such information by consumers or the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assessment of the sufficiency of any safeguards in place to control these risks;

d. consider risks in each area of relevant operation, including, but not limited to: (1) Employee training and management, including in secure engineering and defensive programming; (2) product design, development, and research; (3) secure software design, development, and testing, including for default settings; (4) review, assessment, and response to third-party security vulnerability reports, and (5) prevention, detection, and response to attacks, intrusions, or systems failures;

e. design and implement reasonable safeguards to control the risks identified through risk assessment, including through reasonable and appropriate software security testing techniques, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;

f. develop and use reasonable steps to select and retain service providers capable of maintaining security practices consistent with the order, and require service providers by contract to implement and maintain appropriate safeguards; and

g. evaluate and adjust its information security program in light of the results of testing and monitoring, any material changes to ASUS's operations or business arrangement, or any other circumstances that it knows or has reason to know may have a material impact on its security program.

Part III of the proposed consent order requires ASUS to obtain, within the first one hundred eighty (180) days after service of the order and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed consent order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security of covered devices and the privacy, security, confidentiality, and integrity of covered information is protected.

Part IV of the proposed consent order requires ASUS to provide clear and conspicuous notice to consumers when a software update for a covered device that addresses a security flaw is available or when ASUS is aware of reasonable steps that a consumer could take to mitigate a security flaw in a covered device. In addition to posting

notice on its Web site and informing consumers that contact the company, ASUS must provide security-related notifications directly to consumers. For this purpose, ASUS must provide consumers with an opportunity to register an email address, phone number, device, or other information during the initial setup or configuration of a covered device.

Parts V through IX of the proposed consent order are reporting and compliance provisions. Part V requires ASUS to retain documents relating to its compliance with the order. The order requires that materials relied upon to prepare the assessments required by Part III be retained for a three-year period, and that all other documents related to compliance with the order be retained for a five-year period. Part VI requires dissemination of the order now and in the future to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having supervisory responsibilities relating to the subject matter of the order. Part VII ensures notification to the FTC of changes in corporate status. Part VIII mandates that ASUS submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part IX is a provision ''sunsetting'' the order after (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the proposed complaint or consent order or to modify the consent order's terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2016–04190 Filed 2–25–16; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3331–N]

Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—April 27, 2016

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) (''Committee'') will be held on Wednesday, April 27, 2016. This meeting will specifically focus on obtaining the MEDCAC's recommendations regarding the definition of treatment resistant depression (TRD) as well as to advise CMS on the use of the definition of TRD in the context of coverage with evidence development and treatment outcomes. This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

DATES: *Meeting Date:* The public meeting will be held on Wednesday, April 27, 2016 from 7:30 a.m. until 4:30 p.m., Eastern Daylight Time (EDT).

Deadline for Submission of Written Comments: Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5:00 p.m., EDT, Monday, March 28, 2016. Once submitted, all comments are final.

Deadlines for Speaker Registration and Presentation Materials: The deadline to register to be a speaker and to submit PowerPoint presentation materials and writings that will be used in support of an oral presentation is 5:00 p.m., EDT on Monday, March 28, 2016. Speakers may register by phone or via email by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the address specified in the **ADDRESSES** section of this notice.

Deadline for All Other Attendees Registration: Individuals may register online at *http://www.cms.gov/apps/events/upcomingevents.asp?strOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5:00 p.m. EDT, Wednesday, April 20, 2016.

We will be broadcasting the meeting live via Webcast at *http://www.cms.gov/live/.*

Deadline for Submitting a Request for Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to contact the Executive Secretary as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 5:00 p.m., EDT Friday, April 1, 2016.

ADDRESSES: *Meeting Location:* The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244.

Submission of Presentations and Comments: Presentation materials and written comments that will be presented at the meeting must be submitted via email to *MedCACpresentations@cms.hhs.gov* or by regular mail to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Maria Ellis, Executive Secretary for MEDCAC, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Coverage and Analysis Group, S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244 or contact Ms. Ellis by phone (410–786–0309) or via email at *Maria.Ellis@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

MEDCAC, formerly known as the Medicare Coverage Advisory Committee (MCAC), is advisory in nature, with all final coverage decisions resting with CMS. MEDCAC is used to supplement CMS' internal expertise. Accordingly, the advice rendered by the MEDCAC is most useful when it results from a process of full scientific inquiry and thoughtful discussion, in an open forum, with careful framing of recommendations and clear identification of the basis of those recommendations. MEDCAC members are valued for their background, education, and expertise in a wide variety of scientific, clinical, and other related fields. (For more information on MCAC, see the MEDCAC Charter (*http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/Downloads/medcaccharter.pdf*) and the CMS Guidance Document, *Factors CMS Considers in Referring Topics to the MEDCAC* (*http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=10*)).

II. Meeting Topic and Format

This notice announces the Wednesday, April 27, 2016, public meeting of the Committee. During this meeting, the Committee will discuss recommendations regarding the definition of treatment resistant depression (TRD) and provide advice to CMS on the use of the definition of TRD in the context of coverage with evidence development and treatment outcomes. Background information about this topic, including panel materials, is available at *http://www.cms.gov/*

medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&. We will no longer be providing paper copies of the handouts for the meeting. Electronic copies of all the meeting materials will be on the CMS Web site no later than 2 business days before the meeting. We encourage the participation of appropriate organizations with expertise in TRD clinical research. This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, we may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 4, 2016. Your comments should focus on issues specific to the list of topics that we have proposed to the Committee. The list of research topics to be discussed at the meeting will be available on the following Web site prior to the meeting: *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We require that you declare at the meeting whether you have any financial involvement with manufacturers (or their competitors) of any items or services being discussed. Speakers presenting at the MEDCAC meeting should include a full disclosure slide as their second slide in their presentation for financial interests (for example, type of financial association—consultant, research support, advisory board, and an indication of level, such as minor association < $10,000 or major association > $10,000) as well as intellectual conflicts of interest (for example, involvement in a federal or nonfederal advisory committee that has discussed the issue) that may pertain in any way to the subject of this meeting. If you are representing an organization, we require that you also disclose conflict of interest information for that organization. If you do not have a PowerPoint presentation, you will need to present the full disclosure information requested previously at the beginning of your statement to the Committee.

The Committee will deliberate openly on the topics under consideration. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15-minute unscheduled open public session for any attendee to address issues specific to the topics under consideration. At the conclusion of the day, the members will vote and the Committee will make its recommendation(s) to CMS.

III. Registration Instructions

CMS' Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register online at *http://www.cms.gov/apps/events/upcomingevents.asp?strOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the deadline listed in the **DATES** section of this notice. Please provide your full name (as it appears on your state-issued driver's license), address, organization, telephone number(s), fax number, and email address. You will receive a registration confirmation with instructions for your arrival at the CMS complex or you will be notified that the seating capacity has been reached.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a federal government building; therefore, federal security measures are applicable. The Real ID Act, enacted in 2005, establishes minimum standards for the issuance of state-issued driver's licenses and identification (ID) cards. It prohibits Federal agencies from accepting an official driver's license or ID card from a state unless the Department of Homeland Security determines that the state meets these standards. Beginning October 2015, photo IDs (such as a valid driver's license) issued by a state or territory not in compliance with the Real ID Act will not be accepted as identification to enter Federal buildings. Visitors from these states/territories will need to provide alternative proof of identification (such as a valid passport) to gain entrance into CMS buildings. The current list of states from which a Federal agency may accept driver's licenses for an official purpose is found at *http://www.dhs.gov/real-id-enforcement-brief.* We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means, of all persons entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

V. Collection of Information

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. Chapter 35).

Authority: 5 U.S.C. App. 2, section 10(a).

Dated: February 18, 2016.

Kate Goodrich,

Director, Center for Clinical Standards and Quality, Centers for Medicare & Medicaid Services.

[FR Doc. 2016–04088 Filed 2–25–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10407]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect

information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 28, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Summary of Benefits and Coverage and Uniform Glossary; *Use:* The Affordable Care Act amends the Public Health Service Act (PHS Act) by adding section 2715 ''Development and Utilization of Uniform Explanation of Coverage Documents and Standardized Definitions.'' This section directs the Secretary, in consultation with the National Association of Insurance Commissioners (NAIC) and a working group comprised of stakeholders, to develop standards for use by a group health plan and a health insurance issuer in compiling and providing to applicants, enrollees, and policyholders and certificate holders a summary of benefits and coverage (SBC) explanation that accurately describes the benefits and coverage under the applicable plan or coverage. Section 2715 also requires 60-days advance notice of any material modification in any of the terms of the plan or coverage that is not reflected in the most recently provided summary and the development of standards for the definitions of terms used in health insurance coverage.

This information collection will ensure that approximately 90 million consumers shopping for or enrolled in private, individually purchased, or non-federal governmental group health plan coverage receive the consumer protections of the Affordable Care Act. Employers, employees, and individuals will use this information to compare coverage options prior to selecting coverage and to understand the terms of, and extent of medical benefits offered by, their coverage (or exceptions to such coverage or benefits) once they have coverage. The Departments received comments in response to the ICR and they have been addressed in the Appendix. *Form Number:* CMS–10407 (OMB Control Number: 0938–1146); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Governments, Private Sector; *Number of Respondents:* 126,544; *Total Annual Responses:* 41,154,000; *Total Annual Hours:* 324,853. (For policy questions regarding this collection contact Michelle Koltov at (301) 492–4225).

Date: February 24, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–04318 Filed 2–25–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Head Start Grant Application and Budget Instruments.

OMB No.: 0970–0207.

Description: The Office of Head Start is proposing to renew, without changes, the Head Start Grant Application and Budget Instrument, which standardizes the grant application information that is requested from all Head Start and Early Head Start grantees applying for continuation grants. The application and budget forms are available in a password-protected, Web-based system. Completed applications can be transmitted electronically to Regional and Central Offices. The Administration for Children and Families believes that this application form makes the process of applying for Head Start program grants more efficient for applicants.

Respondents: Head Start and Early Head Start grantees.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
HS grant and budget instrument	2,000	1	33	66,000

Estimated Total Annual Burden Hours: 66,000.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–04166 Filed 2–25–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–D–0350]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Tobacco Retailers on Tobacco Retailer Training Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the guidance entitled ''Tobacco Retailer Training Programs.''

DATES: Submit either electronic or written comments on the collection of information by April 26, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2010–D–0350 for ''Guidance for Tobacco Retailers on Tobacco Retailer Training Programs.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts

and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Information Request Regarding Guidance for Tobacco Retailers on Tobacco Retailer Training Programs—OMB Control Number 0910–0745—Extension

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) does not require retailers to implement retailer training programs. However, the statute does provide for lesser civil money penalties for violations of access, advertising, and promotion restrictions of regulations issued under section 906(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387f(d)), as amended by the Tobacco Control Act, for retailers who have implemented a training program that complies with standards developed by FDA for such programs. FDA intends to issue regulations establishing standards for approved retailer training programs. In the interim, the guidance is intended to assist tobacco retailers in implementing effective training programs for employees.

The guidance discusses the elements that should be covered in a training program, such as: (1) Federal laws restricting the access to, and the advertising and promotion of, cigarettes and smokeless tobacco products; (2) the health and economic effects of tobacco use, especially when the tobacco use begins at a young age; (3) written company policies against sales to minors; (4) identification of the tobacco products sold in the retail establishment that are subject to the Federal laws prohibiting their sale to persons under the age of 18; (5) age verification methods; (6) practical guidelines for refusing sales; and (7) testing to ensure that employees have the required knowledge. The guidance recommends that retailers require current and new employees to take a written test prior to selling tobacco products and that refresher training be provided at least annually and more frequently as needed. The guidance recommends that retailers maintain certain written records documenting that all individual employees have been trained and that retailers retain these records for 4 years in order to be able to provide evidence of a training program during the 48-month time period covered by the civil money penalty schedules in section 103(q)(2)(A) of the Tobacco Control Act.

The guidance also recommends that retailers implement certain hiring and management practices as part of an effective retailer training program. The guidance suggests that applicants and current employees be notified both verbally and in writing of the importance of complying with laws prohibiting the sales of tobacco products to persons under the age of 18 and that they should be required to sign an acknowledgement stating that they have read and understand the information. In addition, FDA recommends that retailers implement an internal compliance check program and document the procedures and corrective actions for the program.

FDA's estimate of the number of respondents in tables 1 and 2 of this document is based on data reported to the U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA). According to the fiscal year 2009 Annual Synar Report, there are 372,677 total retail tobacco outlets in the 50 States, District of Columbia, and 8 U.S. territories that are accessible to youth (meaning that there is no State law restricting access to these outlets to individuals older than age 18). Inflating this number by about 10 percent to account for outlets in States that sell tobacco but are, by law, inaccessible to minors results in an estimated total number of tobacco outlets of 410,000. We assume that 75 percent of tobacco retailers already have some sort of training program for age and identification verification. We expect that some of those retailer training programs already meet the elements in the guidance, some retailers would update their training program to meet the elements in the guidance, and other retailers would develop a training program for the first time. Thus, we estimate that two-thirds of tobacco retailers would develop a training program that meets the elements in the guidance (66 percent of 410,000 = 270,600).

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Develop training program	270,600	1	270,600	16	4,329,600
Develop written policy against sales to minors and employee acknowledgement	270,600	1	270,600	1	270,600

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Develop internal compliance check program	270,600	1	270,600	8	2,164,800
Total					6,765,000

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

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeper	Total hours
Training program	270,600	4	1,082,400	0.25 (15 minutes)	270,600
Written policy against sales to minors and employee acknowledgement.	270,600	4	1,082,400	0.10 (6 minutes)	108,240
Internal compliance check program	270,600	2	541,200	0.5 (30 minutes)	270,600
Total					649,440

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

Dated: February 23, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04176 Filed 2–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Gastrointestinal Drugs Advisory Committee, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Gastrointestinal Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Gastrointestinal Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until March 3, 2018.

DATES: Authority for the Gastrointestinal Drugs Advisory Committee will expire on March 3, 2018, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Cindy Hong, Division of Advisory Committee and Consultant Management, Office of Executive Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, email: *GIDAC@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under 41 CFR 102–3.65 and approval by the Department of Health and Human Services under 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Gastrointestinal Drugs Advisory Committee. The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner.

The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which the Food and Drug Administration has regulatory responsibility.

The Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases and makes appropriate recommendations to the Commissioner.

The Committee shall consist of a core of 11 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of gastroenterology, endocrinology, surgery, clinical pharmacology, physiology, pathology, liver function, motility, esophagitis, and statistics. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting member who is identified with industry interests.

Further information regarding the most recent charter and other information can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/GastrointestinalDrugsAdvisoryCommittee/default.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: February 22, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–04093 Filed 2–25–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request The Sister Study: A Prospective Study of the Genetic and Environmental Risk Factors for Breast Cancer (NIEHS)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on 02 December 2015, Vol. 80, page 75465 and allowed 60-days for public comment. No public comments were received The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Dr. Dale P. Sandler, Chief, Epidemiology Branch, NIEHS, Rall Building A3–05, P.O. Box 12233, Research Triangle Park, NC 27709, or call non-toll free number (919)–541–4668 or Email your request, including your address to: *sandler@niehs.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Revision: The Sister Study: A Prospective Study of the Genetic and Environmental Risk Factors for Breast Cancer, 0925–0522, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: This is to continue the long-term follow-up of the Sister Study—a study of genetic and environmental risk factors for the development of breast cancer in a high-risk cohort of sisters of women who have had breast cancer. The etiology of breast cancer is complex, with both genetic and environmental factors likely playing a role. Environmental risk factors, however, have been difficult to identify. By focusing on genetically susceptible subgroups, more precise estimates of the contribution of environmental and other non-genetic factors to disease risk may be possible. Sisters of women with breast cancer are one group at increased risk for breast cancer; we would expect at least 2 times as many breast cancers to accrue in a cohort of sisters as would accrue in a cohort identified through random sampling or other means. In addition, a cohort of sisters should be enriched with regard to the prevalence of relevant genes and/or exposures, further enhancing the ability to detect gene-environment interactions. Sisters of women with breast cancer will also be at increased risk for ovarian cancer and possibly for other hormonally-mediated diseases. From August 2003 through July 2009, we enrolled a cohort of 50,884 women who had not had breast cancer. We estimated that after the cohort was fully enrolled, approximately 300 new cases of breast cancer will be diagnosed during each year of follow-up. Thus far 2,904 participants have reported being diagnosed with breast cancer.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 16,350.

ESTIMATED ANNUALIZED BURDEN HOURS

Activity	Annual number of respondents	Number of reponses per respondent	Average burden per response (hours)	Total burden hours per year
Annual Update	32,215	1	10/60	5,369
Follow-Up III (triennial)	16,108	1	40/60	10,739
Follow-Up III Telephone Prompting Script	*4,832**	1	3/60	242
Total per year	48,323			16,350

* These Respondents are included *in the* 16,108 *for Follow-Up III, thus not added into Total Respondents per year.*

Dated: February 19, 2016.

Jane Lambert,

Project Clearance Liaison, NIEHS.

[FR Doc. 2016–04179 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: A Clearance for the Eunice Kennedy Shriver National Institute of Child Health and Human Development Data and Specimen Hub (DASH)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 30, 2015 on pages 66913–4 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public

comment. The *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Rohan Hazra, M.D., *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health, 6100 Executive Blvd., Room 4B11, Bethesda, MD 20892–7510, or call non-toll-free number (301)-435–6868 or Email your request, including your address to: *hazrar@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Data and Specimen Hub (DASH), 0925–NEW, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: The NICHD Data and Specimen Hub (DASH) is being established by NICHD as a data sharing mechanism for biomedical research investigators. It will serve as a centralized resource for investigators to store and access de-identified data from studies funded by NICHD. The potential for public benefit to be achieved through sharing research study data for secondary analysis is significant. NICHD DASH supports NICHD's mission to ensure that every person is born healthy and wanted, that women suffer no harmful effects from reproductive processes, and that all children have the chance to achieve their full potential for healthy and productive lives, free from disease or disability, and to ensure the health, productivity, independence, and well-being of all people through optimal rehabilitation. Data sharing and reuse will promote testing of new hypotheses from data already collected, facilitate trans-disciplinary collaboration, accelerate scientific findings and enable NICHD to maximize the return on its investments in research.

Anyone can access NICHD DASH to browse and view descriptive information about the studies and data archived in NICHD DASH without creating an account. Users who wish to submit or request research study data must register for an account.

Information will be collected from those wishing to create an account, sufficient to identify them as unique Users. Those submitting or requesting data will be required to provide additional supporting information to ensure proper use and security of NICHD DASH data. The information collected is limited to the essential data required to ensure that the management of Users in NICHD DASH is efficient and the sharing of data among investigators is effective. The primary uses of the information collected from Users by NICHD will be to:

- Communicate with the Users with regards to their data submission or requests
- Monitor data submissions and data requests
- Notify interested recipients of updates to data stored in NICHD DASH
- Help NICHD understand the use of NICHD DASH data by the research community

There is no plan to publish the data collected under this request.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 142.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Number of respondents	Frequency of response	Average time per response (in hours)	Total annual burden hour
User Registration	120	1	5/60	10
Data Submission	36	1	2	72
Data Request	60	1	1	60
Total	120	216	.....	142

Dated: February 17, 2016.

Sarah L. Glavin,

Project Clearance Liaison, NICHD, NIH.

[FR Doc. 2016–04178 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors. The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will also be videocast and can be accessed from the NIH Videocasting and Podcasting Web site (*http://videocast.nih.gov/*).

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 29, 2016.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); Budget Presentations; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, 31 Center Drive, Building 31, C-Wing, 6th Floor, Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Rm. 7W444,

Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov*.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 30, 2016.

Time: 8:30 a.m. to 12:00 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); Budget Presentations; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, 31 Center Drive, Building 31, C-Wing, 6th Floor, Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Rm. 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit. Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 22, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04103 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Immune Mechanisms.

Date: March 4, 2016.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Jian Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4095D, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurochemistry.

Date: March 7, 2016.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301–435–1220, *crosland@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Interventions to Prevent and Treat Addictions.

Date: March 8, 2016.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Miriam Mintzer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, Bethesda, MD 20892, 301–523–0646, *mintzermz@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Molecular Imaging Probe Development.

Date: March 9, 2016.

Time: 3:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda MD 20892, (Telephone Conference Call).

Contact Person: David L. Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *williamsdl2@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 22, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–04104 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft National Toxicology Program Monograph on Immunotoxicity Associated With Exposure to Perfluorooctanoic Acid or Perfluorooctane Sulfonate; Availability of Document; Request for Comments; Notice of Meeting

SUMMARY: The notice announces a meeting to peer review the draft NTP monograph on immunotoxicity associated with exposure to perfluorooctanoic acid (PFOA) or perfluorooctane sulfonate (PFOS). The Office of Health Assessment and Translation, Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS), prepared the draft NTP monograph. The peer review meeting is open to the public. Registration is requested for both public attendance and oral comment and required to access the webcast. Information about the meeting and registration are available at *http://ntp.niehs.nih.gov/go/36639.*

DATES: Meeting: July 19, 2016, 9:00 a.m. to approximately 2:00 p.m. Eastern Daylight Time (EDT).

Document Availability: The draft NTP monograph should be available by June

7, 2016, at *http://ntp.niehs.nih.gov/go/36639.*

Written Public Comment Submission: Deadline is July 5, 2016.

Registration for Oral Comments: Deadline is July 12, 2016.

Registration for Meeting and/or to View Webcast: Deadline is July 19, 2016. Registration to view the meeting via the webcast is required.

ADDRESSES: Meeting Location: Rodbell Auditorium, Rall Building, NIEHS, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web page: The draft NTP monograph, preliminary agenda, registration, and other meeting materials will be available at *http://ntp.niehs.nih.gov/go/36639.*

Webcast: The URL for viewing webcast will be provided to those who register.

FOR FURTHER INFORMATION CONTACT: Dr. Yun Xie, NTP Designated Federal Official, Office of Liaison, Policy, and Review, DNTP, NIEHS, P.O. Box 12233, MD K2–03, Research Triangle Park, NC 27709. Phone: (919) 541–3436, Fax: (301) 451–5455, Email: *yun.xie@nih.gov.* Hand Delivery/Courier: 530 Davis Drive, Room 2161, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Background on PFOA and PFOS: PFOA and PFOS are persistent chemicals that are widely distributed in the environment, in part because of high stability and little to no expected degradation in the environment. PFOA and PFOS have been used extensively over the last 50 years in commercial and industrial applications, including food packaging, lubricants, water-resistant coatings, and fire-retarding foams. Through voluntary agreements, the primary manufacturer of PFOS phased out production in 2002, and PFOS is no longer manufactured in the United States. Similar arrangements have been made for PFOA, and eight companies that manufacture PFOA committed to eliminate emissions and product content by 2015. Although emissions have been dramatically reduced, the persistence and bioaccumulation of both PFOA and PFOS result in detectable levels in the U.S. population and, therefore, these chemicals are of potential human health relevance. Several recent publications from 2012–2014 have linked PFOA and PFOS exposure to functional immune changes in humans, which are consistent with evidence of PFOA- and PFOS-related immunotoxicity in animal studies.

NTP has conducted a systematic review of the evidence for an association between exposure to PFOA or PFOS and immunotoxicity or immune-related health effects. The NTP evaluation concept for immunotoxicity associated with exposure to PFOA or PFOS was presented and discussed at the NTP Board of Scientific Counselors (BSC) meeting on December 10, 2014 (79 FR 62640). The NTP evaluation concept, related presentation, and BSC meeting minutes are available at *http://ntp.niehs.nih.gov/go/9741.* The protocol for conducting this systematic review is available at *http://ntp.niehs.nih.gov/go/749926.*

Meeting and Registration: The meeting is open to the public with time set aside for oral public comment. Please note that this will be both an in-person and web-based meeting. The chair of the peer review panel and NTP staff will be at the meeting location at NIEHS. The peer review panel members will be attending the meeting via web-based video conferencing. Public attendees are welcome to watch the meeting via webcast or attend in person. Attendance at NIEHS is limited only by the space available.

Registration to attend the meeting in-person or to view the webcast is by July 19, 2016, at *http://ntp.niehs.nih.gov/go/36639.* Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Visitor and security information for those attending in-person is available at *http://www.niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Dr. Yun Xie at phone: (919) 541–3436 or email: *yun.xie@nih.gov.* TTY users should contact the Federal TTY Relay Service at (800) 877–8339. Requests should be made at least five business days in advance of the event.

The preliminary agenda and draft NTP monograph should be posted on the NTP Web site (*http://ntp.niehs.nih.gov/go/36639*) by June 7, 2016. Additional information will be posted when available or may be requested in hardcopy, see **FOR FURTHER INFORMATION CONTACT.** Following the meeting, a report of the peer review will be prepared and made available on the NTP Web site. Individuals are encouraged to access the meeting Web page to stay abreast of the most current information regarding the meeting.

Request for Comments: The NTP invites written and oral public comments on the draft NTP monograph. The deadline for submission of written comments is July 5, 2016, to enable review by the peer review panel and NTP staff prior to the meeting. Registration to provide oral comments is by July 12, 2016, at *http://ntp.niehs.nih.gov/go/36639.* Public comments and any other correspondence on the draft NTP monograph should be sent to the **FOR FURTHER INFORMATION CONTACT.** Persons submitting written comments should include their name, affiliation, mailing address, phone, email, and sponsoring organization (if any) with the document. Written comments received in response to this notice will be posted on the NTP Web site according to NTP's guidelines for public comments (*http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf*), and the submitter will be identified by name, affiliation, and/or sponsoring organization if applicable.

Public comment at this meeting is welcome, with time set aside for the presentation of oral comments on the draft NTP monograph. Guidance for oral public comments is available at *http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.* In addition to in-person oral comments at NIEHS, public comments can be presented by teleconference line. There will be 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open from 9:00 a.m. until approximately 2:00 p.m. EDT on July 19, 2016, although oral comments will be received only during the formal public comment periods indicated on the preliminary agenda. The access number for the teleconference line will be provided to registrants by email prior to the meeting. Each organization is allowed one time slot. At least 7 minutes will be allotted to each time slot, and if time permits, may be extended to 10 minutes at the discretion of the chair.

Persons wishing to make an oral presentation are asked to register online at *http://ntp.niehs.nih.gov/go/36639* by July 12, 2016, and indicate whether they will present comments in-person or via the teleconference line. If possible, oral public commenters should send a copy of their slides and/or statement or talking points at that time. Written statements can supplement and may expand the oral presentation. Registration for in-person oral comments will also be available at the meeting, although time allowed for presentation by on-site registrants may be less than that for registered speakers and will be determined by the number of speakers who register on-site.

Background Information on OHAT: OHAT was established to serve as an environmental health resource to the public and regulatory and health agencies (*http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3094430*). This office conducts evaluations to assess the

evidence that environmental chemicals, physical substances, or mixtures (collectively referred to as ''substances'') cause adverse health effects and provides opinions on whether these substances may be of concern given what is known about current human exposure levels. OHAT also organizes workshops or state-of-the-science evaluations to address issues of importance in environmental health sciences. Information about OHAT is found at *http://ntp.niehs.nih.gov/go/ohat.*

Background Information on NTP Peer Review Panels: NTP panels are technical, scientific advisory bodies established on an ''as needed'' basis to provide independent scientific peer review and advise the NTP on agents of public health concern, new/revised toxicological test methods, or other issues. These panels help ensure transparent, unbiased, and scientifically rigorous input to the program for its use in making credible decisions about human hazard, setting research and testing priorities, and providing information to regulatory agencies about alternative methods for toxicity screening. The NTP welcomes nominations of scientific experts for upcoming panels. Scientists interested in serving on an NTP panel should provide current *curriculum vitae* to the **FOR FURTHER INFORMATION CONTACT**. The authority for NTP panels is provided by 42 U.S.C. 217a; section 222 of the Public Health Service (PHS) Act, as amended. The panel is governed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

Dated: February 22, 2016.

John R. Bucher,

Associate Director, NTP.

[FR Doc. 2016–04102 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: The National Physician Survey of Precision Medicine in Cancer Treatment (NCI)

Summary: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on November 18, 2015 (80 FR 72077), and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

For Further Information Contact: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Janet S. de Moor, Ph.D., MPH, Project Officer, Division of Cancer Control and Population Sciences, 9609 Medical Center Drive, 3E438, MSC 9764, Rockville, MD, 20850 or call non-toll-free number 240–276–6806 or Email your request, including your address to: *janet.demoor@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The National Physician Survey of Precision Medicine in Cancer Treatment 0925–NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this study is to investigate the current practice of precision medicine in cancer treatment among medical oncologists in the U.S. This is a nationally representative survey designed to assess oncologists' current and potential use of genomic testing, to inform the development of interventions to facilitate optimal use of genomic testing and to improve patient-physician discussions of the risks, possible benefits, and uncertainties surrounding the use of these tests. Current knowledge of this topic is limited as there are no nationally-representative studies on this topic to date. There are only two non-federal studies two that have examined physicians' knowledge and attitudes regarding somatic genetic and genomic testing. The survey will be administered by mail and web to medical oncology physicians across the U.S. Non-respondents will be invited to complete a follow-back survey to share their reasons for not participating. The study findings will inform NCI of relevant issues and concerns relating to the application of precision medicine to current and future cancer treatment patterns and practice. This information will also inform the development of new funding initiatives to optimize the use of precision medicine in cancer treatment. Additionally, information collected as part of this survey will be used to develop physician educational materials to address barriers to precision medicine in cancer care delivery.

OMB approval is requested for 2 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 350.

TOTAL ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Telephone Screener	Receptionists	775	1	3/60	39
Precision Medicine Survey—Pilot Study	Oncology Physicians	175	1	20/60	58
Precision Medicine Survey—Full Study	Oncology Physicians	600	1	20/60	200
Non-response Follow-back Survey	Oncology Physicians	40	1	5/60	3

TOTAL ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Telephone Reminder Script	Receptionists	600	1	5/60	50
Total		1,375	2,190		350

Dated: February 11, 2016.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, NIH.

[FR Doc. 2016–04105 Filed 2–25–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0008]

Agency Information Collection Activities: Application for Identification Card

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

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application for Identification Card (CBP Form 3078). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before March 28, 2016 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 66915) on October 30, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Application for Identification Card.

OMB Number: 1651–0008.

Form Number: CBP Form 3078.

Abstract: CBP Form 3078, *Application for Identification Card,* is filled out in order to obtain an Identification Card which is used to gain access to CBP security areas. This form collects biographical information and is usually completed by licensed Cartmen or Lightermen whose duties require receiving, transporting, or otherwise handling imported merchandise which has not been released from CBP custody. This form is submitted to the local CBP office at the port of entry that the respondent will be requesting access to the Federal Inspection Section. Form 3078 is authorized by 19 U.S.C. 66, 1551, 1555, 1565, 1624, 1641; and 19 CFR 112.42, 118, 122.182, and 146.6. This form is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%203078.pdf.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form 3078.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 150,000.

Estimated Number of Total Annual Responses: 150,000.

Estimated Time per Response: 17 minutes.

Estimated Total Annual Burden Hours: 42,450.

Dated: February 22, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–04121 Filed 2–25–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0014]

Agency Information Collection Activities: Declaration for Free Entry of Unaccompanied Articles

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Declaration for Free Entry of Unaccompanied Articles (Form 3299). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 26, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Declaration for Free Entry of Unaccompanied Articles.

OMB Number: 1651–0014.

Form Number: Form 3299.

Abstract: 19 U.S.C. 1498 provides that when personal and household effects enter the United States but do not accompany the owner or importer on his/her arrival in the country, a declaration is made on CBP Form 3299, Declaration for Free Entry of Unaccompanied Articles. The information on this form is needed to support a claim for duty-free entry for these effects. This form is provided for by 19 CFR 148.6, 148.52, 148.53 and 148.77. CBP Form 3299 is accessible at: *http://www.cbp.gov/sites/default/files/documents/CBP%20Form%203299.pdf.*

Current Actions: This submission is being made to extend the expiration date with no changes to the burden hours or to CBP Form 3299.

Type of Review: Extension (without change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents: 150,000.

Estimated Number of Total Annual Responses: 150,000.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 112,500.

Dated: February 22, 2016.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2016–04120 Filed 2–25–16; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2015–0049]

Privacy Act; Department of Homeland Security/ALL–038 Insider Threat Program System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to establish a new Department of Homeland Security system of records titled, ''Department of Homeland Security/ALL–038 Insider Threat Program system of records.'' This system allows the Department of Homeland Security to manage insider threat inquiries, investigations, and other activities associated with complaints, inquiries, and investigations regarding the unauthorized disclosure of classified national security information; identification of potential threats to Department of Homeland Security resources and information assets; tracking of referrals of potential insider threats to internal and external partners; and providing statistical reports and meeting other insider threat reporting requirements. Additionally, the Department of Homeland Security is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in this **Federal Register**. This newly established system will be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before March 28, 2016. This new system will be effective March 28, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2015–0049 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) proposes to establish a new DHS system of records titled ''DHS/ALL–038 Insider Threat Program system of records.''

The Department of Homeland Security has created a Department-wide system, known as the Insider Threat Program system of records to manage insider threat matters within DHS. The Insider Threat Program was mandated by E.O. 13587, ''Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing

and Safeguarding of Classified Information,'' issued October 7, 2011, which requires Federal agencies to establish an insider threat detection and prevention program to ensure the security of classified networks and the responsible sharing and safeguarding of classified information with appropriate protections for privacy and civil liberties. Insider threats include: Attempted or actual espionage, subversion, sabotage, terrorism, or extremist activities directed against DHS and its personnel, facilities, resources, and activities; unauthorized use of or intrusion into automated information systems; unauthorized disclosure of classified, controlled unclassified, sensitive, or proprietary information or technology; and indicators of potential insider threats. The Insider Threat Program system may include information from any DHS Component, office, program, record, or source, and includes records from information security, personnel security, and systems security for both internal and external security threats.

Consistent with DHS' information sharing mission, information stored in the DHS/ALL–038 Insider Threat Program system of records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this system of records notice.

Additionally, DHS is issuing a Notice of Proposed Rulemaking to exempt this system of records from certain provisions of the Privacy Act elsewhere in this **Federal Register**. This newly established system will be included in DHS' inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of DHS/ALL–038 Insider Threat Program system of records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/ALL–038 Insider Threat Program System of Records

SYSTEM NAME:

DHS/ALL–038 Insider Threat Program.

SECURITY CLASSIFICATION:

Unclassified, sensitive, for official use only, and classified.

SYSTEM LOCATION:

Records are maintained at several DHS Headquarters and Component locations in Washington, DC and field offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

- DHS current or former employees, contractors, or detailees who have access or had access to national security information, including classified information.
- Other individuals, including Federal, State, local, tribal, and territorial government personnel and private-sector individuals, who are authorized by DHS to access Departmental facilities, communications security equipment, and/or information technology systems that process sensitive or classified national security information.
- Any other individual with access to national security information including classified information, who accesses or attempts to access DHS IT systems, DHS national security information, or DHS facilities.
- Family members, dependents, relatives, and individuals with a personal association to an individual who is the subject of an insider threat investigation; and
- Witnesses and other individuals who provide statements or information to DHS related to an insider threat inquiry.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of Records in the system include:

Information related to lawful DHS security investigations, including authorized physical, personnel, and communications security investigations, information systems security analysis and reporting, and information derived from Standard Form 86 questionnaires, including:

- Individual's name;
- Date and place of birth;
- Social Security number;
- Address;
- Publicly available social media account information;
- Personal and official email addresses;
- Citizenship;
- Personal and official phone numbers;
- Driver's license numbers;
- Vehicle identification numbers;
- License plate numbers;
- Ethnicity and race;
- Work history;
- Educational history;
- Information on family members, dependents, relatives, and other personal associations;
- Passport numbers;
- Gender;
- Hair and eye color;
- Biometric data;
- Other physical or distinguishing attributes of an individual;
- Medical reports;
- Access control pass, credential number, or other identifying number; and
- Photographic images, videotapes, voiceprints, or DVDs;

Records relating to the management and operation of DHS personnel security program, including but not limited to:

- Completed standard form questionnaires issued by the Office of Personnel Management;
- Background investigative reports and supporting documentation, including criminal background, medical, and financial data;
- Other information related to an individual's eligibility for access to classified information;
- Criminal history records;
- Polygraph examination results;
- Logs of computer activities on all DHS IT systems or any IT systems accessed by DHS personnel with security clearances;
- Nondisclosure agreements;
- Document control registries;
- Courier authorization requests;
- Derivative classification unique identifiers;
- Requests for access to sensitive compartmented information (SCI);
- Records reflecting personal and official foreign travel;

- Facility access records;
- Records of contacts with foreign persons;
- Briefing/debriefing statements for special programs, sensitive positions, and other related information and documents required in connection with personnel security clearance determinations;

Reports of investigation regarding security violations, including but not limited to:

- Individual statements or affidavits and correspondence;
- Incident reports;
- Drug test results;
- Investigative records of a criminal, civil, or administrative nature;
- Letters, emails, memoranda, and reports;
- Exhibits, evidence, statements, and affidavits;
- Inquiries relating to suspected security violations; and
- Recommended remedial actions for possible security violations;

Any information related to the management and operation of the DHS insider threat program, including but not limited to:

- Documentation pertaining to investigative or analytical efforts by DHS insider threat program personnel to identify threats to DHS personnel, property, facilities, and information;
- Records collated to examine information technology events and other information that could reveal potential insider threat activities;
- Travel records;
- Intelligence reports and database query results relating to individuals covered by this system;
- Information obtained from the Intelligence Community, the Federal Bureau of Investigation (FBI), or from other agencies or organizations about individuals known or reasonably suspected of being engaged in conduct constituting, preparing for, aiding, or relating to an insider threat, including but not limited to espionage or unauthorized disclosures of classified national security information;
- Information provided by record subjects and individual members of the public; and
- Information provided by individuals who report known or suspected insider threats.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108–458; Intelligence Authorization Act for FY 2010, Pub. L. 111–259; Atomic Energy Act of 1954, 60 Stat. 755, August 1, 1946; Title 6 U.S.C. 341(a)(6), Under Secretary for Management; Title 28 U.S.C. 535, Investigation of Crimes Involving Government Officers and Employees; Limitations; Title 40 U.S.C. 1315, Law enforcement authority of Secretary of Homeland Security for protection of public property; Title 50 U.S.C. 3381, Coordination of Counterintelligence Activities; E.O. 10450, Security Requirements for Government Employment, April 17, 1953; E.O. 12333, United States Intelligence Activities (as amended); E.O. 12829, National Industrial Security Program; E.O. 12968, Access to Classified Information, August 2, 1995; E.O. 13467, Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information, June 30, 2008; E.O. 13488, Granting Reciprocity on Excepted Service and Federal Contractor Employee Fitness and Reinvestigating Individuals in Positions of Public Trust, January 16, 2009; E.O. 13526, Classified National Security Information; E.O. 13,549, Classified National Security Information Programs for State, Local, Tribal, and Private Sector Entities, August 18, 2010; E.O. 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information, October 7, 2011; and Presidential Memorandum National Insider Threat Policy and Minimum Standards for Executive Branch Insider Threat Programs, November 21, 2012.

PURPOSE(S):

The purpose of the Insider Threat Program system of records is to manage insider threat matters; facilitate insider threat investigations and activities associated with counterintelligence and counterespionage complaints, inquiries, and investigations; identify threats to DHS resources and information assets; track referrals of potential insider threats to internal and external partners; and provide statistical reports and meet other insider threat reporting requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his or her official capacity;

3. Any employee or former employee of DHS in his or her individual capacity when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration (GSA) pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;

2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS' efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on

disclosure as are applicable to DHS officers and employees.

G. To an appropriate Federal, State, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To an appropriate Federal, State, local, tribal, territorial, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, delegation or designation of authority, or other benefit, or if the information is relevant and necessary to a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, delegation or designation of authority, or other benefit and disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To an individual's prospective or current employer to the extent necessary to determine employment eligibility.

J. To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is appropriate to the proper performance of the official duties of the individual making the disclosure.

K. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of an individual who is licensed or who is seeking to become licensed.

L. To another federal agency in order to conduct or support authorized counterintelligence activities, as defined by 50 U.S.C. 3003(3).

M. To any Federal, State, local, tribal, territorial, foreign, or multinational government or agency, or appropriate private sector individuals and organizations lawfully engaged in national security or homeland defense for that entity's official responsibilities, including responsibilities to counter, deter, prevent, prepare for, respond to, threats to national or homeland security, including an act of terrorism or espionage.

N. To a Federal, State, local, tribal, or territorial government or agency lawfully engaged in the collection of intelligence (including national intelligence, foreign intelligence, and counterintelligence), counterterrorism, homeland security, law enforcement or law enforcement intelligence, and other information, when disclosure is undertaken for intelligence, counterterrorism, homeland security, or related law enforcement purposes, as authorized by U.S. law or E.O.

O. To any individual, organization, or entity, as appropriate, to notify them of a serious threat to homeland security for the purpose of guarding them against or responding to such a threat, or when there is a reason to believe that the recipient is or could become the target of a particular threat, to the extent the information is relevant to the protection of life, health, or property.

P. To members of the U.S. House Committee on Oversight and Government Reform and the Senate Homeland Security and Governmental Affairs Committee pursuant to a written request under 5 U.S.C. 2954, after consultation with the Chief Privacy Officer and the General Counsel.

Q. To individual members the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence in connection with the exercise of the Committees' oversight and legislative functions, when such disclosures are necessary to a lawful activity of the United States, after consultation with the Chief Privacy Officer and the General Counsel.

R. To a Federal agency or entity that has information relevant to an allegation or investigation regarding an insider threat for purposes of obtaining guidance, additional information, or advice from such federal agency or entity regarding the handling of an insider threat matter, or to a federal agency or entity that was consulted during the processing of the allegation or investigation but that did not ultimately have relevant information.

S. To a former DHS employee, DHS contractor, or individual sponsored by DHS for a security clearance for purposes of responding to an official inquiry by Federal, State, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

T. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS' officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

DHS/ALL–038 Insider Threat Program system of records stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, and digital media.

RETRIEVABILITY:

DHS may retrieve records by first and last name, Social Security number, date of birth, phone number, other unique individual identifiers, and other types of information by key word search.

SAFEGUARDS:

DHS safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

DHS is working with NARA to develop the appropriate retention schedule based on the information below. For persons DHS determines to be insider threats, information in the Insider Threat Program system of records that is related to a particular insider threat is maintained for twenty-five years from the date when the

insider threat was discovered. For persons DHS determines are not insider threats, the information will be destroyed three years after notification of death, or five years after (1) the individual no longer has an active security clearance held by DHS, (2) separation or transfer of employment, or (3) the individual's contract relationship with DHS expires; whichever is applicable.

SYSTEM MANAGER AND ADDRESS:

Chief, Insider Threat Operations Center (202–447–5010), Office of the Chief Security Officer, Department of Homeland Security, Washington, DC 20528.

NOTIFICATION PROCEDURE:

The Secretary of Homeland Security has exempted this system from the notification, access, and amendment procedures of the Privacy Act because it is a law enforcement system. However, DHS will consider individual requests to determine whether or not information may be released. Thus, individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Chief Privacy Officer whose contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act (FOIA) Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records.
- If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Records are obtained from Department officials, employees, contractors, and other individuals who are associated with or represent DHS; officials from other foreign, Federal, tribal, State, and local government organizations; non-government, commercial, public, and private agencies and organizations; relevant DHS records, databases, and files, including personnel security files, facility access records, security incidents or violation files, network security records, investigatory records, visitor records, travel records, foreign visitor or contact reports, and financial disclosure reports; media, including periodicals, newspapers, and broadcast transcripts; intelligence source documents; publicly available information, including publicly available social media; and complainants, informants, suspects, and witnesses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2) has exempted this system from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (e)(12); (f); (g)(1); and (h). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), has exempted this system from the following provisions of the Privacy Act, 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

When this system receives a record from another system exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

Dated: February 18, 2016.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2016–03924 Filed 2–25–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2009–0024]

Enforcement Actions Summary

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice of availability.

SUMMARY: The Transportation Security Administration (TSA) is providing notice that it has issued an annual summary of all enforcement actions taken by TSA under the authority granted in the Implementing Recommendations of the 9/11 Commission Act of 2007.

FOR FURTHER INFORMATION CONTACT: Emily Su, Assistant Chief Counsel, Civil Enforcement, Office of the Chief Counsel, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6002; telephone (571) 227–2305; facsimile (571) 227–1378; email *emily.su@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 3, 2007, section 1302(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (the 9/11 Act), Public Law 110–53, 121 Stat. 392, gave TSA new authority to assess civil penalties for violations of any surface transportation requirements under title 49 of the U.S. Code (U.S.C.) and for any violations of chapter 701 of title 46 of the U.S. Code, which governs transportation worker identification credentials (TWICs).

Section 1302(a) of the 9/11 Act, codified at 49 U.S.C. 114(v), authorizes the Secretary of the Department of Homeland Security (DHS) to impose civil penalties of up to $10,000 per violation of any surface transportation requirement under 49 U.S.C. or any requirement related to TWICs under 46 U.S.C. chapter 701. TSA exercises this function under delegated authority from

the Secretary. *See* DHS Delegation No. 7060–2.

Under 49 U.S.C. 114(v)(7)(A), TSA is required to provide the public with an annual summary of all enforcement actions taken by TSA under this subsection; and include in each such summary the identifying information of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty. This summary is for calendar year 2015. TSA will publish a summary of all enforcement actions taken under the statute in January to cover the previous calendar year.

Document Availability

You can get an electronic copy of both this notice and the enforcement actions summary on the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov,* Docket No. TSA–2009–0024; or

(2) Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the **Federal Register** by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Dated: February 22, 2016.

Kelly D. Wheaton,

Deputy Chief Counsel, Enforcement and Incident Management.

February 22, 2016

Annual Summary of Enforcement Actions Taken Under 49 U.S.C. 114(v)

Annual Report

Pursuant to 49 U.S.C. 114(v)(7)(A), TSA provides the following summary of enforcement actions taken by TSA in calendar year 2015 under section 114(v).[1]

Background

Section 114(v) of title 49 of the U.S. Code gave the Transportation Security Administration (TSA) new authority to assess civil penalties for violations of any surface transportation requirements under 49 U.S.C. and for any violations of chapter 701 of title 46 of the U.S. Code, which governs transportation worker identification credentials (TWICs). Specifically, section 114(v) authorizes the Secretary of the Department of Homeland Security (DHS) to impose civil penalties of up to $10,000 per violation of any surface transportation requirement under title 49 U.S.C. or any requirement related to TWICs under 46 U.S.C. chapter 701.[2]

ENFORCEMENT ACTIONS TAKEN BY TSA IN CALENDAR YEAR 2015

TSA case No./type of violation	Penalty proposed/ assessed
TSA Case #2014MEM0120—Rail Car Transfer of Custody (49 CFR 1580.107)	$18,000/$18,000.
TSA Case #2016BUF0001—Reporting Security Concerns (49 CFR 1580.105)	None (Warning Notice).
TSA Case #2015HOU0003—TWIC—False/Altered TWIC (49 CFR 1570.7 (b))	$6,000/$6,000.
TSA Case #2016ATL0038—TWIC—Access Control (49 CFR 570.7(c))	None (Warning Notice).
TSA Case #2016BOS0062—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016JAX0021—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016JAX0022—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016JAX0025—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016JAX0024—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016LAX0056—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016LAX0057—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016LAX0070—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2016MIA0007—TWIC—Fraudulent Use (49 CFR 1570.7 (a))	None (Warning Notice).
TSA Case #2016MIA0012—TWIC—Fraudulent Use (49 CFR 1570.7 (a))	None (Warning Notice).
TSA Case #2015ATL0419—TWIC—Access Control (49 CFR 1570.7(c))	$2,000/$2,000.
TSA Case #2015ATL0435—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).
TSA Case #2015HOU0059—TWIC—Fraudulent Use (49 CFR 1570.7(a))	$500/$250.
TSA Case #2015HOU0259—TWIC—False/Altered TWIC (49 CFR 1570.7(b))	$1,000/$1,000.
TSA Case #2015HOU0274—TWIC—Access Control (49 CFR 1570.7(c))	$1,000/$1,000.
TSA Case #2015HOU0275—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2015JAX0127—TWIC—Access Control (49 CFR 1570.7(c))	$1,000/$1,000.
TSA Case #2015JAX0128—TWIC—Access Control (49 CFR 1570.7(c))	$1,000/$1,000.
TSA Case #2015JAX0137—TWIC—Access Control (49 CFR 1570.7(c))	None (Warning Notice).
TSA Case #2015JAX0140—TWIC—False/Altered TWIC (49 CFR 1570.7(b))	None (Warning Notice).
TSA Case #2015JAX0158—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).
TSA Case #2015JAX0187—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).
TSA Case #2015JAX0233—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).
TSA Case #2015MIA0062—TWIC—False/Altered TWIC (49 CFR 1570.5(b))	None (Warning Notice).
TSA Case #2015MIA0444—TWIC—Fraudulent Use (49 CFR 1570.7(a))	None (Warning Notice).
TSA Case #2015MIA0445—TWIC—Access Control (49 CFR 1570.7(d))	$500/$500.
TSA Case #2015MOB0009—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).
TSA Case #2015PHL0050—TWIC—Fraudulent Use (49 CFR 1570.7(a)	None (Warning Notice).
TSA Case #2015SAN0088—TWIC—Access Control (49 CFR 1570.7(d))	None (Warning Notice).

[1] 49 U.S.C. 114(v)(7)(A) states: In general. Not later than December 31, 2008, and annually thereafter, the Secretary shall—(i) provide an annual summary to the public of all enforcement actions taken by the Secretary under this subsection; and (ii) include in each such summary the docket number of each enforcement action, the type of alleged violation, the penalty or penalties proposed, and the final assessment amount of each penalty.

[2] TSA exercises this function under delegated authority from the Secretary. *See* DHS Delegation No. 7060–2.

[FR Doc. 2016–04066 Filed 2–25–16; 8:45 am]
BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–09]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 18, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2016–03911 Filed 2–25–16; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–FHC–2016–N110]; [FXFR13340300000–145–FF03F00000]

Fisheries and Habitat Conservation; Draft Supplemental Environmental Impact Statement for the Ballville Dam Project on the Sandusky River, Sandusky County, Ohio

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; announcement of meeting; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft supplemental environmental impact statement (SEIS) that has been prepared to evaluate the Ballville Dam Project, in Sandusky County, Ohio, in accordance with the requirements of the National Environmental Policy Act (NEPA). We are also announcing a public meeting and requesting public comments.

DATES:

Submitting Comments: We will consider all comments regarding the draft SEIS received or postmarked by April 11, 2016 and respond to them as appropriate.

Public Meeting: We will conduct a public meeting in Fremont, Ohio, on March 15, 2016, from 7 to 9 p.m. The meeting will provide the public with an opportunity to present comments, ask questions, and discuss issues with Service staff and our cooperating agencies regarding the draft SEIS.

ADDRESSES:

Submitting Comments: You may submit comments on the draft SEIS by any one of the following methods:

- *U.S. mail or hand-delivery:* Brian Elkington, U.S. Fish and Wildlife Service, Fisheries, 5600 American Boulevard West, Suite 990, Bloomington, MN 55437–1458.
- *Email: Ballvilledam@fws.gov.*
- *Fax:* (612) 713–5289 (Attention: Brian Elkington).

Viewing Comments by the Environmental Protection Agency: For how to view comments on the draft SEIS from the Environmental Protection Agency (EPA), or for information on EPA's role in the EIS process, see EPA's Role in the EIS Process under **SUPPLEMENTARY INFORMATION**.

Public Meeting: The meeting will take place at Terra State Community College, Neeley Center, 2830 Napoleon Road, Fremont, Ohio, 43420. A hard copy of the draft SEIS and associated documents will be available for review at the Birchard Public Library, 423 Croghan Street, Fremont, Ohio 43420, as well as online at *http://www.fws.gov/midwest/fisheries/ballville-dam.html.*

FOR FURTHER INFORMATION CONTACT: Brian Elkington, (612) 713–5168. Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at (800) 877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION: We announce the availability of a draft supplemental environmental impact statement (SEIS) that has been prepared to evaluate the Ballville Dam Project, in Sandusky County, Ohio, in accordance with the requirements of the National Environmental Policy Act (NEPA). We are also announcing a public meeting and requesting public comments.

Background

Ballville Dam was built in 1913 for hydroelectric power generation. The City of Fremont purchased the dam in 1959 from the Ohio Power Company for the purpose of supplying water to the city. With the construction of a raw water reservoir, the dam is no longer required for this purpose. Moreover, in 2007, the Ohio Department of Natural Resources issued a Notice of Violation to the City, stating that the dam was being operated in violation of the law as a result of its deteriorated condition.

Ballville Dam is currently a complete barrier to upstream fish passage and impedes hydrologic processes. The purpose for the issuance of Federal funds and preparation of this Draft SEIS is to remove Ballville Dam and restore natural hydrological processes over a 40-mile stretch of the Sandusky River, reopen fish passage to 22 miles of additional habitat, restore flow conditions for fish access to habitat above the impoundment, and improve overall conditions for native fish communities in the Sandusky River system, restoring self-sustaining fish resources.

We published a final EIS in the **Federal Register** on August 1, 2014 (79 FR 44856), for the Ballville Dam Project that addressed the environmental, economic, cultural and historical, and safety issues associated with the proposed removal of the dam and a suite of alternatives. The final EIS analyzed four alternatives for the removal: (1) Proposed Action—Incremental Dam Removal with Ice Control Structure; (2) No Federal Action; (3) Fish Elevator Structure; and (4) Dam Removal with Ice Control Structure. The final EIS considered the direct, indirect, and cumulative effects of the alternatives, including any measures under the Proposed Action alternative intended to minimize and mitigate such impacts. The final EIS also identified additional alternatives that were considered, but were eliminated from consideration as detailed in Section 2.3 of the final EIS.

Draft Supplemental Environmental Impact Statement

This draft SEIS provides further discussion of the potential significant impacts of the proposed action and an analysis of reasonable alternatives to the

proposed action, specifically within the context of additional information made available since completion of final EIS for this project. This additional information addresses estimates of total quantity of sediment impounded by Ballville Dam, the potential impacts of the proposed alternative on harmful algal blooms (HABs) in the Sandusky River and Lake Erie due to the proposed sediment release, the potential impacts of the proposed alternative on downstream habitats due to sediment release, the accuracy of cost estimates of sediment removal within the EIS, evaluation of a bypass and excavation alternative provided in comments on the FEIS, and the potential for beneficial reuse of sediments impounded by Ballville Dam. Although we concluded that these topics were sufficiently addressed in the FEIS, we provide additional review and assessment in this Draft SEIS to help further clarify the issues. To complete this aspect of the Draft SEIS, we consulted subject matter experts to help review FEIS materials and clearly articulate our understanding of them. The resulting additional information and explanation has been incorporated within this Draft SEIS.

EPA's Role in the EIS Process

In addition to this notice of the draft SEIS, EPA is publishing a **Federal Register** notice announcing the draft SEIS, as required under section 309 of the Clean Air Act (42 U.S.C. 7401 *et seq.;* CAA). The publication of EPA's notice is the official start of the minimum requirement for a 45-day public comment period for an EIS. The EPA is charged under the CAA to review all Federal agencies' EISs and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs. EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies. The EIS database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**. For more information, see *http://www.epa.gov/compliance/nepa/eisdata.html.* You may search for EPA comments on EISs, along with EISs themselves, at *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

Public Comments

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

We request data, comments, new information, or suggestions from the public, concerned governmental agencies, the scientific community, tribes, industry, or any other interested party on this notice. We specifically request comments regarding the additional information and analyses presented in the draft SEIS.

You may submit your comments and materials considering this notice by one of the methods listed in the **ADDRESSES** section.

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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.

Authority

This notice is being furnished as provided for by NEPA and its implementing Regulations (40 CFR 1501.7 and 1508.22). The intent of the notice is to obtain suggestions and additional information from other agencies and the public on the draft SEIS. Comments and participation in this process are solicited.

Dated: February 22, 2016.

Kurt Schilling,

Acting Assistant Regional Director, Fisheries, Midwest Region.

[FR Doc. 2016–04134 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX16LR000F60100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a renewal of a currently approved information collection (1028–0060).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This collection consists of 1 form. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on June 30, 2016.

DATES: To ensure that your comments are considered, we must receive them on or before April 26, 2016.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028–0060, Mine, Development, and Mineral Exploration Supplement in all correspondence.

FOR FURTHER INFORMATION CONTACT: Shonta E. Osborne, National Minerals Information Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, Mail Stop 985, Reston, VA 20192 (mail); 703–648–7960 (phone); or *sosborne@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to this form supply the USGS with domestic production, exploration, and mine development data for nonfuel mineral commodities. This information will be published as an Annual Report for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0060.

Form Number: USGS Form 9–4000–A.

Title: Mine, Development, and Mineral Exploration Supplement.

Type of Request: Renewal of existing information collection.

Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and exploration operations.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: Annually.

Estimated Total Number of Annual Responses: 828.

Estimated Time per Response: 45 minutes.

Estimated Annual Burden Hours: 621 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this IC.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Michael J. Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2016–04084 Filed 2–25–16; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO220000 L63100000.PH0000 16X]

Renewal of Approved Information Collection; Control No. 1004–0058

AGENCY: Bureau of Land Management, Interior.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Bureau of Land Management (BLM) has submitted an information collection request to the Office of Management and Budget (OMB) to continue the collection of information that enables the BLM to monitor compliance with timber export restrictions. The OMB previously approved this information collection activity and assigned it control number 1004–0058.

DATES: The OMB is required to respond to this information collection request within 60 days but may respond after 30 days. For maximum consideration, written comments should be received on or before March 28, 2016.

ADDRESSES: Please submit comments directly to the Desk Officer for the Department of the Interior (OMB #1004–0058), Office of Management and Budget, Office of Information and Regulatory Affairs, fax 202–395–5806, or by electronic mail at *OIRA_submission@omb.eop.gov*. Please provide a copy of your comments to the BLM. You may do so via mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0058'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Michael Bechdolt, at 202–912–7234. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Bechdolt. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act (44 U.S.C. 3501–3521) and OMB regulations at 5 CFR part 1320 provide that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond. In order to obtain and renew an OMB control number, Federal agencies are required to seek public comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)).

As required at 5 CFR 1320.8(d), the BLM published a 60-day notice in the **Federal Register** on October 13, 2015 (80 FR 61447), and the comment period ended December 14, 2015. The BLM received no comments. The BLM now requests comments on the following subjects:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the information collection burden on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Please send comments as directed under **ADDRESSES** and **DATES**. Please refer to OMB control number 1004–0058 in your correspondence. 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.

The Following Information Pertains to this Request

Title: Timber Export Reporting and Substitution Determination (43 CFR part 5420).

Forms:

- 5450–17, Export Determination; and
- 5460–17, Substitution Determination.

OMB Control Number: 1004–0058.

Abstract: This collection of information pertains to compliance of Federal timber purchases with timber export restrictions.

Frequency: On occasion.

Obligation to Respond: Required to obtain or retain benefits.

Description of Respondents: Purchasers of Federal timber.

Estimated Number of Responses Annually: 16.

Estimated Reporting and Recordkeeping ''Hour'' Burden Annually: 16 hours.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden Annually: None.

Jean Sonneman,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2016–04177 Filed 2–25–16; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWO320000.L19900000.PO0000]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information that assists the BLM in preventing unnecessary or undue degradation of public lands by operations authorized by the mining laws, and in obtaining financial guarantees for the reclamation of public lands. The Office of Management and Budget (OMB) has assigned control number 1004–0194 to this information collection.

DATES: Please submit comments on the proposed information collection by April 26, 2016.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0194'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Adam Merrill, at 202–912–7044. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339, to leave a message for Mr. Merrill.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The Following Information Pertains to This Request

Title: Surface Management Activities under the General Mining Law (43 CFR subpart 3809).

OMB Control Number: 1004–0194.

Summary: This collection of information enables the BLM to determine whether operators and mining claimants are meeting their responsibility to prevent unnecessary or undue degradation while conducting exploration and mining activities on public lands under the mining laws, including the General Mining Law (30 U.S.C. 22–54). It also assists the BLM in obtaining financial guarantees for the reclamation of public lands. This collection of information is found at 43 CFR subpart 3809 and in the forms listed below.

Frequency of Collection: On occasion.

Forms:

- Form 3809–1, Surface Management Surety Bond;
- Form 3809–2, Surface Management Personal Bond;
- Form 3809–4, Bond Rider Extending Coverage of Bond to Assume Liabilities for Operations Conducted by Parties Other Than the Principal;
- Form 3809–5, Notification of Change of Operator and Assumption of Past Liability.

Description of Respondents: Operators and mining claimants.

Estimated Annual Responses: 1,495.

Estimated Annual Burden Hours: 183,808.

Estimated Annual Non-Hour Costs: $4,780 for notarizing Forms 3809–2 and 3809–4a.

The estimated burdens are itemized in the following table:

Type of response and 43 CFR citation	Number of responses	Hours per response	Total hours (Column B × Column C)
A	B	C	D
Initial or Extended Plan of Operations (3809.11)	49	320	15,680
Data for EIS (3809.401(c))	5	4,960	24,800
Data for Standard EA (3809.401(c))	15	890	13,350
Data for Simple Exploration EA (3809.401(c))	29	320	9,280
Modification of Plan of Operations (3809.430 and 3809.431)	107	320	34,240
Data for EIS (3809.432(a) and 3809.401(c))	2	4,960	9,920
Data for Standard EA (3809.432(a) and 3809.401(c))	35	890	31,150
Data for Simple Exploration EA (3809.432(a) and 3809.401(c))	70	320	22,400
Notice of Operations (3809.21)	396	32	12,672
Modification of Notice of Operations (3809.330)	167	32	5,344
Extension of Notice of Operations (3809.333)	140	1	140
Surface Management Surety Bond, Form 3809–1 (3809.500)	28	8	224
Surface Management Personal Bond, Form 3809–2 (3809.500)	170	8	1,360
Bond Rider Extending Coverage of Bond, Form 3809–4 (3809.500)	25	8	200
Surface Management Personal Bond Rider, Form 3809–4a (3809.500)	69	8	552

Type of response and 43 CFR citation	Number of responses	Hours per response	Total hours (Column B × Column C)
A	B	C	D
Notification of Change of Operator and Assumption of Past Liability, Form 3809–5 (3809.116)	52	8	416
Notice of State Demand Against Financial Guarantee (3809.573)	1	8	8
Request for BLM Acceptance of Replacement Financial Instrument (3809.581)	13	8	104
Request for Reduction in Financial Guarantee and/or BLM Approval of Adequacy of Reclamation (3809.590)	78	8	624
Response to Notice of Forfeiture of Financial Guarantee (3809.596)	13	8	104
Appeals to the State Director (3809.800)	30	40	1200
Federal/State Agreements (3809.200)	1	40	40
Totals	1,495		183,808

Anna Atkinson,

Information Collection Clearance Officer, Bureau of Land Management.

[FR Doc. 2016–04173 Filed 2–25–16; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–AKRO–DENA–19163; PPMRSNR1Y.Y00000]

Notice of Availability for Public Review of Mining Plan of Operations for Claims Within Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with 36 CFR 9.17, the National Park Service (NPS) is hereby giving notice that Kris DeVault has filed a proposed plan to conduct mining operations on the Liberty #9 and Liberty #13 through #18 unpatented placer claims near Kantishna, Alaska. The claims are located within Denali National Park and Preserve.

ADDRESSES: This plan of operations is available for inspection during normal business hours at the following locations:

Office of the Superintendent, Denali National Park and Preserve—Headquarters, Mile post 3.4 Denali Park Road, P.O. Box 9, Denali Park, AK 99755.

National Park Service Alaska Regional Office—Natural Resources Division, 240 West 5th Avenue, Anchorage, AK 99501.

FOR FURTHER INFORMATION CONTACT: Donald Striker, Superintendent, at (907) 683–9625, *donald_striker@nps.gov,* Steve Carwile, Compliance Officer, at (907) 683–9550, email at *steve_carwile@nps.gov*.

SUPPLEMENTARY INFORMATION: The regulations at 36 CFR part 9, subpart A, implement 54 U.S.C. 100731–737, which was originally enacted as the Mining in the Parks Act. These regulations are applicable to all mineral activities in park units related to unpatented and patented mining claims under the Mining Law of 1872 (30 U.S.C. 21 *et seq.*). Under the regulations, all mining claim operations in parks require NPS approval of a plan of operations. The plan of operations serves as the blueprint for the operation.

Kris DeVault, the operator of the Liberty #9 and Liberty #13 through #18 unpatented placer claims near Kantishna, Alaska, has submitted a proposed plan of operations. The Regional Director is currently evaluating the proposed plan under the standards of 36 CFR 9.10. If the plan meets the standards, the NPS may approve the plan as submitted or approve the plan with terms and conditions. Under 36 CFR 9.17(a), the NPS is required to publish this notice in the **Federal Register** advising the public of the availability of the proposed plan for review.

Dated: February 22, 2016.

Herbert C. Frost,

Regional Director, Alaska.

[FR Doc. 2016–04193 Filed 2–25–16; 8:45 am]

BILLING CODE 4312–EF–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2015–0141]

Outer Continental Shelf, Gulf of Mexico, Oil and Gas Lease Sale, Central Planning Area Lease Sale 247; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability and announcement of public meetings and comment period for the Draft Supplemental Environmental Impact Statement.

SUMMARY: BOEM is announcing the availability of a Draft Supplemental Environmental Impact Statement (EIS) for the proposed Gulf of Mexico (GOM) Outer Continental Shelf (OCS) oil and gas Central Planning Area (CPA) Lease Sale 247 (CPA Lease Sale 247). CPA Lease Sale 247 is tentatively scheduled for March 2017. The Draft Supplemental Environmental Impact Statement provides a discussion of potential significant impacts of the proposed action and provides an analysis of reasonable alternatives to the proposed action. It also considers new information made available since the completion of earlier EISs related to CPA Lease Sale 247. The prior 2012–2017 Gulf of Mexico EISs are available on BOEM's Web site at *http://www.boem.gov/nepaprocess/.* This Notice of Availability also serves to announce the beginning of the public comment period for the Draft Supplemental Environmental Impact Statement.

In keeping with the Department of the Interior's mission to protect natural resources and to limit costs, while ensuring availability to the public, the Draft Supplemental EIS and associated information are available on BOEM's Web site at *http://www.boem.gov/nepaprocess/.* BOEM will also distribute digital copies of the Draft Supplemental EIS on compact discs. BOEM will print and distribute a limited number of paper copies. You may request a digital or paper copy of the Draft Supplemental EIS from the Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Public Information Office (GM 250C), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800– 200–GULF).

DATES: Comments should be submitted no later than April 11, 2016. As described below in the ''Comments'' section, public comments may also be submitted at public meetings being held on March 14, 15, and 17, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Goeke, Chief, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by email at *cpa247@boem.gov.* You may also contact Mr. Goeke by telephone at 504–736–3233.

Comments: Federal, State, and local governments and/or agencies; Tribal Nations; and the public (including persons and organizations who may be interested or affected) may submit written comments on the CPA 247 Draft Supplemental Environmental Impact Statement through the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* In the field entitled ''Search,'' enter ''BOEM–2015–0401'' and then click ''search.'' Follow the instructions to submit public comments and view supporting and related materials available for this notice;

2. U.S. mail in an envelope labeled ''Comments on the Draft CPA 247 Supplemental EIS'' and addressed to Mr. Gary D. Goeke, Chief, Environmental Assessment Section, Office of Environment (GM 623E), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Comments must be postmarked by the last day of the comment period to be considered. This date is April 11, 2016.

3. Via electronic mail to *cpa247@boem.gov.*

BOEM will also hold public meetings to solicit comments regarding the CPA 247 Draft Supplemental EIS. The Meetings are scheduled as follows:

- Gulfport, Mississippi: Monday, March 14, 2016, Courtyard by Marriott, Gulfport Beachfront MS Hotel, 1600 East Beach Boulevard, Gulfport, Mississippi 39501, one meeting beginning at 6:00 p.m. CDT;
- Mobile, Alabama: Tuesday, March 15, 2016, Hilton Garden Inn Mobile West, 828 West I–65 Service Road South, Mobile, Alabama 36609, one meeting beginning at 4:00 p.m. CDT; and
- New Orleans, Louisiana: Thursday, March 17, 2016, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123, one meeting beginning at 1:00 p.m. CDT.

BOEM does not consider anonymous comments; please include your name and address as part of your submittal. 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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This Notice of Availability is consistent with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4231 *et seq.*) (NEPA), and the regulations implementing NEPA, and is published pursuant to 43 CFR 46.415 and 46.435.

Dated: February 10, 2016.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–04114 Filed 2–25–16; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Final)]

Certain Uncoated Paper From Australia, Brazil, China, Indonesia, and Portugal; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal, provided for in subheadings 4802.56 and 4802.57 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the governments of China and Indonesia.[2]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective January 21, 2015, following receipt of a petition filed with the Commission and Commerce by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (Pittsburgh, Pennsylvania); Domtar Corporation (Ft. Mill, South Carolina); Finch Paper LLC (Glen Falls, New York); P.H. Glatfelter Company (York, Pennsylvania); and Packaging Corporation of America (Lake Forest, Illinois). The Commission scheduled the final phase of the investigations following notification of a preliminary determinations by Commerce that imports of certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal were dumped within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)) and were subsidized by the governments of China and Indonesia within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 29, 2015 (80 FR 58503). The hearing was held in Washington, DC, on January 7, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on February 22, 2016. The views of the Commission are contained in USITC Publication 4592 (February 2016), entitled *Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal: Investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Final).*

By order of the Commission.

Issued: February 23, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–04128 Filed 2–25–16; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on certain uncoated paper from Australia.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on January 28, 2016, 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 American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. 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, since October 16, 2015, ASME published five new standards, revised one consensus committee charter, and initiated one new standard activity within the general nature and scope of ASME's standards development activities, as specified in the original notification. More detail regarding these changes can be found at *http://www.asme.org.*

On September 15, 2004, ASME 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 October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on October 19, 2015. A notice was published in the **Federal Register** on December 7, 2015 (80 FR 76043).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04101 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Pistoia Alliance, Inc.

Notice is hereby given that, on December 21, 2015, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Pistoia Alliance, Inc. 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, IMGT (ImMunoGeneTics), Montpellier, FRANCE; Informatics Unlimited Ltd, Histon, UNITED KINGDOM; KWS SAAT SE., Einbeck, GERMANY; Andy Zaayenga (individual member), Martinsville, NJ; FactBio, London, UNITED KINGDOM; ISIS Pharmaceuticals Inc., Carlsbad, CA; and Elsevier Inc., New York, NY, have been added as parties to this venture.

Also, The Jackson Laboratory, Bar Harbor, ME; Patcore Inc., Tokyo, JAPAN; and H. Lundbeck A/S, Valby, DENMARK, 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 Pistoia Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On May 28, 2009, Pistoia Alliance, Inc. 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 July 15, 2009 (74 FR 34364).

The last notification was filed with the Department on October 9, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2015 (80 FR 69697).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04098 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Members of SGIP 2.0, Inc.

Notice is hereby given that, on January 14, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Members of SGIP 2.0, Inc. (''MSGIP 2.0'') 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, Enabala Power Networks, North Vancouver, CANADA; SLAC National Accelerator Laboratory, Menlo Park, CA; Subnet Solutions, Calgary, CANADA; Softgrids, Puteaux, FRANCE; Opower, Arlington, VA; ViaSat Inc., Carlsbad, CA; and PwrCast, Inc., Newberg, OR, have been added as parties to this venture.

Also, Verday, LLC, St. Louis, MO; Advanced Energy Centre, Toronto, CANADA; National Energy Technology Laboratory (NETL), Morgantown, WV; and Power Generation Services, Inc., Raleigh, NC, 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 MSGIP 2.0 intends to file additional written notifications disclosing all changes in membership.

On February 5, 2013, MSGIP 2.0 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 March 7, 2013 (78 FR 14836).

The last notification was filed with the Department on September 25, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 23, 2015 (80 FR 64450).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04097 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Academy of Forensic Sciences

Notice is hereby given that, on January 11, 2016, 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 American Academy of Forensic Sciences Standard Board, LLC (''ASB'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization, and (2) the nature and scope of its

standards development activities. 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.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards and development organization is: American Academy of Forensic Sciences Standards Board, LLC, Colorado Springs, CO. The nature and scope of ASB's standards development activities are: activities that develop, review, and approve and issue voluntary consensus standards, technical reports and best practice guidelines in the field of forensic sciences, and to adjudicate appeals relating to the development and administration of such standards.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04100 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on January 20, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') 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, Center of Excellence DEWS—Universitá degli Studi dell'Aquila, L'Aquila, ITALY, has been added as a party 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 HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation 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 October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on August 7, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 25, 2015 (80 FR 51605).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04096 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on February 1, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ODVA, Inc. (''ODVA'') 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, Shen Zhen General Measure Technology Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Beijing Tiandi-Marco Electro-Hydraulic Control System Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; Emerson Process Management Lllp, Bloomington, MN; and Zumbach Electronics Corp., Mount Kisco, NY, have been added as parties to this venture.

Also, Zhuzhou CSR Times Electric Co., Ltd., ZhuZhou City, PEOPLE'S REPUBLIC OF CHINA; Ecava Sdn Bhd, Kuala Lumpur, MALAYSIA; Jain Technology Co., Ltd., Seoul, REPUBLIC OF KOREA; MicroControl GmbH & Co., Troisdorf, GERMANY; JVL Industri Elektronik A/S, Birkerod, DENMARK; and SABO Elektronik GmbH, Schwerte, GERMANY, 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 ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA 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 February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on October 30, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 7, 2015 (80 FR 76043).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–04099 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[Docket No. ODAG 159]

Notice of Federal Advisory Committee Meeting

AGENCY: Department of Justice.

ACTION: Notice of Federal Advisory Committee meeting. request for public comment.

SUMMARY: The National Commission on Forensic Science will hold meeting nine at the time and location listed below.

DATES:

(1) Public Hearing.—The meeting will be held on March 21, 2016 from 9:00 a.m. to 1:30 p.m. and March 22, 2016 from 9:00 a.m. to 5:30 p.m.

(2) Written Public Comment.—Written public comment regarding National Commission on Forensic Science meeting materials can be submitted through *www.regulations.gov* starting on March 7, 2016. Any comments should be posted to *www.regulations.gov* no later than April 5, 2016.

Location: Office of Justice Programs, 3rd floor ballroom. 810 7th Street NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Andrew J. Bruck, Senior Counsel to the Deputy Attorney General and Designated Federal Official, 950 Pennsylvania Avenue NW., Washington, DC 20530, by email at *Andrew.J.Bruck@usdoj.gov* by phone at (202) 305–3481.

SUPPLEMENTARY INFORMATION:

Agenda: March 21, 2016, 9:00 a.m. to 1:30 p.m. and March 22, 2016, 9:00 a.m. to 5:30 p.m.—Open Meeting: The public will have the opportunity to make oral comments beginning at 1:30 p.m. on March 21, 2016 and at 5:30 p.m. on March 22, 2016.

Meeting Accessibility: Pursuant to 41 CFR 102–3.140 through 102–3.165 and the availability of space, the meeting scheduled for March 21, 2016, 9:00 a.m. to 1:30 p.m. and March 22, 2016, 9:00 a.m. to 5:30 p.m. at the Office of Justice

Programs is open to the public and webcast. Seating is limited and pre-registration is strongly encouraged. Media representatives are also encouraged to register in advance.

Written Comments: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written comments to the Commission in response to the stated agenda and meeting material. Meeting material, including work products will be made available on the Commission's Web site: *http://www.justice.gov/ncfs.*

Oral Comments: In addition to written statements, members of the public may present oral comments at 1:30 p.m. on March 21, 2016 and at 5:30 p.m. on March 22, 2016. Those individuals interested in making oral comments should indicate their intent through the on-line registration form and time will be allocated on a first-come, first-served basis. Time allotted for an individual's comment period will be limited to no more than 3 minutes. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled public comment periods, written comments can be submitted through *www.regulations.gov* in lieu of oral comments.

Registration: Individuals and entities who wish to attend the public meeting are strongly encouraged to pre-register for the meeting on-line by clicking the registration link found at: *http://www.justice.gov/ncfs/term-2-meetings-8–15#s9.* Online registration for the meeting must be completed on or before 5:00 p.m. (EST) March 17, 2016.

Additional Information: The Department of Justice welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations, please indicate your requirements on the online registration form.

Dated: February 19, 2016.

Andrew J. Bruck,

Designated Federal Official, National Commission on Forensic Science.

[FR Doc. 2016–04180 Filed 2–25–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0219]

Agency Information Collection Activities Proposed eCollection eComments Requested; Extension, Without Change, of a Currently Approved Collection Juvenile Residential Facility Census (JRFC)

AGENCY: Office of Justice Program, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until April 26, 2016.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Brecht Donoghue, (202) 305–1270, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

— Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

— Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

— Enhance the quality, utility, and clarity of the information to be collected; and

— Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection Back to Top

(1) *Type of information collection:* Extension, without change, of a currently approved collection.

(2) *The title of the form/collection:* Juvenile Residential Facility Census.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–15, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government, State, Local or Tribal. Other: Not-for-profit institutions; Business or other for-profit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,429 respondents will complete a 2-hour questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 4,858 hours.

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

Dated: February 23, 2016.

Jerri Murray,

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

[FR Doc. 2016–04169 Filed 2–25–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of H–2A and H–2B Aliens in the United States: 2016 Allowable Charges for Agricultural Workers' Meals and for Travel Subsistence Reimbursement, Including Lodging

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department or DOL) is issuing this Notice to announce

(1) the allowable charges for 2016 that employers seeking H–2A workers in occupations other than range herding may charge their workers when the employer provides three meals a day, and (2) the maximum travel subsistence meal reimbursement that a worker with receipts may claim in 2016 under the H–2A and H–2B programs. The Notice also includes a reminder regarding employers' obligations with respect to overnight lodging costs as part of required subsistence.

DATES: This notice is effective on February 26, 2016.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Acting Administrator, Office of Foreign Labor Certification (OFLC), U.S. Department of Labor, Ste. 12–200, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–513–7350 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States (U.S.) Citizenship and Immigration Services (USCIS) of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A or H–2B nonimmigrant temporary workers in the U.S. unless the petitioner has received from the DOL an H–2A or H–2B labor certification. Both the H–2A and H–2B labor certifications provide that: (1) There are not sufficient U.S. workers who are qualified and who will be available to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. *See* 20 CFR 655.1(a) (H–2B); 20 CFR 655.100 (H–2A).

Allowable Meal Charge

Among the minimum benefits and working conditions that the Department requires employers to offer their U.S. and H–2A workers who are not engaged in range occupations are three meals a day or free and convenient cooking and kitchen facilities so workers may prepare their own meals.[1] 20 CFR 655.122(g). Where the employer provides the meals, the job offer must state the charge, if any, to the worker for such meals. *Id.*

The Department establishes the methodology for determining the maximum amounts that H–2A agricultural employers may charge their U.S. and foreign workers for providing them with three meals per day during employment. 20 CFR 655.173(a). This methodology allows for annual adjustments of the previous year's maximum allowable charge based upon updated Consumer Price Index (CPI) data. *Id.* The maximum charge allowed by 20 CFR 655.122(g) is adjusted by the same percentage as the 12-month percent change in the CPI for all Urban Consumers for Food (CPI–U for Food).[2] Id. The OFLC Certifying Officer may also permit an employer to charge workers a higher amount for providing them with three meals a day, if the higher amount is justified and sufficiently documented by the employer, as set forth in 20 CFR 655.173(b).

The percentage change in the CPI–U for Food between December 2014 and December 2015 was 1.9 percent. Accordingly, the maximum allowable charge under 20 CFR 655.122(g) shall be no more than $12.09 per day, unless the OFLC Certifying Officer approves a higher charge as authorized under 20 CFR 655.173(b).

Reimbursement for Daily Travel Subsistence

The H–2A regulations (20 CFR 655.122(h)(1)) and the H–2B regulations (20 CFR 655.20(j)(1)(i)) establish that the minimum daily travel subsistence expense for meals, for which a worker is entitled to reimbursement, must be at least as much as the employer would charge for providing the worker with three meals a day during employment (if applicable). The minimum daily travel subsistence expense for meals may in no event be less than the amount permitted under § 655.173(a), *i.e.,* the charge annually adjusted by the 12-month percentage change in CPI–U for Food.

The Department bases the maximum meals component of the daily travel subsistence expense on the standard minimum Continental United States (CONUS) per diem rate as established by the General Services Administration (GSA) at 41 CFR part 301, formerly published in Appendix A, and now found at *www.gsa.gov/perdiem.* The CONUS minimum meals component increases to $51.00 per day for 2016.[3] Workers who qualify for travel reimbursement are entitled to reimbursement for meals up to the CONUS meal rate when they provide receipts. In determining the appropriate amount of reimbursement for meals for less than a full day, the employer may provide for meal expense reimbursement, with receipts, up to 75 percent of the maximum reimbursement for meals, or $38.25, based on the GSA per diem schedule. If a worker has no receipts, the employer is not obligated to reimburse above the minimum stated at 20 CFR 655.173 as specified above.

The term ''subsistence'' includes both meals and lodging during travel to and from the worksite. Therefore, an H–2A employer is responsible for providing (either paying in advance or reimbursing a worker) the reasonable costs of transportation and daily subsistence between the employer's worksite and the place from which the worker comes to work for the employer, if the worker completes 50 percent of the work contract period, and upon the worker completing the contract or being dismissed without cause, return costs. Similarly, an H–2B employer is responsible for providing (either paying in advance or reimbursing a worker) the reasonable costs of transportation and daily subsistence between the employer's worksite and the place from which the worker comes to work for the employer, if the worker completes 50 percent of the job order period of employment, and upon the worker completing the job order period of employment or being dismissed early, return costs. In those instances where a worker must travel to obtain a visa so that the worker may enter the U.S. to come to work for the employer, the employer must pay for the transportation and daily subsistence costs of that part of the travel as well.

Employers are required to assume responsibility for the reasonable costs associated with the worker's travel, including transportation, food, and, in those instances where it is necessary, lodging. The minimum and maximum daily travel meal reimbursement amounts are established above. If transportation and lodging are not provided by the employer, the amount an employer must pay for transportation and, where required, lodging, must be no less than (and is not required to be more than) the most economical and reasonable costs. The employer is responsible for those costs necessary for the worker to travel to the worksite if the worker completes 50 percent of the work contract period, but is not responsible for unauthorized detours, and if the worker completes the contract or is dismissed as described above, return transportation and subsistence costs, including lodging costs where necessary. This policy applies equally to instances where the worker is traveling within the U.S. to the employer's worksite.

[1] H–2A employers must provide workers engaged in herding or the production of livestock on the range meals or food to prepare meals without charge or deposit charge. 20 CFR 655.210(e).

[2] Consumer Price Index—December 2015, published January 20, 2016 at *http://data.bls.gov/pdq/SurveyOutputServlet.*

[3] Maximum Per Diem Rates for the Continental United States (CONUS), 80 FR 52753 (September 1, 2015); see also *www.gsa.gov/perdiem.*

For further information on when the employer is responsible for lodging costs, please see the Department's H–2A Frequently Asked Questions on Travel and Daily Subsistence, which may found on the OFLC Web site: *http://www.foreignlaborcert.doleta.gov/.*

Signed in Washington, DC.

Portia Wu,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2016–04116 Filed 2–25–16; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Summary of Benefits and Coverage and Uniform Glossary Required Under the Affordable Care Act

AGENCY: Office of the Secretary, DOL

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) revision titled, ''Summary of Benefits and Coverage and Uniform Glossary Required Under the Affordable Care Act,'' to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 28, 2016.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201602–1210–002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks OMB approval of a revision to the Summary of Benefits and Coverage and Uniform Glossary (SBC) ICR codified in regulations 29 CFR 715–2715. The Patient Protection and Affordable Care Act, Pub. L. 111–148, was signed into law on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111–152, was signed into law on March 30, 2010 (collectively known as the ''Affordable Care Act''). The Affordable Care Act amends the Public Health Service Act (PHS Act) by adding section 2715 ''Development and Utilization of Uniform Explanation of Coverage Documents and Standardized Definitions.'' This section directs the Department of Health and Human Services (HHS), the DOL, and the Department of the Treasury (collectively, the Departments), in consultation with the National Association of Insurance Commissioners (NAIC) and a working group comprised of stakeholders to develop standards for use by a group health plan and a health insurance issuer in compiling and providing to applicants, enrollees, policyholders, and certificate holders a SBC explanation that accurately describes the benefits and coverage under the applicable plan or coverage.

A notice of proposed rulemaking (NPRM) was published on August 22, 2011 (76 FR 52442) with an accompanying document (76 FR 52475) containing the templates, instructions, and related materials for implementing the disclosure provisions under PHS Act 2715. The NPRM proposed 29 CFR 2590.715–2715. A final rule was published on February 14, 2012. A second notice of proposed rulemaking was published on December 30, 2014 (79 FR 78577) to propose revisions to the regulation as well as the templates, instructions, and related materials. On March 30, 2015, the Departments released an FAQ stating that the Departments intend to finalize changes to the regulations in the near future but intend to utilize consumer testing and offer an opportunity for the public, including the NAIC, to provide further input before finalizing revisions to the SBC template and associated documents. A final rule, without final revisions to the SBC template and associated documents, was published on June 16, 2015 (80 FR 34292).

As required by section 2715, the Departments consulted the NAIC to provide further input before finalizing revisions to the SBC template and associated documents. The Departments now are finalizing the templates and glossary and requesting a three-year approval from the Office of Management and Budget for the revised information collection, so that plans and issuers may begin using the revised forms for making the disclosures under PHS Act section 2715 and the implementing regulations.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0147.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0147. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Summary of Benefits and Coverage and Uniform Glossary Required Under the Affordable Care Act.

OMB Control Number: 1210–0147.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 2,299,742.

Total Estimated Number of Responses: 71,252,326.

Total Estimated Annual Time Burden: 431,552 hours.

Total Estimated Annual Other Costs Burden: $9,273,266.

Dated: February 24, 2016.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2016–04314 Filed 2–25–16; 8:45 am]

BILLING CODE 4510–29–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

Title and purpose of information collection: Application for Employee Annuity Under the Railroad Retirement Ac; OMB 3220–0002.

Section 2a of the Railroad Retirement Act (RRA) provides for payments of age and service, disability, and supplemental annuities to qualified employees. An annuity cannot be paid until the employee stops working for a railroad employer. In addition, the age and service employee must relinquish any rights held to such jobs. A disabled employee does not need to relinquish employee rights until attaining Full Retirement Age, or if earlier, when their spouse is awarded a spouse annuity. Benefits become payable after the employee meets certain other requirements, which depend on the type of annuity payable. The requirements for obtaining the annuities are prescribed in 20 CFR 216 and 220.

To collect the information needed to help determine an applicant's entitlement to, and the amount of, an employee retirement annuity the RRB uses Forms AA–1, *Application for Employee Annuity;* AA–1d, *Application for Determination of Employee Disab*ility; G–204, *Verification of Workers Compensation/Public Disability Benefit Information,* and electronic Form(s) AA–1cert, *Application Summary and Certification,* and AA–1sum, *Application Summary.*

The AA–1 application process obtains information from an applicant about their marital history, work history, military service, benefits from other governmental agencies, railroad pensions and Medicare entitlement for either an age and service or disability annuity. An RRB representative interviews the applicant either at a field office, an itinerant point, or by telephone. During the interview, the RRB representative enters the information obtained into an on-line information system. Upon completion of the interview, the on-line information system generates Form AA–1cert, *Application Summary and Certification,* or Form AA–1sum, *Application Summary,* a summary of the information that was provided for the applicant to review and approve. Form AA–1cert documents approval using the traditional pen and ink ''wet'' signature, and Form AA–1sum documents approval using the alternative signature method called Attestation. When the RRB representative is unable to contact the applicant in person or by telephone, for example, the applicant lives in another country, a manual version of Form AA–1 is used.

Form AA–1d, *Application for Determination of Employee's Disability,* is completed by an employee who is filing for a disability annuity under the RRA, or a disability freeze under the Social Security Act, for early Medicare based on a disability. Form G–204, *Verification of Worker's Compensation/Public Disability Benefit Information,* is used to obtain and verify information concerning a worker's compensation or a public disability benefit that is or will be paid by a public agency to a disabled railroad employee.

The RRB proposes the following changes to information collection 3220–0002:

Form AA–1 is being revised to make non-burden impacting editorial and formatting changes that include the deletion of an obsolete item. In addition, changes are proposed to Form AA–1 in support of the RRB's Disability Program Improvement Project (DPIP) to enhance/improve disability case processing and overall program integrity as recommended by the RRB's Office of Inspector General and the Government Accountability Office. Proposed revisions to Form AA–1 include the addition of questions regarding whether a disability applicant is relinquishing seniority rights and why. Comparable revisions to electronic equivalent forms (AA–1cert and AA–1sum) are also being proposed.

Significant changes are proposed to Form AA–1d in support of the RRB's DPIP to enhance/improve disability case processing and overall program integrity as recommended by the RRB's Office of Inspector General and the Government Accountability Office. Proposed changes to Form AA–1d include the addition of questions regarding an applicant's daily activities, including any social and recreational activities and volunteer work; their education and training, any work performed since terminating their railroad occupation; whether an applicant used a facilitator or an attorney to either complete or aid in their completion of application. Clarification of existing items and other non-burden impacting editorial and formatting changes are also proposed.

The RRB proposes no changes to Form G–204.

One response is requested of each respondent. Completion of the forms is required to obtain/retain a benefit.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–1 (without assistance)	100	62	103
AA–1cert (with assistance)	4,620	30	2,310
AA–1sum (with assistance)	8,000	29	3,867
AA–1d (with assistance)	2,600	60	2,600
AA–1d (without assistance)	5	85	7
G–204	20	15	5
Total	15,345	.....	8,892

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2016–04287 Filed 2–25–16; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77202; File No. SR–BATS–2015–100)]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing of Amendments No. 1, No. 3, and No. 4 to, and Order Instituting Proceedings to Determine Whether To Approve or Disapprove, a Proposed Rule Change, as Modified by Amendments No. 1, No. 3, and No. 4, To Amend BATS Rule 14.11(i) To Adopt Generic Listing Standards for Managed Fund Shares

February 22, 2016.

I. Introduction

On November 18, 2015, BATS Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BATS Rule 14.11(i) by, among other things, adopting generic listing standards for Managed Fund Shares (defined below). The proposed rule change was published for comment in the **Federal Register** on November 25, 2015.[3] On January 4, 2016, 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.[4] On February 9, 2016, the Exchange filed Amendment No. 1 to the proposed rule change,[5] which replaced the originally filed proposed rule change in its entirety.[6] On February 11, 2016, the Exchange both filed and withdrew Amendment No. 2 to the proposed rule change. On February 11, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.[7] On February 17, 2016, the Exchange filed Amendment No. 4 to the proposed rule change.[8] The Commission has not received any comments on the proposal.

Pursuant to Section 19(b)(1) of the Act [9] and Rule 19b–4 thereunder,[10] notice is hereby given that the Exchange filed with the Commission Amendments No. 1, No. 3., and No. 4 to the proposed rule change on February 9, 2016, February 11, 2016, and February 17, 2016, respectively. The proposed rule change, as modified by those amendments, is described in Sections I and II below, which Sections have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on Amendments No. 1, No. 3, and No. 4 from interested persons.

Additionally, as discussed in Section III below, the Commission is instituting proceedings under Section 19(b)(2)(B) of the Act [11] to determine whether to approve or disapprove the proposed rule change, as modified by Amendments No. 1, No. 3, and No. 4 thereto.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 76478 (Nov. 19, 2015), 80 FR 73841 (''Notice'').

[4] *See* Securities Exchange Act Release No. 76820, 81 FR 989 (Jan. 8, 2016). The Commission designated February 23, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change. *See id.*

[5] Amendment No. 1: (1) Clarifies the proposed treatment of convertible securities under the proposed generic listing criteria; (2) modifies the proposed criterion regarding American Depositary Receipts (''ADRs'') to provide that no more than 10% of the equity weight of the portfolio shall consist of non-exchange traded (rather than unsponsored) ADRs; (3) modifies the proposed portfolio limit on listed derivatives to require that at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other members or affiliates of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement (''CSSA''); (4) provides that a portfolio's investments in listed and over-the-counter (''OTC'') derivatives will be calculated for purposes the proposed limits on such holdings as the total absolute notional value of the derivatives; (5) makes certain other conforming and clarifying changes. The amendments to the proposed rule change are available at: *http://www.sec.gov/comments/sr-bats-2015-100/bats2015100.shtml.*

[6] *See* Amendment No. 1, *supra* note 5, at 4.

[7] Amendment No. 3 deletes from the proposal the following two sentences: (1) ''Such limitation will not apply to listed swaps because swaps are listed on swap execution facilities (''SEFs''), the majority of which are not members of ISG.'' and (2) ''Such limitation would not apply to listed swaps because swaps are listed on SEFs, the majority of which are not members of ISG.'' Amendment No. 3 also corrects an erroneous statement in Item 11 to indicate that an Exhibit 4 was included in Amendment No. 1.

[8] Amendment No. 4 deletes from the proposal the following sentence: ''Thus, if the limitation applied to swaps, there would effectively be a cap of 10% of the portfolio invested in listed swaps.'' Amendment No. 3 also amends two representations as follows (*added* language in brackets): The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares [and their underlying components] with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded[, or with which the Exchange has in place a CSSA.] In addition, the Exchange or FINRA[,] on behalf of the Exchange[,] may obtain information regarding trading in Managed Fund Shares [and their underlying components] from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.''

[9] 15 U.S.C.78s(b)(1).

[10] 17 CFR 240.19b–4.

[11] 15 U.S.C. 78s(b)(2)(B).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing a rule change to adopt generic listing standards for shares listed under BATS Rule 14.11(i) (''Managed Fund Shares'').

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This Amendment No. 1 to SR–BATS–2015–100 amends and replaces in its entirety the proposal as originally submitted on November 15, 2015. The Exchange submits this Amendment No. 1 in order to clarify certain points about the proposal as well as to describe more accurately how investments in derivative securities will be treated.

The Exchange proposes to amend Rule 14.11(i) to adopt generic listing standards for Managed Fund Shares. Under the Exchange's current rules, a proposed rule change must be filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') for the listing and trading of each new series of Managed Fund Shares. The Exchange believes that it is appropriate to codify certain rules within Rule 14.11(i) that would generally eliminate the need for such proposed rule changes, which would create greater efficiency and promote uniform standards in the listing process.

Background

Rule 14.11(i) sets forth certain rules related to the listing and trading of Managed Fund Shares.[12] Under Rule 14.11(i)(3)(A), the term ''Managed Fund Share'' means a security that:

(a) Represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser (hereafter ''Adviser'') consistent with the Investment Company's investment objectives and policies;

(b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and

(c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value.

Effectively, Managed Fund Shares are securities issued by an actively-managed open-end Investment Company (*i.e.,* an exchange-traded fund (''ETF'') that is actively managed). Because Managed Fund Shares are actively-managed, they do not seek to replicate the performance of a specified passive index of securities. Instead, they generally use an active investment strategy to seek to meet their investment objectives. In contrast, an open-end Investment Company that issues Index Fund Shares, listed and traded on the Exchange pursuant to Rule 14.11(c), seeks to provide investment results that generally correspond to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

All Managed Fund Shares listed pursuant to Rule 14.11(i) are included within the definition of ''security'' or ''securities'' as such terms are used in the Rules of the Exchange and, as such, are subject to the full panoply of Exchange rules and procedures that currently govern the trading of securities on the Exchange.[13]

In addition, Rule 14.11(i) currently provides for the criteria that Managed Fund Shares must satisfy for initial and continued listing on the Exchange, including, for example, that a minimum number of Managed Fund Shares are required to be outstanding at the time of commencement of trading on the Exchange. However, the current process for listing and trading new series of Managed Fund Shares on the Exchange requires that the Exchange submit a proposed rule change with the Commission. In this regard, Rule 14.11(i)(2)(A) specifies that the Exchange will file separate proposals under Section 19(b) of the Act (hereafter, a ''proposed rule change'') before the listing of Managed Fund Shares, which, in conjunction with the proposal to create generic listing standards for Managed Fund Shares, the Exchange is proposing to delete.

Proposed Changes to Rule 14.11(i)

The Exchange is proposing to amend Rule 14.11(i) to specify that the Exchange may approve Managed Fund Shares for listing pursuant to SEC Rule 19b–4(e) under the Act, which pertains to derivative securities products (''SEC Rule 19b–4(e)'').[14] SEC Rule 19b–4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[15] if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. This is the current method pursuant to which ''passive'' ETFs are listed under Rule 14.11.

The Exchange would also specify within Rule 14.11(i)(4)(C) that components of Managed Fund Shares listed pursuant to SEC Rule 19b–4(e) must satisfy the requirements of Rule 14.11(i) on an initial and continued basis, which includes certain specific criteria that the Exchange is proposing to include within Rule 14.11(i)(4)(C), as described in greater detail below. As proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares with components

[12] *See* Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) (Order Approving Proposed Rule Change to Adopt Rules for the Qualification, Listing and Delisting of Companies on the Exchange) (the ''Approval Order''). The Approval Order approved the rules permitting the listing of both Tier I and Tier II securities on the Exchange and the requirements associated therewith, which includes the listing and trading of Index Fund Shares and Managed Fund Shares, trading hours and halts, and listing fees originally applicable to Managed Fund Shares.

[13] *See* Rule 14.11(i)(2).

[14] 17 CFR 240.19b–4(e). As provided under SEC Rule 19b–4(e), the term ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

[15] 17 CFR 240.19b–4(c)(1). As provided under SEC Rule 19b–4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

that do not satisfy the additional criteria described below or components other than those specified below. For example, if the components of a Managed Fund Share exceeded one of the applicable thresholds, the Exchange would file a separate proposed rule change before listing and trading such Managed Fund Share. Similarly, if the components of a Managed Fund Share included a security or asset that is not specified below, the Exchange would file a separate proposed rule change.

The Exchange would also amend the definition of the term ''Disclosed Portfolio'' under Rule 14.11(i)(3)(B) in order to require that the Web site for each series of Managed Fund Shares listed on the Exchange disclose the following information regarding the Disclosed Portfolio, to the extent applicable: ticker symbol, CUSIP or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio.[16]

The Exchange would also add to Rule 14.11(i)(4)(A) by specifying that all Managed Fund Shares must have a stated investment objective, which must be adhered to under normal market conditions.[17]

Finally, the Exchange would also amend the continued listing requirement in Rule 14.11(i)(4)(B) by changing the requirement that an Intraday Indicative Value for Managed Fund Shares be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Exchange to a requirement that an Intraday Indicative Value be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours, as defined in Exchange Rule 1.5(w).

[16] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding. *See, e.g.,* Securities Exchange Act Release No. 72666 (July 3, 2014), 79 FR 44224 (July 30, 2014) (SR–NYSEArca–2013–122) (the ''PIMCO Total Return Use of Derivatives Approval'').

[17] The Exchange would also add a new defined term under Rule 14.11(i)(3)(E) to specify that the term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

Proposed Managed Fund Share Portfolio Standards

The Exchange is proposing standards that would pertain to Managed Fund Shares to qualify for listing and trading pursuant to SEC Rule 19b–4(e). These standards would be grouped according to security or asset type. The Exchange notes that the standards proposed for a Managed Fund Share portfolio that holds equity securities, Derivative Securities Products, and Linked Securities are based in large part on the existing equity security standards applicable to Index Fund Shares in Exchange Rule 14.11(c)(3). The standards proposed for a Managed Fund Share portfolio that holds fixed income securities are based in large part on the existing fixed income security standards applicable to Index Fund Shares in Rule 14.11(c)(4). Many of the standards proposed for other types of holdings in a Managed Fund Share portfolio are based on previous proposed rule changes for specific series of Managed Fund Shares.[18]

Proposed Rule 14.11(i)(4)(C)(i) would describe the standards for a Managed Fund Share portfolio that holds equity securities, which are defined to be U.S. Component Stocks,[19] Non-U.S. Component Stocks,[20] Derivative Securities Products,[21] and Linked Securities [22] listed on a national securities exchange. For Derivative Securities Products and Linked Securities, no more than 25% of the equity weight of the portfolio could include leveraged and/or inverse leveraged Derivative Securities Products or Linked Securities. To the extent that a portfolio includes convertible securities, the equity security into which such security is converted shall meet the criteria of this Rule 14.11(i)(4)(C)(i) after converting.

As proposed in Rule 14.11(i)(4)(C)(i)(a), the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(1) Component stocks (excluding Derivative Securities Products and Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Linked Securities) each must have a minimum market value of at least $75 million; [23]

(2) Component stocks (excluding Derivative Securities Products and Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Linked Securities) each must have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; [24]

(3) The most heavily weighted component stock (excluding Derivative Securities Products and Linked Securities) must not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Linked Securities) must

[18] Securities Exchange Act Release Nos. 74193 (February 3, 2015), 80 FR 7066 (February 9, 2015) (SR–BATS–2014–054) (the ''iShares Short Maturity Municipal Bond Approval''); 74297 (February 18, 2015), 80 FR 9788 (February 24, 2015) (SR–BATS–2014–056) (the ''iShares U.S. Fixed Income Balanced Risk Approval''); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (the ''PIMCO Total Return Approval''); the PIMCO Total Return Use of Derivatives Approval; 69244 (March 27, 2013), 78 FR 19766 (April 2, 2013) (SR–NYSEArca–2013–08) (the ''SPDR Blackstone/GSO Senior Loan Approval''); 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–139) (the ''First Trust Preferred Securities and Income Approval''); 69591 (May 16, 2013), 78 FR 30372 (May 22, 2013) (SR–NYSEArca–2013–33) (the ''International Bear Approval''); 61697 (March 12, 2010), 75 FR 13616 (March 22, 2010) (SR–NYSEArca–-2010–04) (the ''WisdomTree Real Return Approval''); and 67054 (May 24, 2012), 77 FR 32161 (May 31, 2012) (SR–NYSEArca–2012–25) (the ''WisdomTree Brazil Bond Approval''). Certain standards proposed herein for Managed Fund Shares are also based on previously proposed rule changes for specific index-based series of Index Fund Shares that did not satisfy the standards for those products on their respective listing exchange and for which Commission approval was required prior to listing and trading. *See* Securities Exchange Act Release Nos. 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92); 63881(February 9, 2011), 76 FR 9065 (February 16, 2011) (SR–NYSEArca–2010–120); 63176 (October 25, 2010), 75 FR 66815 (October 29, 2010) (SR–NYSEArca–2010–94); and 69373 (April 15, 2013), 78 FR 23601 (April 19, 2013) (SR–NYSEArca–2012–108) (the ''NYSE Arca U.S. Equity Synthetic Reverse Convertible Index Fund Approval'').

[19] For the purposes of Rule 14.11(i) and this proposal, the term ''U.S. Component Stocks'' will have the same meaning as defined in Rule 14.11(c)(1)(D).

[20] For the purposes of Rule 14.11(i) and this proposal, the term ''Non-U.S. Component Stocks'' will have the same meaning as defined in Rule 14.11(c)(1)(E).

[21] For the purposes of Rule 14.11(i) and this proposal, the term ''Derivative Securities Products will have the same meaning as defined in Rule 14.11(c)(3)(A)(i)(a).

[22] Linked Securities are the securities eligible for listing on the Exchange under Rule 14.11(d).

[23] The proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(i)(a), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Linked Securities.

[24] This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(i)(b), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Linked Securities.

not exceed 65% of the equity weight of the portfolio; [25]

(4) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there would be no minimum number of component stocks if (a) one or more series of Derivative Securities Products or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Derivative Securities Products or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; [26]

(5) Except as provided in proposed Rule 14.11(i)(4)(C)(i)(a), equity securities in the portfolio must be U.S. Component Stocks listed on a national securities exchange and must be NMS Stocks as defined in Rule 600 of Regulation NMS; [27] and

(6) American Depositary Receipts (''ADRs'') may be exchange traded or non-exchange traded. However no more than 10% of the equity weight of the portfolio shall consist of non-exchange traded ADRs.

As proposed in Rule 14.11(i)(4)(C)(i)(b), the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(1) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million; [28]

(2) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; [29]

(3) The most heavily weighted Non-U.S. Component Stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; [30]

(4) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (a) one or more series of Derivative Securities Products or Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Derivative Securities Products or Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; [31] and

(5) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.[32]

The Exchange notes that, as approved by the Commission for certain Managed Fund Shares [33] and also not required under corresponding Rule 14.11(c)(3)(A)(ii) related to Index Fund Shares,[34] it is not proposing to require that any of the equity portion of the equity portfolio composed of Non-U.S. Component Stocks be listed on markets that are either a member of the Intermarket Surveillance Group (''ISG'') or a market with which the Exchange has a comprehensive surveillance sharing agreement (''CSSA'').[35] However, as further detailed below, the Exchange or the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded.

Proposed Rule 14.11(i)(4)(C)(ii) would describe the standards for a Managed Fund Share portfolio that holds fixed income securities, which are debt securities [36] 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, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper. To the extent that a portfolio includes convertible securities, the fixed income security into which such security is converted shall meet the criteria of proposed Rule 14.11(i)(4)(C)(ii) after converting. The components of the fixed income portion of a portfolio shall meet the following criteria initially and on a continuing basis:

(1) Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio shall each have a minimum original principal

[25] This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(i)(c), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Linked Securities.

[26] This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(i)(d), except for the omission of the reference to ''index,'' which is not applicable, the addition of the reference to Linked Securities, the reference to the equity portion of the portfolio not including Non-U.S. Component Stocks, and the reference to the 100% limitation applying to the ''equity weight'' of the portfolio—this last difference is included because the proposed standards in Rule 14.11(i)(4)(C) permit the inclusion of non-equity securities, whereas Rule 14.11(c)(3) applies only to equity securities.

[27] 17 CFR 240.600. This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(i)(e), except for the addition of ''equity'' to make clear that the standard applies to ''equity securities'' and the omission of the reference to ''index,'' which is not applicable.

[28] The proposed text is identical to the corresponding representation from the Non-U.S. Components Release, as defined in footnote 24, below. The proposed text is also identical to the corresponding text of Rule 14.11(c)(3)(A)(ii)(a), except for the omission of the reference to ''index,'' which is not applicable, and that each Non-U.S. Component Stock must have a minimum market value of at least $100 million instead of the 70% required under Rule 14.11(c)(3)(A)(ii)(a).

[29] The proposed text is identical to the corresponding representation from the Non-U.S. Components Release, as defined in footnote 24, below. This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(ii)(b), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Linked Securities.

[30] This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(ii)(c), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Linked Securities.

[31] This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(ii)(d), except for the omission of the reference to ''index,'' which is not applicable, the addition of the reference to Linked Securities, the reference to the equity portion of the portfolio including Non-U.S. Component Stocks, and the reference to the 100% limitation applying to the ''equity weight'' of the portfolio—this last difference is included because the proposed standards in Rule 14.11(i)(4)(C) permit the inclusion of non-equity securities, whereas Rule 14.11(c)(3) applies only to equity securities.

[32] 17 CFR 240.600. This proposed text is identical to the corresponding text of Rule 14.11(c)(3)(A)(ii)(e), except for the addition of ''equity'' to make clear that the standard applies to ''equity securities'' and the omission of the reference to ''index,'' which is not applicable.

[33] *See* Securities Exchange Act Release No. 75023 (May 21, 2015), 80 FR 30519 (May 28, 2015) (SR–NYSEArca–2014–100) (the ''Non-U.S. Components Release'').

[34] Under Rule 14.11(c)(3)(A)(ii), index fund shares with components that include Non-U.S. Component Stocks can hold a portfolio that is entirely composed of Non-U.S. Component Stocks that are listed on markets that are neither members of ISG, nor with which the Exchange has in place a CSSA.

[35] ISG is comprised of an international group of exchanges, market centers, and market regulators that perform front-line market surveillance in their respective jurisdictions. *See https://www.isgportal.org/home.html.*

[36] Debt securities include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities. Debt securities include investment-grade securities, non-investment-grade securities, and unrated securities. Debt securities also include variable and floating rate securities.

amount outstanding of $100 million or more; [37]

(2) No component fixed-income security (excluding Treasury Securities and GSE Securities) could represent more than 30% of the fixed income weight of the portfolio, and the five most heavily weighted fixed income securities in the portfolio shall not in the aggregate account for more than 65% of the fixed income weight of the portfolio; [38]

(3) An underlying portfolio (excluding exempted securities) that includes fixed income securities shall include a minimum of 13 non-affiliated issuers, provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in Rule 14.11(i)(4)(C)(i); [39]

(4) Component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either: (a) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and

(5) Non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.

Proposed Rule 14.11(i)(4)(C)(iii) describes the standards for a Managed Fund Share portfolio that holds cash and cash equivalents.[40] Specifically, the portfolio may hold short-term instruments with maturities of less than 3 months. There would be no limitation to the percentage of the portfolio invested in such holdings. Short-term instruments would include the following: [41] (1) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (2) certificates of deposit issued against funds deposited in a bank or savings and loan association; (3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (4) repurchase agreements and reverse repurchase agreements; (5) 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; (6) commercial paper, which are short-term unsecured promissory notes; and (7) money market funds.

Proposed Rule 14.11(i)(4)(C)(iv) describes the standards for a Managed Fund Share portfolio that holds listed derivatives, including futures, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[42] There would be no limitation to the percentage of the portfolio invested in such holdings; provided, however, that, in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps shall, on both an initial and continuing basis, consist of futures, options, and swaps for which the Exchange may obtain information via the ISG from other members or affiliates or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement CSSA.[43] The Exchange notes that, for purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the total absolute notional value of the listed derivatives.

Proposed Rule 14.11(i)(4)(C)(v) describes the standards for a Managed Fund Share portfolio that holds over the counter (''OTC'') derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[44] Proposed Rule 14.11(i)(4)(C)(v) also provides that no more than 20% of the assets in the portfolio may be invested in OTC derivatives.

Proposed Rule 14.11(i)(4)(C)(vi) provides that, to the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or fixed income securities, such equities and/or fixed income securities, as applicable, shall meet the criteria set forth in Rule 14.11(i)(4)(C)(i) and 14.11(i)(4)(C)(ii), respectively. The Exchange notes that, for purposes of this proposal, a portfolio's investment in OTC derivatives will be calculated as the total absolute notional value of the OTC derivatives.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Fund Shares. Additionally, the Exchange believes that the proposed portfolio standards for listing and trading Managed Fund Shares, many of which track existing Exchange rules relating to Index Fund Shares, are reasonably designed to promote a fair and orderly market for such Managed Fund Shares. These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

In support of this proposal, the Exchange represents that: (1)

[37] This proposed text of 14.11(i)(4)(C)(ii)(a)(1) is based on the corresponding text of 14.11(c)(4)(B)(i)(b).

[38] This proposed rule text is identical to the corresponding text of Rule 14.11(c)(4)(B)(i)(d), except for the omission of the reference to ''index,'' which is not applicable, and the exclusion of ''GSE Securities,'' which is consistent with the corresponding text of NYSE Arca, Inc. (''Arca'') Commentary .02(a)(4) to Rule 5.2(j)(3).

[39] This proposed text is similar to the corresponding text of Rule 14.11(c)(4)(B)(i)(e), except for the omission of the reference to ''index,'' which is not applicable and the provision that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in proposed Rule 14.11(i)(4)(C)(i).

[40] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include cash and cash equivalents. *See, e.g.,* iShares U.S. Fixed Income Balanced Risk Approval at 9789, SPDR Blackstone/GSO Senior Loan Approval at 19768–69, and First Trust Preferred Securities and Income Approval at 76150.

[41] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly specified short-term instruments with respect to their inclusion in Managed Fund Share holdings. *See, e.g.,* First Trust Preferred Securities and Income Approval at 76150–51.

[42] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include listed derivatives. *See, e.g.,* Securities Exchange Act Release Nos. 75 FR 13616 (March 22, 2010) (SR–NYSEArca–2010–04) at 13617; and 67054 (May 24, 2012), 77 FR 32161 (May 31, 2012) (SR–NYSEArca–2012–25) at 32163.

[43] *See* supra note 35. The Commission notes that, pursuant to Amendment No. 3, *supra* note 7, a sentence that followed the reference to this footnote in the text above has been deleted from the text of the proposal as amended by Amendment No. 1.

[44] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Shares to include OTC derivatives, specifically OTC down-and-in put options, which are not NMS Stocks as defined in Rule 600 of Regulation NMS and therefore would not satisfy the requirements of Rule 14.11(c)(3)(A)(i) or the analogous rule on another listing exchange. *See, e.g.,* Securities Exchange Act Release No. 69373 (April 15, 2013), 78 FR 23601 (April 19, 2013) (SR–NYSEArca–2012–108) at 23602.

Generically listed Managed Fund Shares will conform to the initial and continued listing criteria under Rule 14.11(i)(4)(A) and (B); (2) the Exchange's surveillance procedures are adequate to continue to properly monitor the trading of the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Managed Fund Shares, to monitor trading in the Managed Fund Shares; (3) prior to the commencement of trading of a particular series of Managed Fund Shares, the Exchange will inform its Members in an information circular of the special characteristics and risks associated with trading the Managed Fund Shares, including procedures for purchases and redemptions of Managed Fund Shares, suitability requirements under Rule 3.7, the risks involved in trading the Managed Fund Shares during the Pre-Opening and After Hours Trading Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated, how information regarding the Intraday Indicative Value and Disclosed Portfolio is disseminated, prospectus delivery requirements, and other trading information. In addition, the information circular will disclose that the Managed Fund Shares are subject to various fees and expenses, as described in the registration statement, and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. Finally, the Bulletin will disclose that the net asset value for the Managed Fund Shares will be calculated after 4 p.m. ET each trading day; and (4) the issuer of a series of Managed Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Managed Fund Shares, as provided under Rule 14.10(c)(3).

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that Members or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[45] in general and Section 6(b)(5) of the Act[46] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Managed Fund Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. Specifically, after more than six years under the current process, whereby an exchange is required to file a proposed rule change with the Commission for the listing and trading of each new series of Managed Fund Shares, the Exchange believes that it is appropriate to codify certain rules within Rule 14.11(i) that would generally eliminate the need for separate proposed rule changes. The Exchange believes that this would facilitate the listing and trading of additional types of Managed Fund Shares that have investment portfolios that are similar to investment portfolios for Index Fund Shares, which have been approved for listing and trading, thereby creating greater efficiencies in the listing process for the Exchange and the Commission. In this regard, the Exchange notes that the standards proposed for Managed Fund Share portfolios that include equity securities, Derivative Securities Products, and Linked Securities are based in large part on the existing equity security standards applicable to Index Fund Shares based on either a U.S. index or portfolio or an international or global index or portfolio found in Rule 14.11(c)(3)(A)(i)[47] and (ii),[48] respectively, and that the standards proposed for Managed Fund Share portfolios that include fixed income securities are based in large part on the existing fixed income standards applicable to Index Fund Shares in 14.11(c)(4). Additionally, many of the standards proposed for other types of holdings of series of Managed Fund Shares are based on previous proposed rule changes for specific series of Managed Fund Shares.[49]

With respect to the proposed addition to the criteria of Rule 14.11(i)(3)(B) to provide that the Web site for each series of Managed Fund Shares shall disclose certain information regarding the Disclosed Portfolio, to the extent applicable, the Exchange notes that proposed rule changes approved by the Commission for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding.[50] With respect to the proposed exclusion of Derivative Securities Products and Linked Securities from the requirements of proposed Rule 14.11(i)(4)(C)(i)(a) and (b), the Exchange believes it is appropriate to exclude Linked Securities as well as Derivative Securities Products from certain component stock eligibility criteria for Managed Fund Shares in so far as Derivative Securities Products and Linked Securities are themselves subject to specific quantitative listing and continued listing requirements of a national securities exchange on which such securities are listed. Derivative Securities Products and Linked Securities that are components of a fund's portfolio would have been listed and traded on a national securities exchange pursuant to a proposed rule change approved by the Commission pursuant to Section 19(b)(2) of the Act[51] or submitted by a national securities exchange pursuant to Section 19(b)(3)(A) of the Act[52] or would have been listed by a national securities exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[53] The Exchange also notes that Derivative Securities Products and Linked Securities are derivatively priced, and, therefore, the Exchange believes that it would not be necessary to apply the proposed generic quantitative criteria (*e.g.,* market capitalization, trading volume, or portfolio component weighting) applicable to equity securities other than Derivative Securities Products or Linked Securities (*e.g.,* common stocks) to such products.

With respect to the proposed amendment to the continued listing requirement in Rule 14.11(i)(4)(B)(i) to require dissemination of an Intraday Indicative Value at least every 15 seconds during Regular Trading Hours, such requirement conforms to the requirement applicable to the dissemination of the Intraday Indicative Value for Index Fund Shares in Rule 14.11(c)(3)(C) and 14.11(c)(6)(A). In addition, such dissemination is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[54]

[45] 15 U.S.C. 78f.

[46] 15 U.S.C. 78f(b)(5).

[47] *See* supra notes 23 through 27.

[48] *See* supra notes 28 through 35.

[49] *See* supra note 18.

[50] *See* supra note 16.

[51] 15 U.S.C. 78s(b)(2).

[52] 15 U.S.C. 78s(b)(3)(A).

[53] 17 CFR 240.19b–4(e).

[54] *See* supra note 18.

As proposed, pursuant to Rule 14.11(i)(4)(C)(ii)(c) an underlying portfolio (excluding exempted securities) that includes fixed income securities must include a minimum of 13 non-affiliated issuers, provided, however, that there would be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities. The Exchange notes that when evaluated in conjunction with proposed Rule 14.11(i)(4)(C)(ii)(b), the proposed rule is consistent with current Rules 14.11(c)(4)(B)(i)(d) and (e) in that it provides for a maximum weighting of a fixed income security in the fixed income portion of the portfolio of a fund that is comparable to the existing rules applicable to Index Fund Shares based on fixed income indexes.

With respect to the proposed amendment to Rule 14.11(i)(4)(C)(iii) relating to cash and cash equivalents, while there is no limitation on the amount of cash and cash equivalents can make up of the portfolio, such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility. Further, the requirement is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[55]

With respect to proposed Rule 14.11(i)(4)(C)(iv) relating to listed derivatives, the Exchange believes that it is appropriate that there be no limit to the percentage of a portfolio invested in such holdings, provided that, in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps would consist of futures, options, and swaps *for which the Exchange may obtain information* via ISG from other members or affiliates or for which the principal market is a market with which the Exchange has a CSSA. Such a requirement would facilitate information sharing among market participants trading shares of a series of Managed Fund Shares as well as futures and options that such series may hold.[56] In addition, listed swaps would be centrally cleared, reducing counterparty risk and thereby furthering investor protection.[57]

With respect to proposed Rule 14.11(i)(4)(C)(v) relating to OTC derivatives, the Exchange believes that the limitation to 20% of a fund's assets would assure that, to the extent that a fund holds derivatives, the preponderance of fund investments would not be in derivatives that are not listed and centrally cleared. The Exchange believes that such a limitation is sufficient to mitigate the risks associated with price manipulation because a 20% cap on OTC derivatives will ensure that any series of Managed Fund Shares will be sufficiently broad-based in scope to minimize potential manipulation associated with OTC derivatives because the remaining 80% of the portfolio will consist of instruments subject to numerous restrictions designed to prevent manipulation, including equity securities (which, as proposed, would be subject to market cap, trading volume, and diversity requirements, among others), fixed income securities (which, as proposed, would be subject to principal amount outstanding, diversity, and issuer requirements, among others), cash and cash equivalents (which, as proposed, would be limited to short-term, highly liquid, and high credit quality instruments), and/or listed derivatives (which, as proposed, 90% of the weight of futures and options will be futures and options whose principal market is a member of ISG). With respect to proposed Rule 14.11(i)(4)(C)(vi) related to a fund's use of listed or OTC derivatives to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the Exchange notes that such exposure would be required to meet the numerical and other criteria set forth in proposed Rule 14.11(i)(4)(C)(i) and 14.11(i)(4)(C)(ii), respectively.

Quotation and other market information relating to listed futures and options is available from the exchanges listing such instruments as well as from market data vendors. With respect to centrally-cleared swaps[58] and non-centrally-cleared swaps regulated by the Commodity Futures Trading Commission (the ''CFTC''),[59] the Dodd-Frank Act mandates that swap information be reported to swap data repositories (''SDRs'').[60] SDRs provide a central facility for swap data reporting and recordkeeping and are required to comply with data standards set by the CFTC, including real-time public reporting of swap transaction data to a derivatives clearing organization or SEF.[61] SDRs require real-time reporting of all OTC and centrally cleared derivatives, including public reporting of the swap price and size. The parties responsible for reporting swaps information are CFTC-registered swap dealers (''RSDs''), major swap participants, and SEFs. If swap counterparties do not fall into the above categories, then one of the parties to the swap must report the trade to the SDR. Cleared swaps regulated by the CFTC must be executed on a Designated Contract Market (''DCM'') or SEF. Such cleared swaps have the same reporting requirements as futures, including end-of-day price, volume, and open interest. CFTC swaps reporting requirements require public dissemination of, among other items, product ID (if available); asset class; underlying reference asset, reference issuer, or reference index; termination date; date and time of execution; price, including currency; notional amounts, including currency; whether direct or indirect counterparties include an RSD; whether cleared or un-cleared; and platform ID of where the contract was executed (if applicable).

With respect to security-based swaps regulated by the Commission, the Commission has adopted Regulation SBSR under the Act implementing requirements for regulatory reporting and public dissemination of security-based swap transactions set forth in Title VII of the Dodd-Frank Act. Regulation SBSR provides for the reporting of security-based swap information to registered security-based swap data repositories (''Registered SDRs'') or the Commission, and the public dissemination of security-based

[55] *See* supra note 40.

[56] The Commission notes that, pursuant to Amendments No. 3, *supra* note 7, and No. 4, *supra* note 8, two sentences that followed the reference to this footnote in the text above has been deleted from the text of the proposal as amended by Amendment No. 1.

[57] The Commission has noted that ''[c]entral clearing mitigates counterparty risk among dealers and other institutions by shifting that risk from individual counterparties to [central counterparties (''CCPs'')], thereby protecting CCPs from each other's potential failures.'' See Securities Exchange Act Release No. 67286 (June 28, 2012) (File No. S7–44–10) (Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies).

[58] There are currently five categories of swaps eligible for central clearing: Interest rate swaps; credit default swaps; foreign exchange swaps; equity swaps; and commodity swaps. The following entities provide central clearing for OTC derivatives: ICE Clear Credit (U.S.); ICE Clear (E.U.); CME Group; LCH.Clearnet; and Eurex.

[59] Pursuant to the Dodd-Frank Act, OTC and centrally-cleared swaps are regulated by the CFTC with the exception of security-based swaps, which are regulated by the Commission.

[60] The following entities are provisionally registered with the CFTC as SDRs: BSDR LLC. Chicago Mercantile Exchange, Inc., DTCC Data Repository, and ICE Trade Vault.

[61] Approximately 21 entities are currently temporarily registered with the CFTC as SEFs.

swap transaction, volume, and pricing information by Registered SDRs.[62]

Price information relating to forwards and OTC options will be available from major market data vendors.

The Exchange notes that a fund's investments in derivative instruments would be subject to limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company can obtain. A fund's investments would be consistent with its investment objective and would not be used to enhance leverage. To limit the potential risk associated with a fund's use of derivatives, a fund will segregate or ''earmark'' assets determined to be liquid by a fund in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. A fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2xs or 3xs) of a fund's broad-based securities market index (as defined in Form N–1A).[63]

The proposed rule change is also designed to protect investors and the public interest because Managed Fund Shares listed and traded pursuant to Rule 14.11(i), including pursuant to the proposed new portfolio standards, would continue to be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange, as further described in the Approval Order.

The proposed rule change is also designed to protect investors and the public interest as well as to promote just and equitable principles of trade in that any Non-U.S. Component Stocks will each meet the following criteria initially and on a continuing basis: (1) Have a minimum market value of at least $100 million; (2) have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (3) most heavily weighted Non-U.S. Component Stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; and (4) each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting. The Exchange believes that such quantitative criteria are sufficient to mitigate any concerns that may arise on the basis of a series of Managed Fund Shares potentially holding 100% of its assets in Non-U.S. Component Stocks that are neither listed on members of ISG nor exchanges with which the Exchange has in place a CSSA because, as stated above, such criteria are either the same or more stringent than the portfolio requirements for Index Fund Shares that hold Non-U.S. Component Stocks and there are no such requirements related to such securities being listed on an exchange that is a member of ISG or with which the Exchange has in place a CSSA. Further, the Exchange has not encountered and is not aware of any instances of manipulation or other negative impact in any series of Index Fund Shares that has occurred by virtue of the Index Fund Shares holding such Non-U.S. Component Stocks. As such, the Exchange believes that there should be no difference in the portfolio requirements for Managed Fund Shares and Index Fund Shares as it relates to holding Non-U.S. Component Stocks that are not listed on an exchange that is a member of ISG or with which the Exchange has in place a CSSA.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed Fund Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 14.11(i). The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares and their underlying components with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.[64] In addition, the Exchange or FINRA, on behalf of the Exchange, may obtain information regarding trading in Managed Fund Shares and their underlying components from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.[65]

The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by allowing Managed Fund Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares that do not satisfy the additional criteria described above.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Managed Fund Shares and result in a significantly more efficient process surrounding the listing and trading of Managed Fund Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this would reduce the time frame for bringing Managed Fund Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Managed Fund Shares more competitive by applying uniform listing standards with respect to Managed Fund Shares.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Proceedings To Determine Whether To Approve or Disapprove SR–BATS–2015–100 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[66] to determine

[62] *See* Securities Exchange Act Release No. 74244 (February 11, 2015), 80 FR 14564 (March 19, 2015) (Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information).

[63] See, *e.g.,* Securities Exchange Act Release No. 7482 [sic] (April 29, 2015), 86 [sic] FR 25723 (May 5, 2015) (SR–NYSEArca–2014–89) (order approving listing and trading of shares of eight PIMCO exchange-traded funds).

[64] *See* Amendment No. 4, *supra* note 8.

[65] *See id.*

[66] 15 U.S.C. 78s(b)(2)(B).

whether the proposed rule change, as modified by Amendments No. 1, No. 3, and No. 4 thereto, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[67] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [68]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal, as modified by Amendments No. 1, No. 3, and No. 4 thereto. In particular, the Commission invites the written views of interested persons concerning whether the proposal, as modified by Amendments No. 1, No. 3, and No. 4 thereto, is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[69]

In addition, interested persons are invited to submit written data, views, and arguments regarding whether the proposal, as modified by Amendments No. 1, No. 3, and No. 4 thereto, should be approved or disapproved by March 18, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 1, 2016.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. Specifically, the Commission seeks comment on the statements of the Exchange contained in the Notice,[70] as modified by Amendments No. 1, No. 3, and No. 4 thereto,[71] and any other issues raised by the proposed amendments to BATS Rule 14.11(i) related to the listing and trading of Managed Fund Shares on the Exchange. In particular, the Commission seeks comment on the following:

1. As described above, the Exchange has proposed listing standards with respect to certain asset classes held by actively managed exchange-traded funds that are substantively the same as the standards applied to those asset classes when held by an index-based fund. Do commenters believe that these standards are appropriate for both types of funds?

2. Do commenters believe that the limitations and standards proposed for specific assets classes are appropriate?

3. In general, do commenters believe that the proposed listing requirements are adequate to deter manipulation with respect to generically listed Managed Fund Shares?

4. With respect to the proposed generic listing standards, which set forth requirements for the listing and trading of Managed Fund Shares on an initial and continuing basis, do commenters have views on how or whether the Exchange would be able to monitor compliance with respect to these continuing listing standards? Do commenters have views on what actions, if any, should be taken by the Exchange if a series of Managed Fund Shares listed and trading on the Exchange falls out of compliance with any of the proposed generic criteria? 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–BATS–2015–100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–BATS–2015–100. 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 these filings 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–BATS–2015–100 and should be submitted on or before March 18, 2016. Rebuttal comments should be submitted by April 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[72]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04110 Filed 2–25–16; 8:45 am]

BILLING CODE 8011–01–P

[67] *Id.*

[68] 15 U.S.C. 78f(b)(5).

[69] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[70] *Supra* note 3.

[71] *See supra* notes 5, 7, and 8, respectively.

[72] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 4337/803–00222]

Brookfield Asset Management Private Institutional Capital Adviser US, LLC et al.; Notice of Application

February 22, 2016.

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

ACTION: Notice of application for an exemptive order under Section 206A of the Investment Advisers Act of 1940 (the ''Advisers Act'') and Rule 206(4)–5(e).

SUMMARY:

APPLICANTS: Brookfield Asset Management Private Institutional Capital Adviser US, LLC and Brookfield Asset Management Private Institutional Capital Adviser (Canada), L.P. (''Applicants'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 206A of the Advisers Act and rule 206(4)–5(e) from rule 206(4)–5(a)(1) under the Advisers Act.

SUMMARY OF APPLICATION: Applicants request that the Commission issue an order under section 206A of the Advisers Act and rule 206(4)–5(e) exempting them from rule 206(4)–5(a)(1) under the Advisers Act to permit Applicants to receive compensation for investment advisory services provided to government entities within the two-year period following a contribution by a covered associate of Applicant to an official of the government entities.

FILING DATES: The application was filed on January 29, 2014, and amended and restated applications were filed on February 26, 2014, August 13, 2014 and October 7, 2015.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 18, 2016, 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 Advisers Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, Brookfield Asset Management Private Institutional Capital Adviser US, LLC et al., 250 Vesey Street, 15th Floor, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Aaron T. Gilbride, Senior Counsel or Sara P. Crovitz, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site either at *http://www.sec.gov/rules/iareleases.shtml* or 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.

Applicant's Representations

1. Brookfield Asset Management Private Institutional Capital Adviser US, LLC (''Brookfield US'') and Brookfield Asset Management Private Institutional Capital Adviser (Canada), L.P. (''Brookfield Canada'' and, together with Brookfield US, the ''Applicants''), are affiliated asset management companies registered with the Commission as investment advisers under the Advisers Act and are indirectly wholly-owned by Brookfield Asset Management, Inc., a public company. Brookfield US advises, among other private funds, Brookfield Strategic Real Estate Partners B L.P. (''Fund A''), a private fund that is part of Brookfield's Real Estate Platform, and Brookfield Canada advises, among other private funds, Brookfield Infrastructure Fund II–B, L.P. (''Fund B''), a private fund that is part of Brookfield's Infrastructure Platform. Fund A and Fund B are collectively referred to as the ''Funds.'' Both Funds are excluded from the definition of ''investment company'' by Section 3(c)(7) of the Investment Company Act of 1940. Certain public pension plans that are government entities of New York City (the ''Clients'') are invested in the Funds. The investment decisions for the Clients are made by the respective boards of trustees, which range from seven to 15 members, and include certain elected officials sitting *ex officio;* appointees of elected officials; and representatives of employee groups that participate in the system. Either the Mayor of New York City or one or more of the Mayor's appointees sit on each board.

2. On January 13, 2013, Richard B. Clark, a Senior Managing Partner, Global Head of Brookfield's Real Estate Platform, Brookfield Property Group, and Non-Executive Chairman of the Board of Brookfield Office Properties (''BPO''), a non-investment adviser commercial real estate corporation that owns, manages, and develops real estate and is affiliated with the Applicants and Brookfield (the ''Contributor''), made a $400 campaign contribution (the ''Contribution'') to the campaign of Christine Quinn (the ''Official''), a New York City Councilwoman who was Council Speaker. The Contribution was given in connection with a fundraiser for the Official's campaign on January 13, 2013, which the Contributor attended. At the time of the Contribution, the Official was a candidate for New York City Mayor.

3. Applicants represent that the amount of the Contribution, profile of the candidate, and characteristics of the campaign fall generally within the pattern of the Contributor's other political donations.

4. Applicants represent that the Contributor has confirmed that he has not, at any time, had any contact with the Official concerning campaign contributions, nor has the Contributor told any prospective or existing investor (including the Clients) about the Contribution.

5. Applicants represent that the Contributor's role with the Clients was limited to making substantive presentations to the Clients' representatives and consultants about the Real Estate Platform Brookfield US manages. Applicants represent that the Contributor had no contact with any representative of the Clients outside of such presentation and no contact with any member of the board of trustees which oversees the investment decisions of the Clients.

6. Applicants represent that the Clients made their investment in Fund A on May 23, 2012, approximately eight months prior to the Contributor making the Contribution. The Clients invested in Fund B on July 8, 2013. Applicants represent that the Contributor was not involved in any contacts with the Clients, their representatives or the New York City Comptroller's office in relation to their investment in Fund B.

7. Applicants represent that the Contributor did not solicit any other persons to make contributions to the Official's campaign and did not arrange any introductions to potential supporters.

8. Applicants represent that the Contribution was discovered by the Contributor following completion of his annual certification regarding compliance with the Applicants'

Compliance Manual (which includes a policy and procedure designed to ensure compliance with laws, rules and regulations regarding pay-to-play practices). Applicants represent that the Contributor immediately notified the Chief Compliance Officer and obtained a full refund within days after the Contribution was discovered. Applicants represent that Brookfield US established an escrow account for Fund A in which all management fees attributable to the Clients' investment in Fund A dating back to January 13, 2013, the date of the Contribution, are segregated. Applicants represent that at the time of the Clients' investment in Fund B, Brookfield Canada established an escrow account for Fund B in which all management fees attributable to Clients' investment in Fund B are segregated. Applicants represent that they also notified the Clients that if the Commission does not grant the exemption, the Applicants will refund the management fees related to the Clients' investments during the two-year period to the Funds, and when carried interest is realized, the portion attributable to the Clients' investments during the two-year time-out period will be calculated and refunded to the Funds.

9. Applicants represent that at no time did any of Applicant's other employees have any knowledge that the Contribution had been made prior to its discovery by the Applicants' Chief Compliance Officer on February 22, 2013.

10. Applicants represent that they had adopted and implemented compliance procedures meeting the requirements of rule 206(4)–5. Applicants represent that their compliance procedures prohibit contributions by covered associates to state or local candidates or officials. Applicants represent that their compliance procedures apply to all of Applicants' covered associates, and those who may become covered associates. Applicant represents that all employees are required to certify their compliance on a periodic basis.

Applicants' Legal Analysis

1. Rule 206(4)–5(a)(1) under the Advisers Act prohibits a registered investment adviser from providing investment advisory services for compensation to a government entity within two years after a contribution to an official of the government entity is made by the investment adviser or any covered associate of the investment adviser. The Clients are each a ''government entity,'' as defined in rule 206(4)–5(f)(5), the Contributor is a ''covered associate'' as defined in rule 206(4)–5(f)(2), and the Official is an ''official'' as defined in rule 206(4)–5(f)(6). Rule 206(4)–5(c) provides that when a government entity invests in a covered investment pool, the investment adviser to that covered investment pool is treated as providing advisory services directly to the government entity. The Funds are each a ''covered investment pool,'' as defined in rule 206(4)–5(f)(3)(ii).

2. Section 206A of the Advisers Act grants the Commission the authority to ''conditionally or unconditionally exempt any person or transaction . . . from any provision or provisions of [the Advisers Act] or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the Advisers Act].''

3. Rule 206(4)–5(e) provides that the Commission may exempt an investment adviser from the prohibition under rule 206(4)–5(a)(1) upon consideration of the factors listed below, among others:

(1) Whether the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act;

(2) Whether the investment adviser: (i) Before the contribution resulting in the prohibition was made, adopted and implemented policies and procedures reasonably designed to prevent violations of the rule; and (ii) prior to or at the time the contribution which resulted in such prohibition was made, had no actual knowledge of the contribution; and (iii) after learning of the contribution: (A) Has taken all available steps to cause the contributor involved in making the contribution which resulted in such prohibition to obtain a return of the contribution; and (B) has taken such other remedial or preventive measures as may be appropriate under the circumstances;

(3) Whether, at the time of the contribution, the contributor was a covered associate or otherwise an employee of the investment adviser, or was seeking such employment;

(4) The timing and amount of the contribution which resulted in the prohibition;

(5) The nature of the election (*e.g.,* federal, state or local); and

(6) The contributor's apparent intent or motive in making the contribution which resulted in the prohibition, as evidenced by the facts and circumstances surrounding such contribution.

4. Applicants request an order pursuant to section 206A and rule 206(4)–5(e), exempting them from the two-year prohibition on compensation imposed by rule 206(4)–5(a)(1) with respect to investment advisory services provided to the Clients within the two-year period following the Contribution.

5. Applicants submit that the exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Advisers Act. Applicants further submit that the other factors set forth in rule 206(4)–5(e) similarly weigh in favor of granting an exemption to the Applicants to avoid consequences disproportionate to the violation.

6. Applicants state that the relationship with the Clients pre-date the Contribution and that only the investment in Fund B (in which the Contributor did not play a role) was made subsequent to the Contribution. Applicants state that the Contribution was made eight months after the Clients' investment in Fund A. Applicants note that they established and maintain their relationships with the Clients on an arms'-length basis free from any improper influence as a result of the Contribution.

7. Applicants state that at all relevant times they had policies which were fully compliant with rule 206(4)-5's requirements at the time of the Contribution. Applicants further state that at no time did Applicants or any employees of Applicants, other than the Contributor, have any knowledge that the Contribution had been made prior to its discovery by Applicants' Chief Compliance Officer in February 2013. After learning of the Contribution, Applicants and the Contributor took all available steps to obtain a return of the Contribution. Escrow accounts were set up for the Clients at both Funds and all fees charged to the Clients' capital accounts in the Funds since January 13, 2013 were deposited by the Applicants in the accounts for immediate return to the Funds should an exemptive order not be granted.

8. Applicants state that the Contributor's apparent intent in making the Contribution was not to influence the selection or retention of the Applicants. The amount of the Contribution, profile of the candidate, and characteristics of the campaign fall generally within the pattern of the Contributor's other political donations. Applicants further state, as discussed above, that the Contributor's involvement with the Clients has been limited to making substantive

presentations to the Clients' representatives and consultants about the Real Estate Platform Brookfield US manages. The Contributor has no contact with any representative of a Client outside of those presentations and no contact with any member of a Client's board.

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

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04113 Filed 2–25–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77203; File No. SR–NYSEArca–2015–110]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 4 to, and Order Instituting Proceedings to Determine Whether to Approve or Disapprove, a Proposed Rule Change, as Modified by Amendment No. 4 Thereto, Amending NYSE Arca Equities Rule 8.600 to Adopt Generic Listing Standards for Managed Fund Shares

February 22, 2016.

On November 6, 2015, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Equities Rule 8.600 and to adopt generic listing standards for Managed Fund Shares.[3] The proposed rule change was published for comment in the **Federal Register** on November 27, 2015.[4]

On November 23, 2015, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the original proposal in its entirety. On January 4, 2016, pursuant to Section 19(b)(2) of the Act,[5] 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.[6] On January 21, 2016, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change.[7] The proposed rule change, as modified by Amendment No. 2 thereto, was published for comment in the **Federal Register** on February 1, 2016.[8] On February 11, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.[9] The Commission has received one comment letter on the proposal.[10]

Pursuant to Section 19(b)(1) of the Act [11] and Rule 19b–4 thereunder,[12] notice is hereby given that, on February 12, 2016, the Exchange filed with the Commission Amendment No. 4 to the proposed rule change, as described in Sections I and II below, which Sections have been prepared by the Exchange.[13] The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 4 thereto, from interested persons.

Additionally, this order institutes proceedings under Section 19(b)(2)(B) of the Act [14] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 4 thereto, as discussed in Section III below. The institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved, nor does it mean that the Commission will ultimately disapprove the proposed rule change. Rather, as described in Section III below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares. Under the Exchange's current rules, a proposed rule change must be filed with the Securities and

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Equities Rule 8.600(c)(1) (defining Managed Fund Shares).

[4] *See* Securities Exchange Act Release No. 76486 (Nov. 20, 2015), 80 FR 74169 (''Notice'').

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 76819, 81 FR 987 (Jan. 8, 2016). The Commission designated February 25, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change. *See id.*

[7] In Amendment No. 2 to the proposed rule change, the Exchange added provisions to the proposed generic listing criteria relating to non-U.S. Component Stocks, convertible securities, and listed swaps, among other changes. Amendment No. 2, which amended and replaced the original proposal in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-3.pdf.*

[8] *See* Securities Exchange Act Release No. 76974 (Jan. 26, 2016), 81 FR 5149.

[9] In Amendment No. 3 to the proposed rule change, the Exchange (a) revised the provisions relating to convertible securities, (b) clarified the limitations on non-exchange-traded American Depositary Receipts, (c) eliminated redundant provisions relating to limitations on leveraged and inverse-leveraged Derivative Securities Products, (d) revised the provision relating to limitations on listed derivatives, (e) clarified that, for purposes of the limitations relating to listed and over-the-counter derivatives, a portfolio's investment in listed and over-the-counter derivatives will be calculated as the total absolute notional value of these derivatives, and (f) provided additional information regarding the statutory basis of the proposal. Amendment No. 3, which amended and replaced the proposed rule change, as modified by Amendment No. 2 thereto, in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-4.pdf.*

[10] *See* Letter from Rob Ivanoff to the Commission dated Nov. 22, 2015 (commenting that the format of the Exchange's proposed rule change was unclear and difficult to read, and suggesting a new format that would be easier to understand). All comments on the proposed rule change are available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-1.htm.*

[11] 15 U.S.C.78s(b)(1).

[12] 17 CFR 240.19b–4.

[13] Specifically, in Amendment No. 4 to the proposed rule change and as described herein, the Exchange (a) confirmed that the generic listing criteria are to be applied on an initial and continuing basis, (b) corrected a typographical error, and (c) corrected a statement regarding the statutory basis of the proposal. Amendment No. 4, which amended and replaced the proposed rule change, as modified by Amendment No. 3 thereto, in its entirety, is available on the Commission's Web site at: *http://www.sec.gov/comments/sr-nysearca-2015-110/nysearca2015110-5.pdf.*

[14] 15 U.S.C. 78s(b)(2)(B).

Exchange Commission (''SEC'' or ''Commission'') for the listing and trading of each new series of Managed Fund Shares. The Exchange believes that it is appropriate to codify certain rules within Rule 8.600 that would generally eliminate the need for such proposed rule changes, which would create greater efficiency and promote uniform standards in the listing process.[15]

Background

Rule 8.600 sets forth certain rules related to the listing and trading of Managed Fund Shares.[16] Under Rule 8.600(c)(1), the term ''Managed Fund Share'' means a security that:

(a) Represents an interest in a registered investment company (''Investment Company'') organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser (hereafter ''Adviser'') consistent with the Investment Company's investment objectives and policies;

(b) is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value; and

(c) when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined net asset value.

Effectively, Managed Fund Shares are securities issued by an actively-managed open-end Investment Company (*i.e.,* an actively-managed exchange-traded fund (''ETF'')). Because Managed Fund Shares are actively-managed, they do not seek to replicate the performance of a specified passive index of securities. Instead, they generally use an active investment strategy to seek to meet their investment objectives. In contrast, an open-end Investment Company that issues Investment Company Units (''Units''), listed and traded on the Exchange pursuant to NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that generally correspond to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

All Managed Fund Shares listed and/or traded pursuant to Rule 8.600 (including pursuant to unlisted trading privileges) are subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.[17]

In addition, Rule 8.600(d) currently provides for the criteria that Managed Fund Shares must satisfy for initial and continued listing on the Exchange, including, for example, that a minimum number of Managed Fund Shares are required to be outstanding at the time of commencement of trading on the Exchange. However, the current process for listing and trading new series of Managed Fund Shares on the Exchange requires that the Exchange submit a proposed rule change with the Commission. In this regard, Commentary .01 to Rule 8.600 specifies that the Exchange will file separate proposals under Section 19(b) of the Act (hereafter, a ''proposed rule change'') before listing and trading of shares of an issue of Managed Fund Shares.

Proposed Changes to Rule 8.600

The Exchange would amend Commentary .01 to Rule 8.600 to specify that the Exchange may approve Managed Fund Shares for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to SEC Rule 19b–4(e) under the Act, which pertains to derivative securities products (''SEC Rule 19b–4(e)'').[18] SEC Rule 19b–4(e)(1) provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') is not deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b–4,[19] if the Commission has approved, pursuant to section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class. This is the current method pursuant to which ''passive'' ETFs are listed under NYSE Arca Equities Rule 5.2(j)(3).

The Exchange would also specify within Commentary .01 to Rule 8.600 that components of Managed Fund Shares listed pursuant to SEC Rule 19b–4(e) must satisfy on an initial and continued basis certain specific criteria, which the Exchange would include within Commentary .01, as described in greater detail below. As proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares with components that do not satisfy the additional criteria described below or components other than those specified below. For example, if the components of a Managed Fund Share exceeded one of the applicable thresholds, the Exchange would file a separate proposed rule change before listing and trading such Managed Fund Share. Similarly, if the components of a Managed Fund Share included a security or asset that is not specified below, the Exchange would file a separate proposed rule change.

The Exchange would also add to the criteria of Rule 8.600(c) to provide that the Web site for each series of Managed Fund Shares shall disclose certain information regarding the Disclosed Portfolio, to the extent applicable. The required information includes the following, to the extent applicable: ticker symbol, CUSIP or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the strike price for any options, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio.[20]

[15] The Exchange has previously filed a proposed rule change to amend NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares. *See* Securities Exchange Act Release No. 74433 (March 4, 2015), 80 FR 12690 (March 10, 2015) (SR–NYSEArca–2015–02). On June 3, 2015, the Exchange filed Amendment No. 1 to the proposed rule change. *See* Securities Exchange Act Release No. 75115 (June 5, 2015), 80 FR 33309 (June 11, 2015). On October 13, 2015, the Exchange withdrew the proposed rule change. *See* Securities Exchange Act Release No. 76186 (October 19, 2015), 80 FR 64461 (October 23, 2015). This Amendment No. 4 to SR–NYSEArca–2015–110 replaces SR–NYSEArca–2015–110 as originally filed and Amendments No. 2 and 3 thereto, and supersedes such filings in their entirety. The Exchange has withdrawn Amendment No. 1 to SR–NYSEArca–2015–110.

[16] *See* Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca–2008–25) (order approving NYSE Arca Equities Rule 8.600 and listing and trading of shares of certain issues of Managed Fund Shares) (the ''Approval Order''). The Approval Order approved the rules permitting the listing and trading of Managed Fund Shares, trading hours and halts, listing fees applicable to Managed Fund Shares, and the listing and trading of several individual series of Managed Fund Shares.

[17] *See* Approval Order, *supra* note 17, at 19547.

[18] 17 CFR 240.19b–4(e). As provided under SEC Rule 19b–4(e), the term ''new derivative securities product'' means any type of option, warrant, hybrid securities product or any other security, other than a single equity option or a security futures product, whose value is based, in whole or in part, upon the performance of, or interest in, an underlying instrument.

[19] 17 CFR 240.19b–4(c)(1). As provided under SEC Rule 19b–4(c)(1), a stated policy, practice, or interpretation of the SRO shall be deemed to be a proposed rule change unless it is reasonably and fairly implied by an existing rule of the SRO.

[20] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding. *See, e.g.,* Securities Exchange Act Release No. 72666 (July 3, 2014), 79 FR 44224 (July 30,

Continued

In addition, the Exchange would amend Rule 8.600(d) to specify that all Managed Fund Shares must have a stated investment objective, which must be adhered to under normal market conditions.[21]

Finally, the Exchange would also amend the continued listing requirement in Rule 8.600(d)(2)(A) by changing the requirement that a Portfolio Indicative Value for Managed Fund Shares be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the Managed Fund Shares trade on the Exchange to a requirement that a Portfolio Indicative Value be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session (as defined in NYSE Arca Equities Rule 7.34).

Proposed Managed Fund Share Portfolio Standards

The Exchange is proposing standards that would pertain to Managed Fund Shares to qualify for listing and trading pursuant to SEC Rule 19b–4(e). These standards would be grouped according to security or asset type. The Exchange notes that the standards proposed for a Managed Fund Share portfolio that holds U.S. Component Stocks, Non-U.S. Component Stocks, Derivative Securities Products and Index-Linked Securities are based in large part on the existing equity security standards applicable to Units in Commentary .01 to Rule 5.2(j)(3). The standards proposed for a Managed Fund Share portfolio that holds fixed income securities are based in large part on the existing fixed income security standards applicable to Units in Commentary .02 to Rule 5.2(j)(3). Many of the standards proposed for other types of holdings in a Managed Fund Share portfolio are based on previous proposed rule changes for specific series of Managed Fund Shares.[22]

Proposed Commentary .01(a) would describe the standards for a Managed Fund Share portfolio that holds equity securities, which are defined to be U.S. Component Stocks,[23] Non-U.S. Component Stocks,[24] Derivative Securities Products,[25] and Index-Linked Securities [26] listed on a national securities exchange. For Derivative Securities Products and Index-Linked Securities, no more than 25% of the equity weight of the portfolio could include leveraged and/or inverse leveraged Derivative Securities Products or Index-Linked Securities. In addition, proposed Commentary .01(a) would provide that, to the extent that a portfolio includes convertible securities, the equity security into which such security is converted would be required to meet the criteria of Commentary .01(a) after converting.

As proposed in Commentary .01(a)(1) to Rule 8.600, the component stocks of the equity portion of a portfolio that are U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(1) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 90% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each must have a minimum market value of at least $75 million; [27]

(2) Component stocks (excluding Derivative Securities Products and Index-Linked Securities) that in the aggregate account for at least 70% of the equity weight of the portfolio (excluding such Derivative Securities Products and Index-Linked Securities) each must have a minimum monthly trading volume of 250,000 shares, or minimum notional volume traded per month of $25,000,000, averaged over the last six months; [28]

(3) The most heavily weighted component stock (excluding Derivative Securities Products and Index-Linked Securities) must not exceed 30% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted component stocks (excluding Derivative Securities Products and Index-Linked Securities) must not exceed 65% of the equity weight of the portfolio; [29]

(4) Where the equity portion of the portfolio does not include Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 13 component stocks; provided, however, that there shall be no minimum number of component stocks if (a) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (b) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; [30]

(5) Except as provided in proposed Commentary .01(a), equity securities in the portfolio must be U.S. Component Stocks listed on a national securities exchange and must be NMS Stocks as defined in Rule 600 of Regulation NMS; [31]

2014) (SR–NYSEArca–2013–122) (the ''PIMCO Total Return Use of Derivatives Approval''), at 44227.

[21] The Exchange would also add a new defined term under Rule 8.600(c)(5) to specify that the term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[22] *See* the PIMCO Total Return Use of Derivatives Approval. *See also* Securities Exchange Act Release Nos. 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR–NYSEArca–2011–95) (the ''PIMCO Total Return Approval''); 69244 (March 27, 2013), 78 FR 19766 (April 2, 2013) (SR–NYSEArca–2013–08) (the ''SPDR Blackstone/GSO Senior Loan Approval''); 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–139) (the ''First Trust Preferred Securities and Income Approval''); 69591 (May 16, 2013), 78 FR 30372 (May 22, 2013) (SR–NYSEArca–2013–33) (the ''International Bear Approval''); 61697 (March 12, 2010), 75 FR 13616 (March 22, 2010) (SR–NYSEArca–2010–04) (the ''WisdomTree Real Return Approval''); and 67054 (May 24, 2012), 77 FR 32161 (May 31, 2012) (SR–NYSEArca–2012–25) (the ''WisdomTree Brazil Bond Approval''). Certain standards proposed herein for Managed Fund Shares are also based on previous proposed rule changes for specific series of Units for which Commission approval for listing was required due to the Units not satisfying certain standards of Commentary .01 and .02 to NYSE Arca Equities Rule 5.2(j)(3). *See, e.g.,* Securities Exchange Act Release No. 69373 (April 15, 2013), 78 FR 23601 (April 19, 2013) (SR–NYSEArca–2012–108) (the ''NYSE Arca U.S. Equity Synthetic Reverse Convertible Index Fund Approval'').

[23] For the purposes of Commentary .01 and this proposal, the term ''U.S. Component Stocks'' would have the same meaning as defined in NYSE Arca Equities Rule 5.2(j)(3).

[24] For the purposes of Commentary .01 and this proposal, the term ''Non-U.S. Component Stocks'' would have the same meaning as defined in NYSE Arca Equities Rule 5.2(j)(3).

[25] For the purposes of Commentary .01 and this proposal, the term ''Derivative Securities Products'' would have the same meaning as defined in NYSE Arca Equities Rule 7.34(a)(4)(A).

[26] Index-Linked Securities are securities listed under NYSE Arca Equities Rule 5.2(j)(6).

[27] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(1) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Index-Linked Securities.

[28] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(2) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Index-Linked Securities.

[29] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(3) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and the addition of the reference to Index-Linked Securities.

[30] This proposed text is identical to the corresponding text of Commentary .01(a)(A)(4) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, the addition of the reference to Index-Linked Securities, and the reference to the 100% limit applying to the ''equity portion'' of the portfolio.

[31] 17 CFR 240.600. This proposed text is identical to the corresponding text of Commentary

(6) American Depositary Receipts (''ADRs'') may be exchange-traded or non-exchange-traded. However no more than 10% of the equity weight of the portfolio shall consist of non-exchange-traded ADRs.[32]

As proposed in Commentary .01(a)(2) to Rule 8.600, the component stocks of the equity portion of a portfolio that are Non-U.S. Component Stocks shall meet the following criteria initially and on a continuing basis:

(1) Non-U.S. Component Stocks each shall have a minimum market value of at least $100 million; [33]

(2) Non-U.S. Component Stocks each shall have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; [34]

(3) The most heavily weighted Non-U.S. Component Stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; [35]

(4) Where the equity portion of the portfolio includes Non-U.S. Component Stocks, the equity portion of the portfolio shall include a minimum of 20 component stocks; provided, however, that there shall be no minimum number of component stocks if (i) one or more series of Derivative Securities Products or Index-Linked Securities constitute, at least in part, components underlying a series of Managed Fund Shares, or (ii) one or more series of Derivative Securities Products or Index-Linked Securities account for 100% of the equity weight of the portfolio of a series of Managed Fund Shares; [36] and

(5) Each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting.[37]

The Exchange notes that it is not proposing to require that any of the equity portion of the equity portfolio composed of Non-U.S. Component Stocks be listed on markets that are either a member of the Intermarket Surveillance Group (''ISG'') or a market with which the Exchange has a comprehensive surveillance sharing agreement (''CSSA'').[38] However, as further detailed below, the regulatory staff of the Exchange, or the Financial Industry Regulatory Authority, Inc. (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in Managed Fund Shares with other markets that are members of the ISG, including U.S. securities exchanges on which the components are traded. The Exchange notes that the generic listing standards for Units based on foreign indexes in NYSE Arca Equities Rule 5.2(j)(3) do not include specific ISG or CSSA requirements.[39] In addition, the Commission has approved listing and trading on the Exchange of shares of an issue of Managed Fund Shares under NYSE Arca Equities Rule 8.600 where non-U.S. equity securities in such issue's portfolio meet specified criteria and where there is no requirement that such non-U.S. equity securities are traded in markets that are members of ISG or with which the Exchange has in place a CSSA.[40]

Proposed Commentary .01(b) would describe the standards for a Managed Fund Share portfolio that holds fixed income securities, which are debt securities [41] 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, investment grade and high yield corporate debt, bank loans, mortgage and asset backed securities, and commercial paper. In addition, to the extent that a portfolio includes convertible securities, the fixed income security into which such security is converted would be required to meet the criteria of Commentary .01(b) after converting.

The components of the fixed income portion of a portfolio must meet the following criteria initially and on a continuing basis:

(1) Components that in the aggregate account for at least 75% of the fixed income weight of the portfolio each shall have a minimum original principal amount outstanding of $100 million or more; [42]

(2) No component fixed-income security (excluding Treasury Securities and GSE Securities) could represent more than 30% of the fixed income weight of the portfolio, and the five most heavily weighted component fixed income securities in the portfolio must not in the aggregate account for more than 65% of the fixed income weight of the portfolio; [43]

(3) An underlying portfolio (excluding exempted securities) that includes fixed income securities must include a minimum of 13 non-affiliated issuers;

.01(a)(A)(5) to NYSE Arca Equities Rule 5.2(j)(3), except for the addition of ''equity'' to make clear that the standard applies to ''equity securities'', the exclusion of unsponsored ADRs, and the omission of the reference to ''index,'' which is not applicable.

[32] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include not more than 10% of net assets in unsponsored ADRs (which are not exchange-listed). *See, e.g.,* Securities Exchange Act Release No. 71067 (December 12, 20113), 78 FR 76669 (December 18, 2013) (order approving listing and trading of shares of the SPDR MFS Systematic Core Equity ETF, SPDR MFS Systematic Growth Equity ETF, and SPDR MFS Systematic Value Equity ETF under NYSE Arca Equities Rule 8.600).

[33] The proposed text is identical to the corresponding representation from the ''SSgA Global Managed Volatility Release'', as defined in footnote 41, below. The proposed text is also identical to the corresponding text of Commentary .01(a)(B)(1) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, and that each Non-U.S. Component Stock must have a minimum market value of at least $100 million instead of the 90% required under Commentary .01(a)(B)(1) to NYSE Arca Equities Rule 5.2(j)(3).

[34] The proposed text is identical to the corresponding representation from the SSgA Global Managed Volatility Release, as defined in footnote 41, below. This proposed text also is identical to the corresponding text of Commentary .01(a)(B)(2) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable.

[35] This proposed text is identical to the corresponding text of Commentary .01(a)(B)(3) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable.

[36] This proposed text is similar to the corresponding text of Commentary .01(a)(B)(4) to NYSE Arca Equities Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, the addition of the reference to Index-Linked Securities, the reference to the equity portion of the portfolio including Non-U.S. Component Stocks, and the reference to the 100% limitation applying to the ''equity weight'' of the portfolio, which is included because the proposed standards in Commentary .01 to Rule 8.600 permit the inclusion of non-equity securities, whereas Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) applies only to equity securities.

[37] This proposed text is similar to Commentary .01(a)(B)(5) to NYSE Arca Equities Rule 5.2(j)(3) as it relates to Non-U.S. Component Stocks.

[38] A list of ISG members is available at *www.isgportal.org.*

[39] Under Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3), Units with components that include Non-U.S. Component Stocks can hold a portfolio that is entirely composed of Non-U.S. Component Stocks that are listed on markets that are neither members of ISG, nor with which the Exchange has in place a CSSA.

[40] *See* Securities Exchange Act Release No. 75023 (May 21, 2015), 80 FR 30519 (May 28, 2015) (SR–NYSEArca-2014–100) (order approving listing and trading on the Exchange of shares of the SPDR SSgA Global Managed Volatility ETF under NYSE Arca Equities Rule 8.600) (''SSgA Global Managed Volatility Release'').

[41] Debt securities include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities. Debt securities include investment-grade securities, non-investment-grade securities, and unrated securities. Debt securities also include variable and floating rate securities.

[42] This text of proposed Commentary .01(b)(1) to Rule 8.600 is based on the corresponding text of Commentary .02(a)(2) to Rule 5.2(j)(3).

[43] This proposed text is identical to the corresponding text of Commentary .02(a)(4) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable.

provided, however, that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in proposed Commentary .01(a).[44]

(4) Component securities that in aggregate account for at least 90% of the fixed income weight of the portfolio must be either (a) from issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act; (b) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (c) from issuers that have outstanding securities that are notes, bonds, debentures, or evidence of indebtedness having a total remaining principal amount of at least $1 billion; (d) exempted securities as defined in Section 3(a)(12) of the Act; or (e) from issuers that are a government of a foreign country or a political subdivision of a foreign country; and

(5) Non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio.[45]

Proposed Commentary .01(c) would describe the standards for a Managed Fund Share portfolio that holds cash and cash equivalents.[46] Specifically, the portfolio may hold short-term instruments with maturities of less than 3 months. There would be no limitation to the percentage of the portfolio invested in such holdings. Short-term instruments would include the following:[47]

(1) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities;

(2) certificates of deposit issued against funds deposited in a bank or savings and loan association;

(3) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions;

(4) repurchase agreements and reverse repurchase agreements;

(5) 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;

(6) commercial paper, which are short-term unsecured promissory notes; and

(7) money market funds.

Proposed Commentary .01(d) would describe the standards for a Managed Fund Share portfolio that holds listed derivatives, including futures, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[48] There would be no limitation to the percentage of the portfolio invested in such holdings, except that, in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options and listed swaps shall, on both an initial and continuing basis, consist of futures, options and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other members or affiliates or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement.[49] The Exchange notes that, for purposes of calculating this limitation, a portfolio's investment in listed derivatives will be calculated as the total absolute notional value of the listed derivatives.

Proposed Commentary .01(e) would describe the standards for a Managed Fund Share portfolio that holds over the counter (''OTC'') derivatives, including forwards, options and swaps on commodities, currencies and financial instruments (*e.g.,* stocks, fixed income, interest rates, and volatility) or a basket or index of any of the foregoing.[50] Proposed Commentary .01 (e) would provide that no more than 20% of the assets in the portfolio may be invested in OTC derivatives.

Proposed Commentary .01(f) would provide that, to the extent that listed or OTC derivatives are used to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or fixed income securities, such equities and/or fixed income securities, as applicable, shall meet the criteria set forth in Commentary .01(a) and .01(b) to Rule 8.600, respectively. The Exchange notes that, for purposes of this proposal, a portfolio's investment in OTC derivatives will be calculated as the total absolute notional value of the OTC derivatives.

The Exchange believes that the proposed standards would continue to ensure transparency surrounding the listing process for Managed Fund Shares. Additionally, the Exchange believes that the proposed portfolio standards for listing and trading Managed Fund Shares, many of which track existing Exchange rules relating to Units, are reasonably designed to promote a fair and orderly market for such Managed Fund Shares.[51] These proposed standards would also work in conjunction with the existing initial and continued listing criteria related to surveillance procedures and trading guidelines.

In support of this proposal, the Exchange represents that:[52]

(1) The Managed Fund Shares will continue to conform to the initial and continued listing criteria under Rule 8.600;

(2) the Exchange's surveillance procedures are adequate to continue to properly monitor the trading of the

[44] This proposed text is similar to the corresponding text of Commentary .02(a)(5) to Rule 5.2(j)(3), except for the omission of the reference to ''index,'' which is not applicable, the exclusion of the text ''consisting entirely of exempted securities'' and the provision that there shall be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities as described in proposed Commentary .01(a).

[45] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include up to 20% of net assets in non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities. *See, e.g.,* Securities Exchange Act Release No. 75566 (July 30, 2015), 80 FR 46612 (August 5, 2015) (SR–NYSEArca-2015–42) (order approving listing and trading of shares of Newfleet Multi-Sector Unconstrained Bond ETF under NYSE Arca Equities Rule 8.600).

[46] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include cash and cash equivalents. *See, e.g.,* SPDR Blackstone/GSO Senior Loan Approval, *supra* note 23, at 19768–69 and First Trust Preferred Securities and Income Approval, *supra* note 23, at 76150.

[47] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly specified short-term instruments with respect to their inclusion in Managed Fund Share holdings. *See, e.g.,* First Trust Preferred Securities and Income Approval, *supra* note 23, at 76150–51.

[48] Proposed rule changes for previously-listed series of Managed Fund Shares have similarly included the ability for such Managed Fund Share holdings to include listed derivatives. *See, e.g.,* WisdomTree Real Return Approval, *supra* note 23, at 13617 and WisdomTree Brazil Bond Approval, *supra* note 23, at 32163.

[49] ISG is comprised of an international group of exchanges, market centers, and market regulators that perform front-line market surveillance in their respective jurisdictions. *See https://www.isgportal.org/home.html.*

[50] A proposed rule change for series of Units previously listed and traded on the Exchange pursuant to Rule 5.2(j)(3) similarly included the ability for such Units' holdings to include OTC derivatives, specifically OTC down-and-in put options, which are not NMS Stocks as defined in Rule 600 of Regulation NMS and therefore do not satisfy the requirements of Commentary .01(a)(A) to Rule 5.2(j)(3). *See, e.g.,* NYSE Arca U.S. Equity Synthetic Reverse Convertible Index Fund Approval, *supra* note 23, at 23602.

[51] *See* Approval Order, *supra* note 17 at 19548.

[52] The Exchange made similar representations in the Approval Order. *See id.* at 19549.

Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules. Specifically, the Exchange intends to utilize its existing surveillance procedures applicable to derivative products, which will include Managed Fund Shares, to monitor trading in the Managed Fund Shares;

(3) prior to the commencement of trading of a particular series of Managed Fund Shares, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in a Bulletin of the special characteristics and risks associated with trading the Managed Fund Shares, including procedures for purchases and redemptions of Managed Fund Shares, suitability requirements under NYSE Arca Equities Rule 9.2(a), the risks involved in trading the Managed Fund Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated, information regarding the Portfolio Indicative Value and the Disclosed Portfolio, prospectus delivery requirements, and other trading information. In addition, the Bulletin will disclose that the Managed Fund Shares are subject to various fees and expenses, as described in the applicable registration statement, and will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. Finally, the Bulletin will disclose that the net asset value for the Managed Fund Shares will be calculated after 4 p.m. ET each trading day; and

(4) the issuer of a series of Managed Fund Shares will be required to comply with Rule 10A–3 under the Act for the initial and continued listing of Managed Fund Shares, as provided under NYSE Arca Equities Rule 5.3.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that ETP Holders or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[53] in general, and furthers the objectives of Section 6(b)(5) of the Act,[54] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest because it would facilitate the listing and trading of additional Managed Fund Shares, which would enhance competition among market participants, to the benefit of investors and the marketplace. Specifically, after more than six years under the current process, whereby the Exchange is required to file a proposed rule change with the Commission for the listing and trading of each new series of Managed Fund Shares, the Exchange believes that it is appropriate to codify certain rules within Rule 8.600 that would generally eliminate the need for separate proposed rule changes. The Exchange believes that this would facilitate the listing and trading of additional types of Managed Fund Shares that have investment portfolios that are similar to investment portfolios for Units, which have been approved for listing and trading, thereby creating greater efficiencies in the listing process for the Exchange and the Commission. In this regard, the Exchange notes that the standards proposed for Managed Fund Share portfolios that include U.S. Component Stocks, Non-U.S. Component Stocks, Derivative Securities Products, and Index-Linked Securities are based in large part on the existing equity security standards applicable to Units in Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) and that the standards proposed for Managed Fund Share portfolios that include fixed income securities are based in large part on the existing fixed income standards applicable to Units in Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3). Additionally, many of the standards proposed for other types of holdings of series of Managed Fund Shares are based on previous proposed rule changes for specific series of Managed Fund Shares.[55]

With respect to the proposed addition to the criteria of Rule 8.600(c) to provide that the Web site for each series of Managed Fund Shares shall disclose certain information regarding the Disclosed Portfolio, to the extent applicable, the Exchange notes that proposed rule changes approved by the Commission for previously-listed series of Managed Fund Shares have similarly included disclosure requirements with respect to each portfolio holding, as applicable to the type of holding.[56] With respect to the proposed definition of the term ''normal market conditions'' in proposed Rule 8.600(c)(5), such definition is similar to the definition of normal market conditions approved by the Commission for other issues of Managed Fund Shares.[57] In addition, proposed Rule 8.600(d)(1)(C), would specify that a series of Managed Fund Shares would be required to adhere to its stated investment objective during normal market conditions.

With respect to the proposed amendment to the continued listing requirement in Rule 8.600(d)(2)(A) to require dissemination of a Portfolio Indicative Value at least every 15 seconds during the Core Trading Session (as defined in NYSE Arca Equities Rule 7.34), such requirement conforms to the requirement applicable to the dissemination of the Intraday Indicative Value for Units in Commentary .01(c) and Commentary .02 (c) to NYSE Arca Equities Rule 5.2(j)(3). In addition, such dissemination is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[58]

With respect to the proposed requirement in Commentary .01(a) that no more than 25% of the equity weight of the portfolio shall consist of leveraged and/or inverse leveraged Derivative Securities Products or Index-Linked Securities, such requirement would assure that only a relatively small proportion of a fund's investments could consist of such leveraged and/or inverse securities. In addition, such limitation would apply to both U.S. Component Stocks and Non-U.S. Component Stocks comprising the equity portion of a portfolio. With respect to the proposed provision in Commentary .01(a) that, to the extent a portfolio includes a convertible security, the equity security into which such security is converted must meet the criteria in Commentary .01(a) after converting, such requirement would assure that the equity securities into which a convertible security could be converted meet the liquidity and other criteria in Commentary .01 applicable to such equity securities. With respect to the proposed exclusion of Derivatives Securities Products and Index-Linked Securities from the requirements of proposed Commentary .01(a) of Rule

[53] 15 U.S.C. 78f(b).

[54] 15 U.S.C. 78f(b)(5).

[55] *See supra,* note 23.

[56] *See supra* note 21.

[57] *See, e.g.,* Securities Exchange Act Release No. 74338 (February 20, 2015), 80 FR 10556 (February 26, 2015) (SR–NYSEArca–2014–143) (order approving listing and trading of shares of the SPDR Doubletree Total Return Tactical ETF under NYSE Arca Equities Rule 8.600).

[58] *See, e.g.,* Approval Order, *supra* note 17; International Bear Approval, *supra* note 23.

8.600, the Exchange believes it is appropriate to exclude Index-Linked Securities as well as Derivative Securities Products from certain component stock eligibility criteria for Managed Fund Shares in so far as Derivative Securities Products and Index-Linked Securities are themselves subject to specific quantitative listing and continued listing requirements of a national securities exchange on which such securities are listed. Derivative Securities Products and Index-Linked Securities that are components of a fund's portfolio would have been listed and traded on a national securities exchange pursuant to a proposed rule change approved by the Commission pursuant to Section 19(b)(2) of the Act [59] or submitted by a national securities exchange pursuant to Section 19(b)(3)(A) of the Act [60] or would have been listed by a national securities exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[61] The Exchange also notes that Derivative Securities Products and Index-Linked Securities are derivatively priced, and, therefore, the Exchange believes that it would not be necessary to apply the proposed generic quantitative criteria (*e.g.,* market capitalization, trading volume, or portfolio component weighting) applicable to equity securities other than Derivative Securities Products or Index-Linked Securities (*e.g.,* common stocks) to such products.[62]

With respect to the proposed criteria applicable to U.S. Component Stocks, the Exchange notes that such criteria are similar to those in Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) relating to criteria applicable to an index or portfolio of U.S. Component Stocks. In addition, Non-U.S. Component Stocks also will be required to meet criteria similar to certain generic listing standards in Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3) relating to criteria applicable to an index or portfolio of U.S. Component Stocks and Non-U.S. Component Stocks underlying a series of Units to be listed and traded on the Exchange pursuant to Rule 19b–4(e) under the Act.

With respect to the proposed requirement in Commentary .01(a)(1)(F) that ADRs in a portfolio may be exchange-traded or non-exchange-traded and that no more than 10% of the equity weight of the portfolio shall consist of non-exchange-traded ADRs, the Exchange notes that such requirement will ensure that unsponsored ADRs, which are traded OTC and which generally have less market transparency than sponsored ADRs, as well as any sponsored ADRs traded OTC, could account for only a small percentage of the equity weight of a portfolio. Further, the requirement is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[63]

With respect to the proposed provision in Commentary .01(b) that, to the extent a portfolio includes convertible securities, the fixed income security into which such security is converted must meet the criteria in paragraph (b) of Commentary .01 after converting, such requirement would assure that the fixed income securities into which a convertible security could be converted meet the liquidity and other criteria in Commentary .01(b) applicable to fixed income securities.

As proposed, pursuant to Commentary .01(b)(3) to Rule 8.600, an underlying portfolio (excluding exempted securities) that includes fixed income securities must include a minimum of 13 non-affiliated issuers, but there would be no minimum number of non-affiliated issuers required for fixed income securities if at least 70% of the weight of the portfolio consists of equity securities, as described in Commentary .01(a). The Exchange notes that, when evaluated in conjunction with proposed Commentary .01(b)(2), the proposed rule is consistent with Commentary .02(a)(4) and (5) of NYSE Arca Equities Rule 5.2(j)(3) in that it provides for a maximum weighting of a fixed income security in the fixed income portion of the portfolio of a fund that is comparable to the existing rules applicable to Investment Company Units based on fixed income indexes.

With respect to the proposed requirement in Commentary .01(b)(5) that non-agency, non-GSE and privately-issued mortgage-related and other asset-backed securities components of a portfolio shall not account, in the aggregate, for more than 20% of the weight of the fixed income portion of the portfolio, the Exchange notes that such requirement is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[64]

With respect to the proposed amendment to Commentary .01(c) relating to cash and cash equivalents, while there is no limitation on the amount of cash and cash equivalents that can make up the portfolio, such instruments are short-term, highly liquid, and of high credit quality, making them less susceptible than other asset classes both to price manipulation and volatility. Further, the requirement is consistent with representations made in proposed rule changes for issues of Managed Fund Shares previously approved by the Commission.[65]

With respect to proposed Commentary .01(d)(1) to Rule 8.600 relating to listed derivatives, the Exchange believes that it is appropriate that there be no limit to the percentage of a portfolio invested in such holdings, provided that, in the aggregate, at least 90% of the weight of such holdings invested in futures, exchange-traded options, and listed swaps would consist of futures, options, and swaps for which the Exchange may obtain information via ISG from other members or affiliates or for which the principal market is a market with which the Exchange has a CSSA. Such a requirement would facilitate information sharing among market participants trading shares of a series of Managed Fund Shares as well as futures and options that such series may hold. In addition, listed swaps would be centrally cleared, reducing counterparty risk and thereby furthering investor protection.[66]

With respect to proposed Commentary .01(e) to Rule 8.600 relating to OTC derivatives, the Exchange believes that the limitation to 20% of a fund's assets would assure that the preponderance of fund investments would not be in derivatives that are not listed and centrally cleared. The Exchange believes that such a limitation is sufficient to mitigate the risks associated with price manipulation because a 20% cap on OTC derivatives will ensure that any series of Managed Fund Shares will be sufficiently broad-based in scope to minimize potential manipulation associated with OTC

[59] 15 U.S.C. 78s(b)(2).

[60] 15 U.S.C. 78s(b)(3)(A).

[61] 17 CFR 240.19b–4(e).

[62] *See* Securities Exchange Act Release Nos. 57561 (March 26, 2008), 73 FR 17390 (April 1, 2008) (SR–NYSEArca–2008–29) (notice of filing of proposed rule change to amend eligibility criteria for components of an index underlying Investment Company Units); 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving proposed rule change to amend eligibility criteria for components of an index underlying Investment Company Units).

[63] *See* note 33, *supra.*

[64] *See* note 46, *supra.*

[65] *See* note 47, *supra.*

[66] The Commission has noted that ''[c]entral clearing mitigates counterparty risk among dealers and other institutions by shifting that risk from individual counterparties to [central counterparties (''CCPs'')], thereby protecting CCPs from each other's potential failures.'' *See* Securities Exchange Act Release No. 67286 (June 28, 2012) (File No. S7–44–10) (Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies).

derivatives and because the remaining 80% of the portfolio will consist of instruments subject to numerous restrictions designed to prevent manipulation, including equity securities (which, as proposed, would be subject to market cap, trading volume, and diversity requirements, among others), fixed income securities (which, as proposed, would be subject to principal amount outstanding, diversity, and issuer requirements, among others), cash and cash equivalents (which, as proposed, would be limited to short-term, highly liquid, and high credit quality instruments), and/or listed derivatives (which would be subject to the limitations in proposed Commentary .01(d)).

The Exchange notes that a fund's investments in derivative instruments would be subject to limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage an investment company can obtain. A fund's investments would be consistent with its investment objective and would not be used to enhance leverage. To limit the potential risk associated with a fund's use of derivatives, a fund will segregate or ''earmark'' assets determined to be liquid by a fund in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments.

With respect to proposed Commentary .01(f) to Rule 8.600 relating to a fund's use of listed or OTC derivatives to gain exposure to individual equities and/or fixed income securities, or to indexes of equities and/or indexes of fixed income securities, the Exchange notes that such exposure would be required to meet the numerical and other criteria set forth in proposed Commentary .01(a) and .01(b) to Rule 8.600 respectively.

Quotation and other market information relating to listed futures and options is available from the exchanges listing such instruments as well as from market data vendors. With respect to centrally-cleared swaps [67] and non-centrally-cleared swaps regulated by the CFTC,[68] the Dodd-Frank Act mandates that swap information be reported to swap data repositories (''SDRs'').[69] SDRs provide a central facility for swap data reporting and recordkeeping and are required to comply with data standards set by the CFTC, including real-time public reporting of swap transaction data to a derivatives clearing organization or SEF.[70] SDRs require real-time reporting of all OTC and centrally cleared derivatives, including public reporting of the swap price and size. The parties responsible for reporting swaps information are CFTC-registered swap dealers (''RSDs''), major swap participants, and swap execution facilities (''SEFs''). If swap counterparties do not fall into the above categories, then one of the parties to the swap must report the trade to the SDR. Cleared swaps regulated by the CFTC must be executed on a Designated Contract Market (''DCM'') or SEF. Such cleared swaps have the same reporting requirements as futures, including end-of-day price, volume, and open interest. CFTC swaps reporting requirements require public dissemination of, among other items, product ID (if available); asset class; underlying reference asset, reference issuer, or reference index; termination date; date and time of execution; price, including currency; notional amounts, including currency; whether direct or indirect counterparties include an RSD; whether cleared or un-cleared; and platform ID of where the contract was executed (if applicable).

With respect to security-based swaps regulated by the Commission, the Commission has adopted Regulation SBSR under the Act implementing requirements for regulatory reporting and public dissemination of security-based swap transactions set forth in Title VII of the Dodd-Frank Act. Regulation SBSR provides for the reporting of security-based swap information to registered security-based swap data repositories (''Registered SDRs'') or the Commission, and the public dissemination of security-based swap transaction, volume, and pricing information by Registered SDRs.[71]

Price information relating to forwards and OTC options will be available from major market data vendors.

A fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.,* 2Xs and 3Xs) of a fund's broad-based securities market index (as defined in Form N–1A).[72] In addition, the Exchange notes that, under proposed Commentary .01(a) to Rule 8.600, for Derivative Securities Products and Index-Linked Securities, no more than 25% of the equity weight of a fund's portfolio could include leveraged and/or inverse leveraged Derivative Securities Products or Index-Linked Securities.

The proposed rule change is also designed to protect investors and the public interest because Managed Fund Shares listed and traded pursuant to Rule 8.600, including pursuant to the proposed new portfolio standards, would continue to be subject to the full panoply of Exchange rules and procedures that currently govern the trading of equity securities on the Exchange.[73]

The proposed rule change is also designed to protect investors and the public interest as well as to promote just and equitable principles of trade in that any Non-U.S. Component Stocks will each meet the following criteria initially and on a continuing basis: (1) Have a minimum market value of at least $100 million; (2) have a minimum global monthly trading volume of 250,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (3) most heavily weighted Non-U.S. Component Stock shall not exceed 25% of the equity weight of the portfolio, and, to the extent applicable, the five most heavily weighted Non-U.S. Component Stocks shall not exceed 60% of the equity weight of the portfolio; and (4) each Non-U.S. Component Stock shall be listed and traded on an exchange that has last-sale reporting. The Exchange believes that such quantitative criteria are sufficient to mitigate any concerns that may arise on the basis of a series of Managed Fund Shares potentially holding 100% of its assets in Non-U.S. Component Stocks that are neither listed on members of ISG nor exchanges with which the Exchange has in place a CSSA because, as stated above, such criteria are either the same or more stringent than the portfolio requirements for Units that hold Non-U.S. Component Stocks and there are no such requirements related to such securities being listed on an

[67] There are currently five categories of swaps eligible for central clearing: Interest rate swaps; credit default swaps; foreign exchange swaps; equity swaps; and commodity swaps. The following entities provide central clearing for OTC derivatives: ICE Clear Credit (US); ICE Clear (EU); CME Group; LCH.Clearnet; and Eurex.

[68] Pursuant to the Dodd-Frank Act, OTC and centrally-cleared swaps are regulated by the CFTC with the exception of security-based swaps, which are regulated by the Commission.

[69] The following entities are provisionally registered with the CFTC as SDRs: BSDR LLC., Chicago Mercantile Exchange, Inc., DTCC Data Repository, and ICE Trade Vault.

[70] Approximately eighteen entities are currently registered with the CFTC as SEFs.

[71] *See* Securities Exchange Act Release No. 74244 (February 11, 2015), 80 FR 14564 (March 19, 2015) (Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information).

[72] *See, e.g.,* Securities Exchange Act Release No. 74842 (April 29, 2015), 86 FR 25723 (May 5, 2015) (SR–NYSEArca–2014–89) (order approving listing and trading of shares of eight PIMCO exchange-traded funds).

[73] *See* Approval Order, *supra* note 17, at 19547.

exchange that is a member of ISG or with which the Exchange has in place a CSSA. Further, the Exchange has not encountered and is not aware of any instances of manipulation or other negative impact in any series of Units that has occurred by virtue of the Units holding such Non-U.S. Component Stocks. As such, the Exchange believes that there should be no difference in the portfolio requirements for Managed Fund Shares and Units as it relates to holding Non-U.S. Component Stocks that are not listed on an exchange that is a member of ISG or with which the Exchange has in place a CSSA.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Managed Fund Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Managed Fund Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in Managed Fund Shares with other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded. In addition, the Exchange may obtain information regarding trading in Managed Fund Shares from other markets that are members of the ISG, including all U.S. securities exchanges and futures exchanges on which the components are traded, or with which the Exchange has in place a CSSA.

The Exchange also believes that the proposed rule change would fulfill the intended objective of Rule 19b–4(e) under the Act by allowing Managed Fund Shares that satisfy the proposed listing standards to be listed and traded without separate Commission approval. However, as proposed, the Exchange would continue to file separate proposed rule changes before the listing and trading of Managed Fund Shares that do not satisfy the additional criteria described above.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[74] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed rule change would facilitate the listing and trading of additional types of Managed Fund Shares and result in a significantly more efficient process surrounding the listing and trading of Managed Fund Shares, which will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange believes that this would reduce the time frame for bringing Managed Fund Shares to market, thereby reducing the burdens on issuers and other market participants and promoting competition. In turn, the Exchange believes that the proposed change would make the process for listing Managed Fund Shares more competitive by applying uniform listing standards with respect to Managed Fund Shares.

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. Proceedings to Determine Whether to Approve or Disapprove SR–NYSEArca–2015–110 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[75] to determine whether the proposed rule change, as modified by Amendment No. 4 thereto, should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change, as discussed below. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[76] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [77]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal, as modified by Amendment No. 4 thereto. In particular, the Commission invites the written views of interested persons concerning whether the proposal, as modified by Amendment No. 4 thereto, is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[78]

In addition, interested persons are invited to submit written data, views, and arguments regarding whether the proposal, as modified by Amendment No. 4 thereto, should be approved or disapproved by March 18, 2016. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 1, 2016.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, in addition to any other comments they may wish to submit about the proposed rule change. Specifically, the Commission seeks comment on the statements of the Exchange contained in the Notice,[79] as modified by Amendment No. 4 thereto,[80] and any other issues raised by the proposed amendments to Rule 8.600 related to the listing and trading of Managed Fund Shares on the Exchange.

[74] 15 U.S.C. 78f(b)(8).

[75] 15 U.S.C. 78s(b)(2)(B).

[76] *Id.*

[77] 15 U.S.C. 78f(b)(5).

[78] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[79] *See* Notice, *supra* note 4.

[80] *See supra* notes 8–10 and 14 and accompanying text, respectively.

In particular, the Commission seeks comment on the following:

1. As described above, the Exchange has proposed listing standards with respect to certain asset classes held by actively managed exchange-traded funds that are substantively the same as the standards applied to those asset classes when held by an index-based fund. Do commenters believe that these standards are appropriate for both types of funds?

2. Do commenters believe that the limitations and standards proposed for specific assets classes are appropriate?

3. In general, do commenters believe that the proposed listing requirements are adequate to deter manipulation with respect to generically listed Managed Fund Shares?

4. With respect to the proposed generic listing standards, which set forth requirements for the listing and trading of Managed Fund Shares on an initial and continuing basis, do commenters have views on how or whether the Exchange would be able to monitor compliance with respect to these continuing listing standards? Do commenters have views on what actions, if any, should be taken by the Exchange if a series of Managed Fund Shares listed and trading on the Exchange falls out of compliance with any of the proposed generic criteria?

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–2015–110 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Numbers SR–NYSEArca–2015–110. 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 these filings 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–2015–110 and should be submitted on or before March 18, 2016. Rebuttal comments should be submitted by April 1, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[81]

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77199; File No. SR–ISE–2016–05]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct the Text of ISE Rule 313

February 22, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or the ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 9, 2016, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[81] 17 CFR 200.30–3(a)(12) and 17 CFR 200.30–3(a)(57).

[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

ISE proposes to correct, .08 of Supplementary Material to Rule 313, Registration Requirements, which describes the categories of registration and respective qualification examinations required for individual associated persons (''associated persons'') that engage in the securities activities of members on the Exchange. This amendment proposes to replace the inadvertent use of the term ''Permit Holder'' with ''Member'' which is the correct term used throughout the ISE Rulebook to describe a member of the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to make corrections to .08 of Supplementary Material to Rule 313, Registration Requirements, which describes the categories of registration and respective qualification examinations required for associated persons that engage in the securities activities of members on the Exchange. This amendment proposes to replace the inadvertent use of the term ''Permit Holder'' with ''Member'' because ''Member'' is the correct term used throughout the ISE Rulebook to describe a member of the Exchange.

In December of 2015, ISE proposed to, among other things, (1) replace the Proprietary Trader registration category and the Series 56 Proprietary Trader registration qualification examination with the Securities Trader category of registration and the Series 57 Securities

Trader registration qualification examination for Securities Traders respectively and (2) replace the Proprietary Trader Principal registration category with the registration category of Securities Trader Principal and require Securities Trader Principals to take the Series 57 qualification examination in addition to the Series 24 qualification examination.[3]

Currently, .08 of Supplementary Material to Rule 313, Registration Requirements, inadvertently uses the term ''Permit Holder'' rather than ''Member,'' which is the correct term used throughout the ISE Rulebook describe a member of the Exchange. ISE now proposes to amend .08 to Supplementary Material to Rule 313 to reflect ISE's longstanding use of the term ''Member'' to describe members of the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and furthers the objectives of Section 6(b)(5)[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes it is appropriate to make the proposed replacement of ''Permit Holder'' with ''Member'' so that the correct term is used in its rules. Additionally, replacing the inadvertent use of the term ''Permit Holder'' with ''Member'' will create consistency and eliminate confusion in its rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act because ISE is correcting its rule text to replace the inadvertent use of the term ''Permit Holder'' with ''Member'' because ''Member'' is the correct term used throughout the ISE Rulebook to describe a member of the Exchange.

[3] *See* Securities Exchange Act Release No. 76835 (January 5, 2016), 81 FR 1245 (January 11, 2016), SR–ISE–2015–44.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not significantly affect the protection of investors or the public interest, does not impose any significant burden on competition, and, by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] The Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing the proposed rule change, or such shorter time as designated by the Commission, as required by Rule 19b–4(f)(6).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–ISE–2016–05 on the subject line.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

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–ISE–2016–05. 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. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–05 and should be submitted by March 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04108 Filed 2–25–16; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–77200; File No. SR–CBOE–2016–009]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to LMMs and DPMs

February 22, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on February 8, 2016, 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 (i) reorganize, simplify and make consistent certain text relating to Lead Market-Maker (''LMM'') and Designated Primary Market-Market (''DPM'') obligations generally, (ii) amend its rules related to LMMs, (iii) delete outdated references in its rules to Supplemental Market-Makers (''SMMs'') and other obsolete language and (iv) make other corresponding and clarifying changes.

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 (i) reorganize, simplify and make consistent certain text relating to LMM and DPM obligations generally, (ii) amend its Rules related to LMMs, (iii) delete outdated references in its Rules to SMMs and other obsolete language and (iv) make other corresponding and clarifying changes.

First, the Exchange is proposing to amend Rules 8.15 (pertaining to LMMs in Hybrid 3.0 classes), 8.15A (pertaining to LMMs in Hybrid classes) [3] and 8.85 (pertaining to DPMs) to revise the descriptions of certain obligations of LMMs and DPMs (*e.g.,* obligations related to quote accuracy, bid/ask differentials, minimum size and trading rotations, competitive markets and promotion of the Exchange, and material operational or financial change notifications) to be more consistent with each other (and the descriptions of these obligations contained in other rules).[4] The Exchange proposes these changes merely to make the language regarding these obligations more consistent throughout the Rules and delete outdated and duplicative language.

The following table shows certain obligations to which LMMs and DPMs are already subject (either pursuant to Rules 8.15, 8.15A and 8.85 or other Rules),[5] the location in the Rules of these obligations, and the corresponding proposed provision, when applicable:

[3] ''Hybrid Trading System'' refers to the Exchange's trading platform that allows Market-Makers to submit electronic quotes in their appointed classes. ''Hybrid 3.0 Platform'' is an electronic trading platform on the Hybrid Trading System that allows one or more quoters to submit electronic quotes that represent the aggregate Market-Maker quoting interest in a series for the trading crowd. Classes authorized by the Exchange for trading on the Hybrid Trading System are referred to as ''Hybrid classes.'' Classes authorized by the Exchange for trading on the Hybrid 3.0 Platform are referred to as ''Hybrid 3.0 classes.'' References to ''Hybrid,'' ''Hybrid System,'' or ''Hybrid Trading System'' include all platforms unless otherwise provided by rule. *See* Rule 1.1(aaa).

[4] The proposed language is also consistent with e-DPM obligations as set forth in former Rule 8.93. The Exchange eliminated the e-DPM program. *See* Securities Exchange Act Release No. 34–71227 (January 2, 2014), 79 FR 1398 (January 8, 2014) (SR–CBOE–2013–110). While the Exchange eliminated the e-DPM program for the reasons set forth in that rule filing, LMMs and DPMs continue to perform similar functions as e-DPMs use to perform, and the Exchange believes it is appropriate to mirror the language describing the LMM and DPM obligations to the language describing the previous e-DPM obligations, which previously had been approved by the Securities and Exchange Commission (the ''Commission''), because LMMs and DPM receive substantially similar benefits and are subject to substantially similar obligations as e-DPMs received and were subjected.

[5] The Exchange notes that rules that apply to all Market-Makers, such as Rules 8.7 regarding Market-Maker obligations and 8.51 regarding firm quotes, apply to LMMs and DPMs, unless a provision specific to a LMM or DPM conflicts with a provision in one of these common Market-Maker rules. For example, LMMs and DPMs are subject to different continuous quoting obligations pursuant to Rules 8.15A and 8.87, respectively, than the continuous quoting obligation set forth in Rule 8.7.

Current provisions in Rules 8.15, 8.15A and 8.85 (as applicable)	Current provisions in other rules	Proposed provisions in rules 8.15 and 8.85 (as applicable)
Rules 8.15(a)(4) and 8.15A(a)(D)—CBOE will review and evaluate the conduct of LMMs, including but not limited to compliance with Rules 8.1, 8.2, 8.3, and 8.7. Rule 8.85(a)—each DPM must fulfill all of the obligations of a Market-Maker under the Rules.	Rules 8.1, 8.2, 8.3, and 8.7—definition of Market-Maker, registration of Market-Makers appointment of Market-Makers, and obligations of all Market-Makers (including LMMs and DPMs), respectively.	Rule 8.15(b)—each LMM must fulfill all of the obligations of a Market-Maker under the Rules (conforms to current Rule 8.85(a)).
Rules 8.15A(b)(ii) and 8.85(a)(ii)—LMMs and DPMs, respectively, must assure that their displayed quotations are honored for at least the number of contracts prescribed pursuant to Rule 8.51.	Rule 8.7(b)(iii)—Market-Makers must assure that any market quotes they cause to be disseminated are accurate. Rule 8.51—each Market-Maker must sell (buy) at least the established number of contracts at the offer (bid) that is displayed when a Market-Maker receives a buy (sell) order.[6]	Rules 8.15(b)(ii) and 8.85(a)(ii)—LMMs and DPMs, respectively, must assure that their market quotations are accurate.[7]
Rule 8.15A(b)(i) and (v)[8]—LMMs must quote within Exchange-prescribed bid/ask differentials. Rule 8.85(a)(iii)—DPMs must comply with the bid/ask differential requirements determined by the Exchange.	Rules 8.7(b)(iv) and (d)(iv)—Market-Makers must comply with the bid/ask differential requirements determined by the Exchange.[9]	Rule 8.15(b)(iii)—LMMs must comply with the bid/ask differential requirements determined by the Exchange (conforms to current Rule 8.85(a)(iii)).[10]
Rules 8.15A(b)(ii) and 8.85(a)(ii)—LMMs and DPMs, respectively, must assure that their displayed quotations are honored for at least the number of contracts prescribed pursuant to Rule 8.51 (which permits CBOE to prescribe a minimum quote size).	Rule 8.7(d)(ii)(B) and (iv)—Market-Makers must quote for the minimum number of contracts determined by the Exchange.[11]	Rules 8.15A(b)(iv) and 8.85(a)(vii)—LMMs and DPMs, respectively, must assure that their market quotations comply with the minimum size requirements prescribed by the Exchange, which minimum must be at least one contract.[12]
Rule 8.15 (introductory paragraph and paragraphs (b)(1) and (2))—LMMs in Hybrid 3.0 classes must participate in opening and other rotations described in Rule 6.2B, accommodate a relatively active opening and facilitate any imbalances. Rules 8.15A(b)(iv) and 8.85(a)(xi)—LMMs and DPMs, respectively, must ensure that a trading rotation is initiated promptly following the opening of the underlying security (or promptly after 8:30 a.m. in an index class) in accordance with Rule 6.2B in 100% of the series of each allocated class by entering opening quotes as necessary.	Rule 6.2B(c) and Interpretation and Policy .01(a)—LMMs must participate in trading rotations.	Rules 8.15A(b)(v) and 8.85(a)(xi)—LMMs and DPMs, respectively, must enter opening quotes within one minute of the initiation of an opening rotation in any series that is not open due to the lack of a quote (see Rule 6.2B(e)(i) or Interpretation and Policy .03(a)(i)), and participate in other rotations described in Rule 6.2B or 24.13, as applicable.[13]
Rule 8.85(c)(ii)—DPMs must make competitive markets on the Exchange and otherwise promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the classes they trade.	Rule 8.7(b)(i)—Market-Makers must compete with other Market-Makers to improve markets.	Rule 8.15(b)(vi)—LMMs and DPMs must make competitive markets on the Exchange and otherwise promote the Exchange in a manner that is likely to enhance the ability of the Exchange to compete successfully for order flow in the classes they trade (conforms to Rule 8.85(c)(ii)).[14]
Rules 8.15(b)(4) and 8.15A(b)(iii)—LMMs must perform obligations for a period of one expiration month commencing on the first day following an expiration, and failure to perform such obligations for such time may result in suspension of up to three months from trading in all series of the class. Rule 8.85(c)(iii)—DPMs must promptly inform the Exchange of any material change in the financial or operational condition of the DPM.	Rule 8.85(c)(vi)—a DPM must continue to act as a DPM and to fulfill all of the DPM's obligations as a DPM until the Exchange relieves the DPM of its approval and obligations to act as a DPM or the Exchange terminates the DPM's approval to act as a DPM. Rules 3.7(a) and 15.5—requires Trading Permit Holders to submit documentation regarding their organization, financial structure and ownership, including updates, and other financial information, to the Exchange. Rule 8.3(a)(i)—permits the Exchange to consider the financial resources available to a Market-Maker.	Rule 8.15(b)(vii)—an LMM must continue to act as an LMM and fulfill the obligations of an LMM until the Exchange relieves it of its approval to act as an LMM or of its appointment and obligations to act as an LMM in a particular class (conforms to Rule 8.85(c)(vi)).[15] Rule 8.15(b)(viii)—LMMs must immediately notify the Exchange of any material operational or financial changes to the LMM organization as well as obtain the Exchange's approval prior to effecting changes to the ownership, capital structure, voting authority, distribution of profits/losses, or controls of the LMM organization.[16]
Rules 8.15A(b)(vi) and 8.85(a)(xii)—LMMs and DPMs, respectively, must act as agent for or use their accounts for, respectively, orders routed to other exchanges that are participants in the Intermarket Options Linkage Plan (the "Old Linkage Plan").	None	Delete.[17]

[6] The Exchange proposes to exclude the references to Rule 8.51 in proposed Rules 8.15 and 8.85, as Rule 8.51 describes the firm quote obligation and applies to LMMs and DPMs.

[7] This revised language is consistent with the language in former Rule 8.93(ii). While this provision is not included in current Rule 8.15, LMMs in Hybrid 3.0 classes are currently subject to this obligation pursuant to Rule 8.7(b)(iii) and will be subject to it pursuant to proposed Rule 8.15(b)(ii).

[8] The Exchange proposes to delete current Rule 8.15A(b)(v) because the obligation to quote within the bid/ask different and minimum size requirements is not limited to open outcry quotes. These obligations are included in proposed Rule 8.15(b)(iii) and (iv). Additionally, Rule 8.7(d) requires all Market-Makers, including LMMs, to respond to open outcry requests for quotes by floor brokers, making this provision redundant. DPMs are similarly subject to this requirement (as all Market-

As this table demonstrates, LMMs and DPMs generally are already subject to the obligations in the proposed provisions—any additional obligations imposed by the proposed rule change on LMMs and DPMs are de minimis and will not be burdensome. LMMs in Hybrid and Hybrid 3.0 classes and DPMs (and formerly e-DPMs), while being different market participants within CBOE's market, generally serve in the same role in their appointed classes, which is a provider of additional liquidity pursuant to quoting obligations that are higher than other Market-Makers) (in exchange for receiving a participation entitlement). LMMs and DPMs have substantially similar functions and obligations (including the same continuous quoting obligations, along with the same participation entitlement percentages), and the Exchange believes having consistent language with respect to these obligations will simplify its rules and reflect the similar roles served by LMMs and DPMs.[18]

The Exchange believes the proposed obligation in the fifth row of the table is only a slight modification of the current opening quoting obligations of LMMs and DPMs. The current rules require LMMs and DPMs to enter opening quotes only as necessary to ensure the opening of 100% of series in a class. The Exchange modifies the opening quote requirement to have a specific time (one minute) by when opening quotes must be entered rather than the nonspecific term ''promptly.'' [19] The Exchange believes this gives clearer guidance to LMMs and DPMs regarding the opening quote obligation, which further promotes compliance by LMMs and DPMs with this obligation. Nearly all series open for trading within this timeframe on a daily basis, and thus the Exchange believes this timeframe is appropriate and will not be unduly burdensome on LMMs and DPMs while still ensuring a prompt opening. The proposed rule change also modifies the language to provide that the timing of the opening quoting obligation begins after the initiation of an opening rotation. Trading rotations are not initiated by opening quotes. Therefore, the proposed change is consistent with system functionality related to openings, as described in Rule 6.2B.[20] In addition, the Exchange clarifies that LMMs and DPMs must enter opening quotes when a series does not open due to a lack of quote pursuant (see Rule 6.2B(e)(i) or Interpretation and Policy .03(a)(i), as applicable). There are several conditions that may be present that prevent a series from opening as set forth in Rule 6.2B(e) and Interpretation and Policy .03(a); however, LMMs and DPMs can help ''ensure an opening'' as required by the current rule only by entering quotes. The Exchange believes the proposed rule language more accurately states the current obligation, as LMMs and DPMs cannot otherwise help ensure an opening if the other conditions are present.[21] The Exchange notes that in the event a series does not open, Rule 8.7(d)(iv) requires Market-Makers (including LMMs and DPMs) to submit quotes or maintain continuous quotes in a series in their appointed classes if called upon by a designated Exchange official if the official deems it necessary in the interest of maintaining a fair and orderly market.

Second, the Exchange proposes to amend current Rules 8.15 and 8.15A as follows:

Makers are); however, Rule 8.85 does not list this as a specific obligation for DPMs.

[9] Rule 6.2B(iii) allows the Exchange to set different bid/ask differential requirements for opening quotations.

[10] This revised language is consistent with the language in former Rule 8.93(iii). While this provision is not included in current Rule 8.15, LMMs in Hybrid 3.0 classes are currently subject to this obligation pursuant to 8.7(b)(iv) and (d)(iv) and will continue to be subject to it pursuant to proposed Rule 8.15(b)(iii). The proposed rule change also deletes in current Rule 8.15A(b)(i) a reference that an LMM's continuous electronic quotes must comply with the bid/ask differential requirements determined by the Exchange on a class-by-class basis, as this is redundant of the obligation in current Rules 8.15(b)(1) and 8.15A(b)(v) and proposed Rule 8.15(b)(iii). Additionally, the proposed rule change deletes language in Rule 8.85(a)(iii) that says this obligation relates to option contracts. As all securities that trade on CBOE are options, this language is unnecessary.

[11] Rule 6.2B(c) and Interpretation and Policy .02 allows the Exchange to set a different minimum number of contracts for opening quotations.

[12] This revised language is consistent with the language in former Rule 8.93(iv). While this provision is not included in current Rule 8.15, LMMs in Hybrid 3.0 classes are currently subject to this obligation pursuant to 8.7(d)(ii)(B) and (iv) and will be subject to it pursuant to proposed Rule 8.15(b)(iv).

[13] Current Rule 8.15 already explicitly subjects LMMs in Hybrid 3.0 classes to this obligation. Rule 6.2B(g) and (h) provides that the rotation process described in Rule 6.2B may be used to reopen a class after a trading halt and for a closing rotation. Rule 24.13 also sets forth trading rotations that may be used for index options. Thus, LMMs' and DPMs' may be required to participate in those trading rotations as well to the extent required by those rules.

[14] This revised language is consistent with the language in former Rule 8.93(vi). CBOE does not believe the proposed rule change imposes a new obligation on LMMs, as Rule 8.7 requires Market-Makers to be competitive; rather, it enhances the description of this obligation.

[15] This provision is consistent with former Rule 8.93(v) (with respect to e-DPMs). This provision is also consistent with the Exchange's ability to appoint LMMs and remove LMMs if, for example, they do not fulfill their LMM duties under current Rules 8.15 and 8.15A (as described in the previous row of the table). The Exchange believes the proposed language is more appropriate, as it requires LMMs to satisfy their obligations during their entire term (which may be more than one month), and excludes the language about a possible suspension for not performing their obligations, as Chapter XVII of the Rules describes the process for possible suspensions for rule violations.

[16] This revised language is consistent with the language in former Rule 8.93(viii). The Exchange does not propose to add language to Rule 8.85 regarding the need for approval prior to effecting certain organizational changes with respect to DPMs because Rule 8.89 has a similar requirement that covers some of these organizational changes for DPMs. Additionally, other rules applicable to DPMs impose additional financial requirements (Rule 8.86) and allow the Exchange to review a DPM's operation at any time (Rule 8.88).

[17] This language is outdated, as it relates to the now obsolete Old Linkage Plan, which has been replaced by the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage. *See, e.g.,* Securities Exchange Act Release No. 56761 (November 7, 2007), 72 FR 64094 (November 14, 2007).

[18] Currently, the primary difference between LMMs and DPMs relates to their appointment terms. An LMM receives an appointment for a limited term (*e.g.,* one month), while a DPM serves in that role until it resigns or the Exchange removes it from that role pursuant to Rule 8.90.

[19] The proposed rule change makes a corresponding change to Rule 17.50(g)(14), which includes the opening quoting obligation in the minor rule violation plan.

[20] The proposed rule change also adds that in option classes in which both an On-Floor LMM and an Off-Floor DPM or Off-Floor LMM have been appointed, this obligation would be that of the Off-Floor DPM or Off-Floor LMM and not the On-Floor LMM (see discussion below for a description of the Off-Floor DPM and Off-/On-Floor LMM programs).

[21] The Exchange notes that the proposed rule change makes corresponding changes to the language describing the opening quoting standard for LMMs during extended trading hours in Rule 6.1A(e) and the Fees Schedule; however, it makes no substantive changes to that opening quoting standard, which requires LMMs enter opening quotes (in no more than a significant percentage of series for 90% of the trading days during extended trading hours in a month) by 2:05 a.m. (which is five minutes after the initiation of the opening rotation) to be eligible for the monthly payment pursuant to Rule 6.1A(e)(iii) and the CBOE Fees Schedule. *See* Rule 6.1A(e)(iii) and the Fees Schedule. The opening quoting standard for LMMs during extended trading hours is not a regulatory obligation as it is for LMMs during regular trading hours; rather, an LMM's satisfaction of the opening quoting standard (and heightened continuous quoting standard) during ETH qualifies the LMM for the monthly payment. The opening quoting standard for LMMs during extended trading hours currently and as proposed provides LMMs with a longer timeframe (five minutes) to enter opening quotes than the regular trading hours requirement, and requires quotes in a significant percentage of series rather than all series as is required in regular trading hours. The Exchange continues to believe that a different opening standard during extended trading hours is reasonable given fewer market participants and less liquidity during those hours than during regular trading hours. *See* Rule 6.1A(e) and Securities Exchange Act Release No. 34–73704 (November 28, 2014), 79 FR 72044 (December 4, 2014) (SR–CBOE–2014–062) for additional information regarding rules related to LMMs during extended trading hours.

Current provisions in Rules 8.15 and 8.15A	Current corresponding provisions in other rules	Proposed provisions in Rule 8.15	Purpose of proposed changes
Rules 8.15(a) and 8.15A(a)(i)—LMMs will be appointed on the first day following an expiration.	Rule 8.3(a)(i)–authority of the Exchange to make Market-Maker appointments when, in the Exchange's judgment, the interest of a fair and orderly market are best served by such action.	Rule 8.15(a)(i)—LMMs will be appointed for a term of no less than the time until the end of the then-current expiration cycle.	CBOE believes additional flexibility regarding the timing of the appointment of LMMs is important so that it can appoint LMMs at any time if necessary in order to ensure liquidity and in the interest of a fair and orderly market (similar to appointments of Market-Makers). For example, if CBOE lists a new product during an expiration cycle (but not the first day following the end of an expiration cycle), the proposed rule change clarifies that the Exchange has authority to appoint an LMM on that first trading days. CBOE believes it is important to ensure sufficient liquidity in a class through the end of an expiration cycle.[22]
Rules 8.15(a)(3) and 8.15A(a)(i)(C)—if one or more LMMs are removed or if for any reason an LMM is no longer eligible for or resigns his appointment or fails to perform his duties, the Exchange may appoint an interim LMM to complete the monthly obligations of the former LMM.	Rule 8.3(a)(i)—authority of the Exchange to make Market-Maker appointments when, in the Exchange's judgment, the interest of a fair and orderly market are best served by such action.	Rule 8.15(a)(iii)—if the Exchange removes one or more LMMs or if for any reason an LMM is no longer eligible for or resigns the LMM's appointment or fails to perform the LMM's duties, the Exchange may appoint one or more interim LMMs for the remainder of the term or shorter time period designated by the Exchange.[23]	CBOE believes it is appropriate to have the authority to appoint more than one interim LMM to be consistent with the initial part of the provision that references the removal of one or more LMMs and to give CBOE the flexibility to appoint multiple interim LMMs if necessary to maintain sufficient liquidity and a fair and orderly market. Additionally, CBOE believes it is appropriate to have the authority to appoint interim LMMs for less than the remainder of a term if, for example, an LMM is only temporarily unable to fulfill its duties (for example, it experiences a systems issue beyond its control) but expects to be able to do so during its appointment term.
Rules 8.15 and 8.15A—references to individual LMMs.	None	None	There are currently only LMM organizations, and CBOE no longer intends to appoint individual LMMs, making these references no longer necessary.[24]
Rules 8.15 and 8.15A—references to CBOE having the ability to hold all LMMs responsible for the performance of each LMM appointed to the same class or zone and a related provision in Rule 8.15(b)(3), which requires LMMs in Hybrid 3.0 classes to assist LMMs in other zones to facilitate excessive imbalances.	None	None	CBOE reviews and evaluates the conduct of each LMM organization individually and does not intend to hold an LMM responsible for the performance of another LMM appointed to the same class or group (as discussed below, CBOE may arrange the series of a class into "groups" rather than "zones").[25]

The Exchange believes the proposed changes to current Rules 8.15 and 8.15A described in this table are not significant. The proposed changes in the first two rows of the table are consistent with the Exchange's current authority in

[22] The proposed rule change also modifies the factor that may be considered by the Exchange regarding experience in trading index options or options on exchange-traded funds to experience in trading options. While the Exchange currently has appointed LMMs only in index option classes, the rules do not restrict LMMs to classes of those types of options. If the Exchange determined to appoint an LMM in an equity option class, it would want to consider experience in trading equity options rather than index options. This proposed change permits that consideration.

[23] The proposed rule change adds a similar provision to proposed Rule 8.15(c)(iii) to provide that an LMM in a Hybrid 3.0 class must serve during such times as may be requested by the Exchange as a backup LMM and assume autoquoting responsibilities in the event the Exchange determined that the LMM originally appointed to run the autoquote is unable to do so. Because of the unique nature of the autoquote functionality on the Hybrid 3.0 system (as described in proposed Rule 8.15(c)(ii)), the Exchange believes it is important to explicitly state that any temporary LMM must be ready to assume that responsibility to ensure sufficient liquidity in the class in the event the original LMM is unable to autoquote (such as if it is experiencing a systems issue).

[24] The proposed rule change deletes a related cross-reference to individual LMMs in Rule 3.2 and current Rule 8.15(b)(3), which requires LMMs to assist LMMs in other zones to facilitate excessive imbalances.

[25] *See* proposed Rule 8.15(a)(iv). This Exchange review and evaluation of LMMs individual of other LMMs is similar to the review and evaluation of DPMs pursuant to Rule 8.88 (and e-DPMs pursuant to former Rule 8.94).

other Rules. The proposed changes in the last two rows are merely deleting obsolete language.

Third, the Exchange is proposing to amend Rules related to LMMs in Hybrid 3.0 classes as follows:

• The proposed rule change codifies the continuous quoting obligations of LMMs in Hybrid 3.0 classes. Current Rule 8.15A(b)(i) requires an LMM in a Hybrid class to provide continuous electronic quotes in at least the lesser of 99% of the non-adjusted option series or 100% of the non-adjusted option series minus one call-put pair, with the term ''call-put pair'' referring to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price. This obligation does not apply to intra-day add-on series on the day during which such series are added for trading. This obligation applies to an LMM's appointed classes collectively,[26] and the Exchange will determine compliance with an LMM's continuous electronic quoting obligation on a monthly basis (however, determining compliance with this obligation on a monthly basis does not relieve an LMM from meeting this obligation on a daily basis, nor does it prohibit the Exchange from taking disciplinary action against an LMM for failing to meet these obligations each trading day). Current Rule 8.15A, Interpretation and Policy .02 provides that when the underlying security for a class is in a limit up-limit down state, LMMs shall have no quoting obligations in the class. Proposed Rule 8.15(b)(i) will apply this continuous quoting obligation (and Interpretation and Policy .02 will apply the limit up-limit down exception) to LMMs in Hybrid 3.0 classes.

The current continuous electronic quoting obligation applicable to LMMs in Hybrid 3.0 classes is to provide continuous electronic quotes in at least 90% of the series of each appointed class for 99% of the time; however, this obligation had not been codified in the Rules. While the proposed rule change modifies the current quoting obligations of LMMs in Hybrid 3.0 classes, it is identical to the obligations imposed on LMMs in Hybrid classes and DPMs.[27] LMMs will continue to be required to respond to requests for quotes from the Exchange pursuant to Rule 8.7(d)(iv). As discussed above, the Exchange believes it is appropriate for LMMs in all classes (and DPMs) to be subject to the same quoting obligations given the similarity of their functions. The Exchange also believes it will be simpler for LMMs and the Exchange's surveillances of continuous electronic quoting obligations if LMMs were all subject to the same obligations. The Exchange believes LMMs will continue to be required to provide quotes in a substantial number of series for a large part of the trading day under this revised quoting obligation, and thus believes there will continue to be sufficient liquidity in Hybrid 3.0 classes;

• Delete references in Interpretation and Policy .02(c) to an Off-Floor LMM/affiliated Market-Maker pilot. The pilot has expired so it is no longer necessary to include this provision in the rule text;

• replace references to LMMs being assigned to a ''zone'' within a Hybrid 3.0 class with a reference indicating that the Exchange may arrange the series of a class into ''groups'' and may appoint LMMs to those groups rather than to an individual option class. Zones functioned in a similar manner to groups, as either classes or groups of series of classes were assigned to zones. The ''zone'' language is outdated, and the ''group'' language is more consistent with provisions in other Exchange rules; [28] and

• delete SMMs from the Rules. The primary purpose of SMMs was to assist LMMs on the trading floor with certain trading rotations (as described in current Rule 8.15(c)). There are currently no SMMs, there have been no SMMs for at least 15 years, and the Exchange no longer intends to appoint SMMs. The rules permit, but do not require, the Exchange to appoint SMMs. In the past, LMMs conducted opening rotations on the trading floor, and the Exchange believed having the ability to appoint SMMs to assist LMMs during particularly busy or unusual openings would help the Exchange maintain a fair and orderly opening. However, the System is currently used to conduct (and has been for quite some time) opening rotations; LMMs primarily role with respect to opening rotations is to enter opening quotes. Thus, the purpose for having SMMs no longer exists. The proposed rule change makes corresponding changes to Rules 3.2, 6.2A, 6.8, 8.7, 8.15 and 24.13 to delete all references to SMMs.

Fourth, the Exchange proposes to revise the description of the Off-Floor DPM and Off-/On-Floor LMM programs described in current Rules 8.15, 8.15A, 8.83 and 8.85 as follows:

• Amend Rule 8.83(g) to provide that, in a Hybrid 3.0 class in which an Off-Floor DPM has been appointed in accordance with Rule 8.83, notwithstanding current Rules 8.15(a) and 8.15A(a) (which provide that the Exchange may appoint an LMM in a class for which a DPM has not been appointed), the Exchange in its discretion may also appoint an On-Floor LMM, which shall be eligible to receive a participation entitlement under current Rule 8.15B with respect to orders represented in open outcry (the provisions in current Rule 8.15A related to the on-floor LMM program will apply to Hybrid 3.0 classes pursuant to proposed Rule 8.15). The Exchange may currently appoint an On-Floor LMM in a class allocated to an Off-Floor DPM for Hybrid classes.[29] This proposed change simply provides the Exchange with the same flexibility for Hybrid 3.0 classes;

• provide in proposed Rule 8.15, Interpretation and Policy .01(c) that in any class in which an Off-Floor LMM has been appointed in accordance with

[26] The proposed rule change amends this provision to apply to classes on each trading platform. Because the nature of quoting and trading on the Hybrid Trading System is significantly different, the Exchange believes it is appropriate to consider separately the collective quoting requirement for each platform.

[27] *See* Rules 8.15A(b)(i) and 8.85(a)(i); *see also* Securities Exchange Act Release No. 34–67410 (July 11, 2012), 77 FR 42040 (July 17, 2012) (SR–CBOE–2012–064) (proposed rule change to, among other things, amend intraday quoting obligations of LMMs in Hybrid classes from previous obligation to provide continuous electronic quotes in 90% of the series of a class 99% of the time, which is the current obligation of LMMs in Hybrid 3.0 classes) for a description of why this quoting obligation for LMMs in Hybrid 3.0 classes will result in the same ''minimum total quoting minutes'' as LMMs for Hybrid classes. The proposed rule change makes the same change to continuous quoting obligations for LMMs in Hybrid 3.0 classes as was made in that previous filing to continuous quoting obligations for LMMs in Hybrid classes and DPMs. In a Hybrid class or Hybrid 3.0 class in which both an On-Floor LMM and an Off-Floor DPM or Off-Floor LMM has been appointed, the On-Floor LMM shall not be obligated to comply with the continuous quoting obligation applicable to LMMs (see later discussion for a description of the Off-Floor DPM and Off-/On-Floor LMM programs). In such circumstances, such an On-Floor LMM in a Hybrid class shall instead be obligated to comply with the continuous quoting obligations applicable to Market-Makers in Hybrid classes in accordance with Rule 8.7(d). By contrast, such an On-Floor LMM in a Hybrid 3.0 class shall not be subject to continuous quoting obligations given the nature of the aggregated quoting interest on the Hybrid 3.0 Platform.

[28] *See, e.g.,* Rule 8.14, Interpretation and Policy .01, pursuant to which the Exchange may determine (a) to authorize a group of series of a Hybrid 3.0 class for trading on the Hybrid system and determine eligible categories of Market-Makers for that group of series and (b) whether to change the trading platform on which the group of series trades and change the eligible categories of Market-Makers for the group. That rule also allows the Exchange to appoint Market-Makers (including LMMs and DPMs) to a group of series and apply trading parameters on a group basis to the extent the rules otherwise provide that those parameters apply to a class. Rule 8.14 applies to index classes only; the proposed rule change amends current Rules 8.15 and 8.15A and proposed Rule 8.15 to merely extend the authority to have LMM group appointments for all classes.

[29] *See* Rule 8.83(g).

Rule 8.15, the Exchange in its discretion may also appoint an On-Floor LMM, which shall be eligible to receive a participation entitlement under current Rule 8.15B with respect to orders represented in open outcry. This proposed change to allow for an On-Floor LMM in a class allocated to an Off-Floor LMM is consistent with the aforementioned program for Off-Floor DPMs/On-Floor LMMs and simply extends the same flexibility to Hybrid and Hybrid 3.0 classes that have Off-Floor LMMs (rather than Off-Floor DPMs); [30]

• provide in proposed Rule 8.15(b)(i) that in all classes in which both an On-Floor LMM and an Off-Floor LMM have been appointed, the On-Floor LMM shall not be obligated to comply with the continuous quote requirements for an LMM. This change is consistent with the existing provisions for On-Floor LMMs in classes which both an On-Floor LMM and Off-Floor DPM have been appointed and merely extends it to classes in which there is an Off-Floor LMM (which corresponds to the changes discussed above that would permit an On-Floor LMM to be appointed in a class where an Off-Floor LMM has been appointed); and

• provide in proposed Rule 8.15, Interpretation and Policy .01(c) and Rule 8.83(g) to make it clear that, if the Exchange in its discretion determines to reallocate a class in which an Off-Floor DPM or Off-Floor LMM has been appointed, the On-Floor LMM appointment will automatically terminate. (An On-Floor LMM appointment can also terminate or expire as otherwise provided in the Rules.) [31] Pursuant to the Off-Floor/On-Floor program, the Exchange may appoint an On-Floor LMM in a class in which there is an Off-Floor DPM or LMM. It is within the Exchange's discretion to determine which types of Market-Makers may be appointed to each class, as set forth in Rule 8.14. If the Exchange reallocates a class, part of that reallocation may involve appointment of a different type of Market-Maker. For example, the Exchange may appoint to the reallocated class a DPM that operates both On-Floor and Off-Floor rather than Off-Floor only. In that case, the Exchange would generally not also have an On-Floor LMM appointed to that class under this program. To the extent an On-Floor LMM's appointment terminates pursuant to this proposed provision, it would have the opportunity to request appointment to the reallocated class in a Market-Maker capacity.

Fifth, the Exchange proposes to combine current Rules 8.15 (pertaining to LMMs in Hybrid 3.0 classes), 8.15A (pertaining to LMMs in Hybrid classes) and 8.15B (pertaining to LMM participation entitlements) into a single proposed Rule 8.15. LMMs in Hybrid and Hybrid 3.0 classes generally have, or will have upon effectiveness of the proposed changes described above, the same obligations and receive the same participation entitlement. Proposed Rule 8.15 explicitly identifies the couple of additional obligations that apply to LMMs in Hybrid 3.0 classes only; all other provisions apply to LMMs in all classes. The Exchange believes having a single rule applicable to LMMs will reduce duplication within and simplify the rules applicable to LMMs. The following table identifies provisions in current Rules 8.15 and 8.15B and their proposed location in proposed Rule 8.15. The proposed rule change makes no substantive changes to current Rule 8.15B (some nonsubstantive changes are identified in the table). Proposed substantive and nonsubstantive changes to provisions in current Rule 8.15 are discussed above (the proposed provision in Rule 8.15 identified below includes these changes).

Current provisions in Rules 8.15 and 8.15B (as applicable)	Proposed provision in Rule 8.15 (amended as described above)
Rule 8.15 (intro)—The Exchange may appoint in an option class for which a DPM has not been appointed one or more Market-Makers in good standing as LMMs.	Rule 8.15(a).
Rule 8.15 (intro)—LMMs in Hybrid 3.0 classes must participate in the modified opening rotation in Rule 6.2B, Interpretation and Policy .01.	Rule 8.15(c)(i).
Rule 8.15 (intro)—LMMs in Hybrid 3.0 classes must participate in other rotations using the Hybrid Opening System described in Rule 6.2B.	Rule 8.15(c)(v).
Rule 8.15 (intro)—LMMs must determine a formula for generating automatically updated market quotations during the trading day.	Rule 8.15(c)(ii).
Rule 8.15(a)—LMMs shall be appointed on the first day following an expiration for a period of one month and may be assigned to a zone with one or more LMMs. The Exchange shall select the series to be included in a zone.	Rule 8.15(a).
Rule 8.15(a)(1)–(4)	Rule 8.15(a)(i)–(iv).
Rule 8.15(b)(1)	Rule 8.15(b)(v).
Rule 8.15(b)(2)	Rule 8.15(c)(iv).
Rule 8.15(b)(3)	Deleted as described above.
Rule 8.15(b)(4)	Rule 8.15(b)(vii).
Rule 8.15(c)	Deleted as described above.
Rule 8.15(d)	Rule 8.15(c)(ii).
Rule 8.15, Interpretation and Policy .01	Rule 8.15, Interpretation and Policy .03.
Rule 8.15, Interpretation and Policy .02 (intro), (a) and (b)	Rule 8.15, Interpretation and Policy .01.
Rule 8.15, Interpretation and Policy .02(c)	Deleted as described above.
Rule 8.15B(a)–(c)	Rule 8.15(d).
Rule 8.15B, Interpretation and Policy .01	Rule 8.15(b)(i) and Interpretation and Policy .04.

[30] The Exchange believes that, given the substantially similar functions of LMMs and DPMs, that it is appropriate to have the On-Floor LMM program available for classes that have Off-Floor LMMs just as it is available for classes that have Off-Floor DPMs. The proposed rule change relocates the provisions related to the Exchange's ability to appoint an On-Floor LMM in a class in which an Off-Floor DPM has been appointed and that state that an On-Floor LMM will receive the participation entitlement in open outcry in classes in which an Off-Floor DPM has been appointed from current Rule 8.15A(a) to proposed Rule 8.15, Interpretation and Policy .01(c) in order to keep all provisions related to the On-Floor LMM program in a single place within proposed Rule 8.15.

[31] *See, e.g.,* Rules 8.3(a)(i) and 8.15(a). The Exchange notes that a Trading Permit Holder, including a Market-Maker, that is aggrieved by Exchange action may request that an Appeal Committee review any action taken against it under the CBOE Rules. *See* Chapter XIX.

Current provisions in Rules 8.15 and 8.15B (as applicable)	Proposed provision in Rule 8.15 (amended as described above)
Rule 8.15B, Interpretation and Policy .02	Rule 8.15, Interpretation and Policy .02.

The proposed rule change deletes references in current Rule 8.15A to Hybrid classes, as proposed Rule 8.15 will apply to all classes (both Hybrid and Hybrid 3.0).

Sixth, the Exchange proposes to delete references to the nonapplicability of strike intervals, bid/ask differential and continuity rules to LEAPS contained in Rules 5.8(a) [32] and 24.9(b) (which rules contain provisions related to equity LEAPS and index LEAPS, respectively). Other existing rules specifically address strike price intervals, bid/ask differentials and quote continuity, including (i) Rules 5.5, Interpretation and Policy .01 and 24.9, Interpretation and Policy .01, which describe strike price intervals for equity options and index options, respectively;[33] and (ii) Rules 8.7(d), 8.13(d), 8.15(b) (as amended by this rule filing), and 8.83, which describe continuous quoting and bid/ask differential requirements for the various types of Market-Makers.[34]

The provisions in these Rules were adopted after the language that the Exchange proposes to delete in Rules 5.8(a) and 24.9(b)(1)(A). Thus, the Exchange views these latter-adopted Rules regarding strike price interval, bid/ask differential and quote continuity requirements referenced above as superseding the language proposed to be deleted. This view is supported by the specific applicability (or nonapplicability) of certain of these requirements to LEAPS. The language proposed to be deleted is outdated (it was adopted prior to the implementation of the Hybrid Trading System) and duplicative, and thus no longer necessary. The Exchange also believes the different timing included in this language (nine months for equity LEAPS versus 12 months for index LEAPS) is no longer necessary and is confusing for investors. The deletion of this language has no impact on the strike price interval, bid/ask differential or quote continuity requirements currently imposed by the Exchange, which will continue to be imposed in a manner consistent with the other existing rules discussed above. The Exchange believes that the deletion of these provisions in 5.8(a) and 24.9(b)(1)(A) will provide additional clarity and eliminate any confusion on the applicability of the strike price interval, bid/ask differential and quote continuity requirements that may otherwise result by including duplicative rules on these topics.

Finally, the Exchange is proposing nonsubstantive, technical changes to Rules 1.1(fff) and (ggg), 3.2, 6.1A, 6.2A, 6.45A, 6.45B, 6.74, 8.7, 8.13, 8.14, 8.15, 8.15A, 8.83, 8.85, 17.50, 22.14, 24.9, and 29.17, including amendments to correct typographical errors, update headings, update cross-references to Rules 8.15, 8.15A and 8.15B, make the rule text more plain English, and make the rule text more consistently organized, numbered and worded.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[35] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [36] 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) [37] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the proposed rule changes to amend Rules 8.15, 8.15A and 8.85 to revise descriptions of obligations of LMMs in Hybrid 3.0 classes, LMMs in Hybrid classes, and DPMs, respectively, as well as combining the LMM obligations into a single rule for all classes, will benefit investors by providing more clarity and uniformity to the Rules related to market participants with substantially similar functions and obligations in a manner that is generally consistent with other Rules. Additionally, the Exchange believes that by including the descriptions of applicable obligations within each rule (which currently apply pursuant to other Rules) will promote compliance by LMMs and DPMs.

As demonstrated above, any additional obligations imposed on LMMs by the proposed rule change are de minimis and will not be burdensome, as the obligations as revised generally currently apply to LMMs pursuant to Rules 8.15 and 8.15A or other Rules. With respect to LMMs in Hybrid 3.0 classes, they are currently subject to continuous quoting obligations, which had previously not been codified in the rules. While the proposed rule change amends these obligations, the proposed obligations are identical to the continuous quoting obligations of LMMs in Hybrid classes and DPMs, as well as

[32] The Exchange also proposes to correct a cross-reference to Rule 5.6 (which was combined with Rule 5.5 pursuant to rule filing SR–CBOE–1997–023) that is contained in Rule 5.8.

[33] Some of these rules have provisions describing how LEAPS are sometimes subject to different strike price interval requirements than other options, which implies that the strike price interval requirements without such LEAPS-specific provisions apply to LEAPS in the same manner as they do to all other option types. *See, e.g.,* Rules 5.5, Interpretation and Policy .01 (a)(1) ($2.50 strike price intervals are not permitted between $1 and $50 for non-LEAPS and LEAPS) and (a)(2)(v) and (3) (allowable strike price intervals for LEAPS for stocks in the $1 Strike Price Interval Program); and 24.9, Interpretation and Policy .01 (f)(iii) (minimum strike price intervals for LEAPS on BXM is $5), (g)(iii) (minimum strike price intervals for LEAPS on CBOE S&P 500 Three-Month Realized Volatility options is $1), and (h)(iv) minimum strike price interval for LEAPS on S&P 500 Dividend Index options is $1).

[34] Two of these rules explicitly exclude LEAPS from the continuous quoting obligations of certain Market-Makers. Rule 8.7(d) requires that Market-Makers provide continuous electronic quotes when quoting in a particular class on a given trading day in 60% of the series of the Market-Maker's appointed class that have a time to expiration of less than nine months. Rule 8.13(d) requires that PMMs provide continuous electronic quotes in at least the lesser of 99% of the non-adjusted option series that have a time to expiration of less than nine months or 100% of the non-adjusted option series that have a time to expiration of less than nine months minus one call-put pair of each class for which it receives PMM orders. The other Rules referenced contain no such exclusion, implying that the Exchange intended for the continuous obligations of LMMs and DPMs to apply to LEAPS. See discussion above regarding proposed inclusion of additional descriptions of the bid/ask differential and continuous quoting requirements in proposed Rule 8.15 regarding obligations of LMMs.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *Id.*

former e-DPMs, who serve substantially similar functions within CBOE's market. The Exchange believes that subjecting LMMs in Hybrid 3.0 classes to the same continuous quoting obligations as LMMs in Hybrid classes (and DPMs) will promote compliance by LMMs and simplify surveillance processes for the Exchange when determining compliance with these obligations. Additionally, current rules applicable to LMMs in Hybrid classes and DPMs provide an appropriate balance between the benefits for and burdens imposed on them, and the Exchange believes the proposed rule change provides the same appropriate balance to Hybrid 3.0 LMMs, who serve substantially similar functions as Hybrid LMMs and DPMs. Thus, any additional obligations imposed on LMMs in Hybrid 3.0 classes are de minimis and will not be burdensome. Because the proposed rule change does not materially change the benefits or obligations of LMMs, the Exchange believes the rules continue to provide an appropriate balance between LMM benefits and obligations (as they do for Hybrid LMMs and DPMs) and thus promote just and equitable principles of trade.

The proposed rule change slightly modifies the opening quoting obligations of LMMs and DPMs to include a specific time by which opening quotes must be entered. The proposed timeframe is consistent with the amount of time in which the vast majority of series listed on the Exchange open. The Exchange notes this is the same timeframe included in rules of another options exchange regarding opening quoting obligations of similarly situated market participants.[38] The Exchange believes this proposed change is not material and will not result in reduced liquidity while still ensuring a prompt opening. The Exchange notes that LMMs and DPMs only need to enter quotes in series that do not open due to a lack of quote (both today and under the proposed rule); if all series in an appointed class open within the proposed timeframe, the proposed rule change will not increase or decrease any obligation of LMMs and DPMs. The Exchange believes having a specified time by which LMMs and DPMs must enter opening quotes, rather than the nonspecific term ''prompt,'' simplifies this obligation and promotes compliance with these obligations by LMMs and DPMs. The Exchange may request all Market-Makers to submit quotes in the interests of a fair and orderly market. Thus, the Exchange believes there is no significant risk that more series will not open as a result of this proposed rule change or that there will be a material impact on liquidity.

The proposed rule change does not change the majority of obligations currently imposed on LMMs. As discussed above, through other existing rules, LMMs are already subject to the majority of the obligations as revised. With respect to LMMs in Hybrid 3.0 classes, they are currently subject to continuous quoting obligations which had previously not been codified in the rules. While the proposed rule change amends these obligations, the proposed obligations are identical to the continuous quoting obligations of LMMs in Hybrid classes and DPMs, who serve substantially similar functions). The Exchange believes that subjecting LMMs in Hybrid 3.0 classes to the same continuous quoting obligations as LMMs in Hybrid classes (and DPMs) will promote compliance by LMMs and simplify surveillance processes for the Exchange when determining compliance with these obligations. Additionally, current rules applicable to LMMs in Hybrid classes and DPMs provide an appropriate balance between the benefits for and burdens imposed on them, and the Exchange believes the proposed rule change provides the same appropriate balance to Hybrid 3.0 LMMs, who serve substantially similar functions as Hybrid LMMs and DPMs. Thus, any additional obligations imposed on LMMs are de minimis and will not be burdensome. Because the proposed rule change does not materially change the benefits or obligations of LMMs, the Exchange believes the rules continue to provide an appropriate balance between LMM benefits and obligations (as they do for Hybrid LMMs and DPMs) and thus promote just and equitable principles of trade.

Further, the Exchange believes the proposed revisions to the descriptions of the Off-Floor DPM and Off-/On-Floor LMM programs will make it easier to read and understand this program, including when Off-Floor DPMs and Off/On-Floor LMMs may be appointed by the Exchange and how obligations and benefits are applied when appointments pursuant to the Program have been made. This clarity will benefit investors and promote compliance with the program. The Exchange believes making this program available to classes in which there is an Off-Floor LMM and Hybrid 3.0 classes, in addition to classes in which there is an Off-Floor DPM and Hybrid classes only, is reasonable given the similar roles of LMMs and DPMs and may result in additional liquidity in those classes.

The Exchange also believes that the proposed changes to eliminate obsolete provisions, including those related to individual LMMs, SMMs, an expired pilot program, the Old Linkage Plan, and strike price interval, bid/ask differential and quote continuity requirements, will protect investors by simplifying the rules and eliminating potential confusion that may result from inclusion of duplicative and outdated rules. With respect to strike price interval, bid/ask differential and quote continuity requirements, as discussed above, other existing rules address those requirements and supersede the language regarding these topics included (and proposed to be deleted) in Rules 5.8 and 24.9, thus rendering this language outdated and unnecessary. The Exchange will continue to impose these requirements in the manner it does today, consistent with the provisions in the other existing rules, and thus the proposed rule change has no impact on how the Exchange imposes these requirements.

The Exchange believes that the nonsubstantive, technical changes proposed throughout the Rules will simplify and provide more clarity and consistent organization in the Rules, which will 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. Specifically, the changes to the descriptions of obligations of LMMs and DPMs also have no impact on competition, because LMMs and DPMs, as discussed above, generally are already subject to these obligations through existing rules. The proposed rule changes are intended to make the rules regarding LMM and DPM obligations more consistent with each other given the substantially similar functions of LMMs and DPMs and reduce duplication within the Rules. With respect to the proposed changes to certain obligations of LMMs and DPMs, the Exchange notes that these changes are not material and will not be burdensome. While the proposed rule change slightly modifies the opening quoting obligations of LMMs and DPMs, the Exchange believes the modified obligation still requires LMMs and DPMs to promptly enter quotes to ensure an opening, and they must continue to submit quotes in response to a request from the Exchange. Therefore, the Exchange believes there is no

[38] *See, e.g.,* MIAX Options Exchange (''MIAX'') Rule 603(c).

significant risk that more series will not open as a result of this proposed rule change. Additionally, while the proposed rule change modifies the continuous quoting obligations of LMMs in Hybrid 3.0 classes, the proposed obligation is the same as that of LMMs in Hybrid classes and DPMs, who have substantially functions and obligations as LMMs in Hybrid 3.0 classes, and LMMs in Hybrid 3.0 classes will continue to be required to provide quotes in a substantial number of series for a large part of the trading day under the revised quoting obligation. The Exchange believes the rules, as amended, continue to provide an appropriate balance of benefits for and obligations on LMMs and DPMs, and result in significant liquidity on CBOE. See the discussion above for additional details regarding the balance of LMM and DPM obligations and benefits.

The proposed rule change regarding the Off-Floor DPM and On-Floor/Off-Floor LMM program merely enhances the description of this program for investors but has no impact on how the Exchange implements the program. The Exchange believes the proposed revisions to the descriptions of the Off-Floor DPM and Off-/On-Floor LMM programs will make it easier to read and understand this program, including when Off-Floor DPMs and Off/On-Floor LMMs may be appointed by the Exchange and how obligations and benefits are applied when appointments pursuant to the Program have been made. This clarity will benefit investors and promote compliance with the program. Additionally, making this program available to classes in which there is an Off-Floor LMM and Hybrid 3.0 classes, in addition to classes in which there is an Off-Floor DPM and Hybrid classes only, may result in additional liquidity in those classes.

The nonsubstantive, technical changes and deletion of obsolete rule provisions have no impact on competition and are intended only to simplify, make consistent and eliminate potential confusion within the rules.

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–2016–009 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–2016–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–009 and should be submitted on or before March 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–04109 Filed 2–25–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14635 and #14636]

Alaska Disaster #AK–00035

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Alaska (FEMA–4257–DR), dated 02/17/2016.

Incident: Severe Storm.

Incident Period: 12/12/2015 through 12/15/2015.

Effective Date: 02/17/2016.

Physical Loan Application Deadline Date: 04/18/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 11/17/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/17/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Pribilof Islands Regional Education Attendance Area.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625

[39] 17 CFR 200.30–3(a)(12).

	Percent
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14635B and for economic injury is 14636B.

Numbers 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–04115 Filed 2–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14637 and #14638]

Oregon Disaster #OR–00080

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oregon (FEMA–4258–DR), dated 02/17/2016.

Incident: Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides.

Incident Period: 12/06/2015 through 12/23/2015.

Effective Date: 02/17/2016.

Physical Loan Application Deadline Date: 04/18/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 11/17/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/17/2016, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Clatsop, Columbia, Coos, Curry, Lane, Lincoln, Linn, Multnomah, Polk, Tillamook, Washington, Yamhill.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14637B and for economic injury is 14638B.

(Catalog of Federal Domestic Assistance Numbers 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–04111 Filed 2–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day Notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before March 28, 2016.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The collected information is submitted by small business concerns seeking certification as a qualified HUBZone small business. SBA uses the information to verify a concern's eligibility for the HUBZone programs, to complied a database of qualified small business concerns, as well as for the re-certification and examination of certified HUBZone small business concerns. Finally SBA uses the information to prepare reports for the Executive and legislative branches.

Solicitation of Public Comments

Title: ''HUBZone Program Electronic Application, Re-certification and Program Examination''.

Description of Respondents: Small business concerns seeking certification as a qualified HUBZone.

Form Number: SBA Form 2103.

Estimated Annual Responses: 2,984.

Estimated Annual Hour Burden: 6,582.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2016–04107 Filed 2–25–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14633 and #14634]

Alabama Disaster # AL–00061

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Alabama dated 02/18/2016.

Incident: Severe Storm System, Strong Winds, and Tornado.

Incident Period: 02/02/2016 through 02/03/2016.

Effective Date: 02/18/2016.

Physical Loan Application Deadline Date: 04/18/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 11/18/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Pickens.

Contiguous Counties:

Alabama: Fayette, Greene, Lamar, Sumter, Tuscaloosa.

Mississippi: Lowndes: Noxubee.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.625
Homeowners Without Credit Available Elsewhere	1.813
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14633 C and for economic injury is 14634 0.

The States which received an EIDL Declaration # are Alabama, Mississippi.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: February 18, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–04119 Filed 2–25–16; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2015–0051]

Privacy Act of 1974, as Amended; Computer Matching Program (SSA/Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service))—Match Number 1304

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of an existing computer matching program that will expire on March 31, 2016.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of an existing computer matching program that we are currently conducting with Fiscal Service.

DATES: We will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on Oversight and Government Reform of the House of Representatives; and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869 or writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or denying a person's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Mary Ann Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Notice of Computer Matching Program, SSA With the Department of the Treasury, Bureau of the Fiscal Service

A. PARTICIPATING AGENCIES

SSA and the Department of the Treasury, Bureau of the Fiscal Service.

B. PURPOSE OF THE MATCHING PROGRAM

The purpose of this matching program is to allow Fiscal Service to disclose ownership of Savings Securities to us. This disclosure will provide us with information necessary to verify an individual's self-certification of his or her financial status to determine eligibility for low-income subsidy assistance (Extra Help) in the Medicare Part D prescription drug benefit program established under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108–173).

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

The legal authority for this agreement is 1860D–4 of the Social Security Act (42 U.S.C. 1395W–114), which requires us to verify the eligibility of an individual who seeks to be considered as an Extra Help eligible individual under the Medicare Part D prescription drug benefit program and who self-certifies his or her income, resources, and family size.

Fiscal Service and we will execute this agreement in compliance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, and the regulations and guidance promulgated thereunder.

D. CATEGORIES OF RECORDS AND PERSONS COVERED BY THE MATCHING PROGRAM

The individuals covered under this agreement will be those who self-certify financial status for low-income subsidy assistance (Extra Help) in the Medicare Part D prescription drug benefit program established under the Medicare

Prescription Drug, Improvement and Modernization Act of 2003.

We will provide Fiscal Service with a finder file consisting of Social Security Numbers (SSNs) extracted from our Medicare Database (MDB) File System. The MDB File System is a repository of Medicare applicant and beneficiary information related to Medicare Part A, Part B, Medicare Advantage Part C, and Medicare Part D. We may disclose file data from the MDB System pursuant to the ''Medicare Part D and Part D Subsidy File'' (60–0321), fully published at 71 **Federal Register** 42159 on July 25, 2006 and amended at 72 **Federal Register** 69723 on December 10, 2007.

Fiscal Service will match the SSNs in our finder file with the SSNs in Fiscal Service Savings Securities Registration Systems and return the formatted comparison file. These records reside in the systems of records Treasury/BPD.002, ''United States Savings-Type Securities Treasury/BPD'' and Treasury/BPD.008, ''Retail Treasury Securities Access Application—Treasury/BPD'' fully published at 73 **Federal Register** No. 142, pages 42904–2491 on July 23, 2008.

For definitive records (*i.e.,* the actual securities issued in engraved or printed physical form), we will furnish Fiscal Service with the SSN, in a specified format, for each individual for whom we request Savings Securities ownership information. Fiscal Service will disclose the following to us: (a) The denomination of the security; (b) the serial number; (c) the series; (d) the issue date of the security; (e) the current redemption value; and (f) the return date of the finder file.

For book entry records (*i.e.,* securities maintained as computer records on the records of a bank or Fiscal Service), we will furnish Fiscal Service with the SSN, in a specified format, for each individual for whom we request Savings Securities registration information. Fiscal Service bases the query on the SSN associated with the account and reports any subsequent account holdings. When a match occurs on an SSN, Fiscal Service will disclose the following: (a) The purchase amount; (b) the account number and confirmation number; (c) the series; (d) the issue date of the security; (e) the current redemption value; and (f) the return date of the finder file.

E. INCLUSIVE DATES OF THE MATCHING PROGRAM

The effective date of this matching program is April 1, 2016, provided that the following notice periods have lapsed: 30 days after publication of this notice in the **Federal Register** and 40 days after notice of the matching program is sent to Congress and OMB. The matching program will continue for 18 months from the effective date and, if both agencies meet certain conditions, it may extend for an additional 12 months thereafter.

[FR Doc. 2016–04123 Filed 2–25–16; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 9455]

Privacy Act; System of Records: Protocol Records, State–33.

SUMMARY: Notice is hereby given that the Department of State proposes to amend an existing system of records, Protocol Records, State–33, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Appendix I.

DATES: This system of records will be effective on April 6, 2016, unless we receive comments that will result in a contrary determination.

ADDRESSES: Any persons interested in commenting on the amended system of records may do so by writing to the Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100.

FOR FURTHER INFORMATION CONTACT: John Hackett, Director; Office of Information Programs and Services, A/GIS/IPS; Department of State, SA–2; 515 22nd Street NW., Washington, DC 20522–8100, or at *Privacy@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State proposes that the current system will retain the name ''Protocol Records'' (previously published at 78 FR 54945). The information in this system of records is an accounting of those U.S. Government officials receiving gifts and decorations from foreign governments and to record for historical, organizational, and logistical purposes the names of the individuals applying to participate, invited to, supporting, and attending official Department of State functions or other events co-sponsored with the Federal Government or other partners, and to verify individuals nominated as a diplomatic representative on behalf of a foreign government. The proposed system will include modifications to the following sections: System location, Categories of individuals, Categories of records, Purpose, Routine Uses, Safeguards, System managers, and administrative updates.

The Department's report was filed with the Office of Management and Budget. The amended system description, ''Protocol Records, State–33,'' will read as set forth below.

Joyce A. Barr,

Assistant Secretary for Administration, U.S. Department of State.

STATE–33

SYSTEM NAME:

Protocol Records.

SYSTEM CLASSIFICATION:

Unclassified and Classified.

SYSTEM LOCATION:

Department of State, 2201 C Street NW., Washington, DC 20520. Abroad at U.S. embassies, U.S. consulates general, and U.S. consulates; U.S. missions; Department of State annexes; various field and regional offices throughout the United States. Within a government cloud, implemented by the Department of State and provided by a cloud-based software as a service (SaaS) provider.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include those receiving gifts and decorations from foreign governments; individuals invited to and supporting official Department of State functions or other events co-sponsored with the federal government or other partners; applicants for participation and attendees of Department of State conferences or other events co-sponsored with the federal government or other partners; individuals who are part of foreign delegations; individuals working at foreign embassies, missions and organizations; and nominees for foreign ambassadorships to the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include descriptions of gifts and decorations received from foreign governments; donors; guest lists; type of function; sample invitations; contact information, address and occupation; biographical information (this includes, but is not limited to: Names, nationalities and citizenship, résumés, *curricula vitae,* copies of passports, copies of visas, dates of birth, and photographs), special needs, requests and accommodations, travel arrangements and related information, security information, and application and registration information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2621, 22 U.S.C. 2625, 22 U.S.C. 4301 *et seq.*

PURPOSE:

The information in this system of records is an accounting of those U.S. Government officials receiving gifts and decorations from foreign governments and to record for historical, organizational, and logistical purposes the names of the individuals applying to participate, invited to, supporting, and attending official Department of State functions or other events co-sponsored with the Federal Government or other partners, and to verify individuals nominated as a diplomatic representative on behalf of a foreign government.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information contained in these records may be shared with:

(a) The Executive Office of the President; Congress; and other government agencies having statutory or other lawful authority to maintain such information.

(b) A contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m);

(c) Nongovernmental organizations, individuals, and panels to review applications and otherwise aid in the selection of participants in Department of State conferences and related functions;

(d) The news media and the public, with the approval of the Chief of Mission or Bureau Assistant Secretary who supervises the office responsible for the outreach effort, provided that the approving official determines that there is legitimate public interest in the information disclosed, except to the extent that release of the information would constitute an unwarranted invasion of personal privacy;

(e) Foreign governments where there is a need to verify the information provided for their delegates;

(f) Other Federal, State, and Local Governments for uses within their statutory missions, which may include law enforcement, transportation and border security, critical infrastructure protection, and fraud prevention; and

(g) Other individuals and organizations applying to, invited to, attending, or supporting a given conference, provided that the subject of the information opts-in to such sharing.

The Department of State publishes periodically in the **Federal Register** its Prefatory Statement of Routine Uses which applies to all of its Privacy Act System of Records. These standard routine uses apply to Protocol Records, State–33.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and hard copy media.

RETRIEVABILITY:

By an individual name.

SAFEGUARDS:

All users are given cyber security awareness training which covers the procedures for handling Sensitive But Unclassified (SBU) information, including personally identifiable information (PII). Annual refresher training is mandatory. In addition, all Foreign Service and Civil Service employees and those Locally Engaged Staff who handle PII are required to take the Foreign Service Institute distance learning course, PA 459, instructing employees on privacy and security requirements, including the rules of behavior for handling PII and the potential consequences if it is handled improperly.

Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

Before being granted access to Protocol Records, a user must first be granted access to the Department of State computer system. Remote access to the Department of State network from non-Department owned systems is authorized only to unclassified systems and only through a Department approved access program. Remote access to the network is configured with the Office of Management and Budget Memorandum M–07–16 security requirements which include but are not limited to two-factor authentication and time out function. All Department of State employees and contractors with authorized access have undergone a thorough background security investigation.

The safeguards in the following paragraphs apply only to records that are maintained in cloud systems. All cloud systems that provide IT services and process Department of State information must be: (1) Provisionally authorized to operate by the Federal Risk and Authorization Management Program (FedRAMP), and (2) specifically authorized by the Department of State Authorizing Official and Senior Agency Official for Privacy. Only information that conforms with Department-specific definitions for Federal Information Security Management Act (FISMA) low or moderate categorization are permissible for cloud usage. Specific security measures and safeguards will depend on the FISMA categorization of the information in a given cloud system. In accordance with Department policy, systems that process more sensitive information will require more stringent controls and review by Department cybersecurity experts prior to approval. Prior to operation, all Cloud systems must comply with applicable security measures that are outlined in FISMA, FedRAMP, OMB regulations, NIST Federal Information Processing Standards (FIPS) and Special Publication (SP), and Department of State policy and standards.

All data stored in cloud environments categorized above a low FISMA impact risk level must be encrypted at rest and in-transit using a federally approved encryption mechanism. The encryption keys shall be generated, maintained, and controlled in a Department data center by the Department key management authority. Deviations from these encryption requirements must be approved in writing by the Authorizing Official.

RETENTION AND DISPOSAL:

Records are retired and destroyed in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing to the following address: Director, Office of Information Programs and Services, A/GIS/IPS; SA–2, Department of State; 515 22nd Street NW., Washington, DC 20522–8100.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief of Protocol for Management and Executive Director, Office of the Chief of Protocol, Department of State, 2201 C Street NW., Washington, DC 20520.

The Director of Major Events and Conferences Staff, Office of Major Events and Conferences, Department of State, 2201 C Street NW., Washington DC, 20520.

NOTIFICATION PROCEDURE:

Individuals who have cause to believe that the Office of the Chief of Protocol or Office of Major Events and Conferences Staff may have records pertaining to him or her should write to the following address: Director; Office of Information Programs and Services, A/GIS/IPS; SA–2 Department of State; 515 22nd Street NW., Washington, DC 20522–8100.

The individual must specify that he or she requests the records of the Office of the Chief of Protocol or the Office of Major Events and Conferences Staff to be checked. At a minimum, the individual must include the following: Name, date and place of birth, current mailing address and zip code, signature, and any other information helpful in identifying the record.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director; Office of Information Programs and Services (address above).

CONTESTING RECORD PROCEDURES:

(See above).

RECORD SOURCE CATEGORIES:

These records contain information collected directly from: The individual who is the subject of these records; employers and public references; other officials in the Department of State; other government agencies; foreign governments; and other public and professional institutions possessing relevant information.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2016–04192 Filed 2–25–16; 8:45 am]

BILLING CODE 4710–24–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35997]

County of Greenville, S.C.—Acquisition Exemption—Rail Line of Greenville County Economic Development Corporation

The County of Greenville, S.C. (County), a non-operating Class III rail carrier and political subdivision of the State of South Carolina, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Greenville County Economic Development Corporation (GCEDC) approximately 3.29 miles of rail-banked line between milepost AJK 585.34 in East Greenville, S.C., and milepost AJK 588.63 in Greenville, S.C. (the Line), and to acquire GCEDC's residual common carrier obligation on the Line.[1]

According to the County, it has reached an agreement with GCEDC pursuant to which, upon the effectiveness of this transaction, GCEDC will transfer to the County the entirety of its interest in the Line, including its residual common carrier obligation. The end result will be that all of GCEDC's ownership rights and responsibilities in the Line will be transferred to the County and remain rail-banked.

The County states that the proposed acquisition will not involve any provision or agreement between GCEDC and the County that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after March 13, 2016 (30 days after the notice of exemption was filed).

The County certifies that its projected annual revenues as a result of this transaction will not result in its becoming a Class I or Class II rail carrier and will not exceed $5 million.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 4, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35997, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

According to the County, this action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV*.''

Decided: February 23, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2016–04162 Filed 2–25–16; 8:45 am]

BILLING CODE 4915–01–P

[1] The Line is rail banked pursuant to § 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). *See Greenville Cty. Econ. Dev. Corp.—Aban. Exemption—in Greenville Cty, S.C.,* AB 490 (Sub-No. 2X) (STB served May 18, 2015). In a letter filed on September 14, 2015, in Docket No. AB 490 (Sub-No. 2X), the County and GCEDC jointly notified the Board that an interim trail use/rail-banking agreement had been reached between the parties. Currently, the County is the trail sponsor, and GCEDC is the owner of the Line and holder of the residual common carrier right to reactivate rail service.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 35999]

Olympia & Belmore Railroad, Inc.—Lease and Operation Exemption Including Interchange Commitment—BNSF Railway Company

Olympia & Belmore Railroad, Inc. (OBRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from BNSF Railway Company (BNSF), and to operate, approximately 13.06 miles of rail consisting of the following: (1) 5.50 miles of track between milepost 9.07 near Olympia, Wa., and milepost 14.57 near Belmore, Wa., in Thurston County, Wa.; (2) incidental overhead trackage rights over approximately 7.56 miles of Union Pacific Railroad Company track between East Olympia, Wa., and Olympia, Wa.; and (3) joint use of terminal trackage at Olympia, Wa., pursuant to a lease agreement (Agreement) dated February 12, 2016.[1]

This transaction is related to a concurrently filed verified notice of exemption in *Genesee & Wyoming Inc.—Continuance in Control Exemption—Olympia & Belmore Railroad,* Docket No. FD 36000, in which Genesee & Wyoming Inc. (GWI) seeks Board approval to continue in control of OBRR under 49 CFR 1180.2(d)(2), upon OBRR's becoming a Class III rail carrier.

As required under 49 CFR 1150.43(h)(1), OBRR has disclosed in its verified notice that the subject Agreement contains an interchange commitment that affects interchange with carriers other than BNSF at the interchange point of East Olympia, Wa. OBRR has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

[1] OBRR filed a confidential version of the Agreement with its notice of exemption to be kept confidential by the Board under 49 CFR 1104.14(a) without need for the filing of an accompanying motion for protective order under 49 CFR 1104.14(b). OBRR states that exhibits to the Agreement that do not relate to or affect the interchange commitment have been omitted.

OBRR certifies that the projected annual revenues do not exceed those that would qualify it as a Class III rail carrier and would not exceed $5 million.

The transaction may be consummated on or after March 13, 2016 (30 days after the notice of exemption was filed). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than March 4, 2016 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35999, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV*''.

Decided: February 23, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Tia Delano,

Clearance Clerk.

[FR Doc. 2016–04139 Filed 2–25–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36000]

Genesee & Wyoming Inc.—Continuance in Control Exemption—Olympia & Belmore Railroad, Inc.

Genesee & Wyoming Inc. (GWI), a publicly traded noncarrier holding company, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Olympia & Belmore Railroad, Inc. (OBRR), a noncarrier, upon OBRR's becoming a Class III railroad.

This transaction is related to a concurrently filed verified notice of exemption in *Olympia & Belmore Railroad—Lease and Operation Exemption Including Interchange Commitment—BNSF Railway,* Docket No. FD 35999, wherein OBRR seeks Board approval under 49 CFR 1150.31 to lease from BNSF Railway Company (BNSF), and to operate, approximately 13.06 miles of rail consisting of the following: (1) 5.50 miles of track between milepost 9.07 near Olympia, Wa., and milepost 14.57 near Belmore, Wa., in Thurston County, Wa.; (2) incidental overhead trackage rights over approximately 7.56 miles of Union Pacific Railroad Company track between East Olympia, Wa., and Olympia, Wa.; and (3) joint use of terminal trackage at Olympia, Wa.

This transaction may be consummated on March 13, 2016, the effective date of the exemption (30 days after the verified notice of exemption was filed).

GWI notes that it currently controls, directly or indirectly, two Class II carriers and 105 Class III carriers operating in the United States.

GWI represents that: (1) None of the railroads controlled by GWI would connect with the line being leased and operated by OBRR; (2) the continuance in control is not part of a series of anticipated transactions that would connect the line to be operated by OBRR with the rail lines of any carriers in GWI's corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

GWI states that the proposed transaction will allow OBRR to take advantage of the administrative, financial, marketing and operational support that GWI and its existing subsidiary railroads can provide, thus promoting the ability of OBRR to provide safe and efficient service to their shippers.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. As a condition to the use of this exemption, any employees adversely affected by this transaction will be protected by the conditions set forth in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C 60 (1979).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke would not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 4, 2016 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36000 must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on applicant's representative, Eric M. Hocky, Clark Hill, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV''.*

Decided: February 23, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Tia Delano,

Clearance Clerk.

[FR Doc. 2016–04140 Filed 2–25–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Ninety-Fifth Meeting: RTCA Special Committee (159) Global Positioning System (GPS)

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

ACTION: Notice of Ninety-Fifth RTCA Special Committee 159 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Ninety-Fifth RTCA Special Committee 159 meeting.

DATES: The meeting will be held March 7–11, 2016 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at RTCA Inc. Conference Room, 1150 18th NW., Suite 910, Washington, DC Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, Program Director, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 159. The agenda will include the following:

Monday, March 7, 2016

1. Working Group 2, GPS/WAAS, 4th Floor Large Board Room Opening remarks: DFO, RTCA, Chairman, and Hosts (9:00 a.m.–5:00 p.m.)

Tuesday, March 8, 2016

1. Noon p.m., Working Group 2, GPS/WAAS, 4th Floor Large Board Room (9:00 a.m.–12:00 p.m.)
2. Working Group 2A, GPS/GLONASS, Garmin Board Room (1:00 a.m.–5:00 p.m.)

3. Working Group 4, GPS/Precision Landing, 4th Floor Large Board Room (1:00 p.m.–5:00 p.m.)
4. Working Group 2C, GPS/Inertial, 4th Floor Small Board Room (9:00 a.m.–5:00 p.m.)

Wednesday, March 9, 2016

1. Working Group 2A, GPS/GLONASS, Garmin Board Room (9:00 a.m.–12:00 p.m.)
2. Working Group 2C, GPS/Inertial, 4th Floor Small Board Room (9:00 a.m.–5:00 p.m.)
3. Working Group 4, GPS/Precision Landing, 4th Floor Large Board Room (9:00 a.m.–5:00 p.m.)

Thursday, March 10, 2016

1. Working Group 7, GPS/Antennas, Garmin Board Room (9:00 a.m.–12:00 p.m.)
2. Working Group 2C, GPS/Inertial, 4th Floor Small Board Room (9:00 a.m.–12:00 p.m.)
3. Working Group 6, GPS/Interference, Garmin Board Room (1:00 p.m.–5:00 p.m.)
4. Working Group 4, GPS/Precision Landing, 4th Floor Large Board Room (9:00 a.m.–5:00 p.m.)

Friday, March 11, 2016

1. Plenary Session (9:00 a.m.)

a. Chairman's Introductory Remarks
b. Approval of Summary of the Ninety-Fourth Meeting held October 23, 2015, RTCA Paper No. 041–16/SC159–1047
c. Review Working Group (WG) Progress and Identify Issues for Resolution
i. GPS/WAAS (WG–2)
ii. GPS/GLONASS (WG–2A)
iii. GPS/Inertial (WG–2C)
iv. GPS/Precision Landing Guidance (WG–4)
v. GPS/Interference (WG–6)
vi. GPS/Antennas (WG–7)
d. Review of EUROCAE Activities
e. Action Item Review
i. Coordination of SC–159 TOR dates and DFMC MOPS efforts with other standards bodies
ii. DME Interference to GNSS signals in the future
iii. Updating SC–159 Document Schedules in the SC–159 TOR
f. Assignment/Review of Future Work
g. Other Business
h. Date and Place of Next Meeting
i. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 22, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04199 Filed 2–23–16; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meeting: RTCA Program Management Committee (PMC)

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

ACTION: Notice of the RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the RTCA Program Management Committee meeting.

DATES: The meeting will be held March 17, 2016 from 8:30 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Karan Hofmann, Program Director, RTCA, Inc., *khofmann@rtca.org,* (202) 330–0680.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the RTCA Program Management Committee. The agenda will include the following:

Thursday, March 17, 2016

1. Welcome and Introductions
2. Review/Approve
   a. Meeting Summary December 15, 2015
3. Publication Consideration/Approval
   a. Final Draft, Revised Document, DO–350—Safety and Performance Standard for Baseline 2 ATS Data Communications, Vol 1 and Vol 2, prepared by SC–214
   b. Final Draft, Revised Document, DO–351—Interoperability Standard For Baseline 2 ATS Data Communications via the ATN, Vol 1 and Vol 2, prepared by SC–214
   c. Final Draft, Revised Document, DO–352—Interoperability Standard For Baseline 2 ATS Data Communications, FANS 1/A Accommodation, prepared by SC–214
   d. Final Draft, Revised Document, DO–353—Interoperability Standard For Baseline 2 ATS Data Communications, ATN Baseline 1 Accommodation, prepared by SC–214
   e. Final Draft, Revised Document, DO–213 and DO–213 Change 1—Minimum Operational Performance Standards for Nose-Mounted Radomes, prepared by SC–230
   f. Final Draft, Revised Document, DO–220 and DO–220 Change 1—Minimum Operational Performance Standard (MOPS) for Aircraft Weather Radar Equipment, prepared by SC–230
   g. Final Draft, Revised Document, DO–93—Minimum Operational Performance Standard (MOPS) for Airborne Selective Calling Equipment, prepared by SC–232
4. Integration and Coordination Committee (ICC)
   a. US and EUROCAE Studies—Update
   b. Need for IP Standards—Update
5. Past Action Item Review
   a. Design Assurance Guidance for Airborne Electronic Hardware—Status—Possible New Special Committee (SC) to Update RTCA DO–254
   b. Runway Overrun Alerting—Status—possible new SC
   c. Avionics Intra Communication—possible new Special Committee (SC)—Discussion
   d. DO–262 Change 1—Update
   e. Letter to Mr. Chambers' Family referencing DO–230F Dedication—Update
   f. Initial Xu SC–147 Meeting—Update
6. Discussion
   a. SC–216—Aeronautical Systems Security—Discussion—Revised TOR
   b. SC–225—Rechargeable Lithium Battery and Battery Systems—Discussion—Status Update
   c. SC–229—406 MHz Emergency Locator Transmitters (ELTs)—Discussion—Revised TOR
   d. SC–234—Portable Electronic Devices—Discussion—Revised TOR
   e. SC–235—Non-Rechargeable Lithium Batteries—Discussion—Revised TOR
   f. NAC—Status Update
   g. TOC—Status Update

h. Equip 2020—Update Presentation
i. FAA Actions Taken on Previously Published Documents—Report
j. Special Committees—Chairmen's Reports and Active Inter-Special Committee Requirements Agreements (ISRA)—Review
k. European/EUROCAE Coordination—Status Update
l. RTCA Award Nominations—Consideration/Approval of Nominations
7. Other Business
8. Schedule for Committee Deliverables and Next Meeting Date
9. New Action Item Summary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 23, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04207 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Disposal of Airport Property at Berlin Regional Airport in Milan, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(d), notice is being given that the FAA is considering a request from Berlin Regional Airport in Milan, NH to dispose of a parcel of land approximately 7.0 acres at Berlin Regional Airport on Milan, NH.

The subject parcel is currently undeveloped and is not contiguous to the airport proper. The land is physically separated from the main airport property by State Route 16 and has no aviation development potential. The airport has been approached by the abutting land owner to purchase the property to expand his commercial property. The funds from the sale of the property, which has been valued at Fair Market Value, will be deposited into the Airport's dedicated fund and will be used for continued operation and maintenance of the airport.

DATES: Comments must be received on or before March 28, 2016.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*, and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 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.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts, Telephone 781–238–7618.

Issued in Burlington, Massachusetts, on February 16, 2016.

Mary T. Walsh,

Manager, Airports Division.

[FR Doc. 2016–04218 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventeenth Meeting: RTCA Special Committee (227) Standards of Navigation Performance

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

ACTION: Notice of Seventeenth RTCA Special Committee 227 Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Seventeenth RTCA Special Committee 227 meeting.

DATES: The meeting will be held March 15–17, 2016 from 9:00 a.m.–4:30 p.m.

ADDRESSES: The meeting will be held at RTCA Inc. Conference Room, 1150 18th, NW., Suite 910, Washington, DC, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Jennifer Iversen, Program Director, RTCA, Inc., *jiversen@rtca.org,* (202) 330–0662.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 227. The agenda will include the following:

Tuesday, March 15, 2016

1. Plenary (9:00 a.m.–10:00 a.m.)
   a. Welcome and Administrative Remarks
   b. Introduction
   c. Review of Minutes from Meeting 16
   d. Agenda Overview
   i. Schedule
   ii. New Business
   e. Adjourn Plenary
2. Working Group 3 Work Session, (10:15 a.m.–4:30 p.m.)
   a. New Issues and/or proposed MOPS changes
   b. Review and discussion of MOPS issues and change proposals

Wednesday–Thursday, March 16–17, 2016

1. Working Group 3 Work Session (Wednesday, 9:00 a.m.–Thursday, 10:30 a.m.)
2. Closing Plenary (Thursday, 10:45 a.m.–12:00 p.m.)
   a. Working Group 2 Progress Report/Summary
   b. Other Business
   c. Date of Next Meeting
   d. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 23, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04209 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eighty-Fourth Meeting: RTCA Special Committee (147) Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment

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

ACTION: Notice of Eighty-Fourth RTCA Special Committee 147 Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Eighty-Fourth RTCA Special Committee 147 meeting.

DATES: The meeting will be held March 15–17, 2016 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Drury Inn and Suites Phoenix, 2335 W. Pinnacle Peak Rd, Phoenix, AZ, 85027, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Albert Secen, Program Director, RTCA, Inc., *asecen@rtca.org,* (202) 330–0647.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 147. The agenda will include the following:

Tuesday, March 15, 2016

1. TWG Agenda
   a. Review of TWG Activity List/ Schedule
   b. Run 14 Stress Testing
   c. MOPS Test Status Review
   d. High Performance Encounter Updates
   e. Climb Inhibits
   f. Metrics Matrix Updates/ Acceptability Criteria
   g. ASIM/Test Suite Update
   h. MOPS Review
2. SWG Agenda
   a. Review of SWG Activity List/ Schedule
   b. Passive Surveillance Requirements Review/Walkthrough
   c. Passive Surveillance Tests Examples
   d. Review Planned Changes for Run 15 STM
   e. STM-related MOPS Reviews
   f. Updated LA Basin Analysis Against Proposed Mode C Algorithms
   g. Downlink Messages
   h. Misc. Smaller Topics/Meeting Close

Wednesday, March 16, 2016

1. SWG & TWG Agenda
   a. Change Process for Run 15
   b. 2015 Flight Test Summary—Run 15 Focus
   c. Data Tables Formatting and MOPS
   d. Documentation
   e. ACAS Xo Updates/Open Items
   f. EUROCONTROL Report (SEGMENT, CAFÉ)
   g. OWG/OWS Updates
   h. Report from CSG
   i. Julia Overview

Thursday, March 17, 2016

1. Plenary Agenda
   a. Opening Plenary Session
   i. Chairmen's Opening Remarks/ Introductions
   ii. Approval of Minutes from 83rd meeting of SC–147
   iii. Approval of Agenda
   b. WG–75 Update
   c. SESAR 1 Update
   d. S2020 Safety Nets
   e. Working Group Reports
   i. Report from WG–1 (Surveillance and Tracking)
   ii. Report from WG–2 (Threat Resolution)
   iii. Report from Safety Sub-Group
   iv. Report from Xo Sub-Group
   v. Report from Coordination Sub-Group
   vi. Report from OWG/OWS
   vii. Report from Xu subgroup
   f. Review of the ADD and RMJM
   g. Overflow
   h. Closing Session
   i. Next Meeting Location

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 23, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04210 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixty-Fifth Meeting: RTCA Special Committee (186) Global Positioning System (GPS)

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

ACTION: Notice of Sixty-Fifth RTCA Special Committee 186 Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Sixty-Fifth RTCA Special Committee 186 meeting.

DATES: The meeting will be held March 8–11, 2016 from 9 a.m.–1 p.m.

ADDRESSES: The meeting will be held at RTCA Inc. Conference Room, 1150 18th NW., Suite 910, Washington, DC, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Al Secen, Program Director, RTCA, Inc., *asecen@rtca.org,* (202) 330–0647.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 186. The agenda will include the following:

Tuesday, March 8, 2016

1. WG–4—Application Technical Requirements, Advanced Interval Management MOPS development NBAA Room & Colson Board Room (All Day)

Wednesday, March 9, 2016

1. WG–4—Application Technical Requirements, Advanced Interval Management MOPS development NBAA Room & Colson Board Room (All Day)

Thursday, March 10, 2016

1. WG–4—Application Technical Requirements, Advanced Interval Management MOPS development NBAA Room & Colson Board Room (All Day)

Friday, March 11, 2016

1. Plenary Session (9:00 a.m.)
   a. Chairman's Introductory Remarks
   b. Review of Meeting Agenda
   c. Review/Approval of the Sixty-fourth Meeting Summary
   d. FAA Surveillance and Broadcast Services (SBS) Program—Status
   e. WG–3—Extended Squitter MOPS/

SC–209 Transponder MOPS revisions
i. Status
f. WG–4—Application Technical Requirements
i. A–IM: Status
g. SC–214/WG–78 Status of final release of CPDLC messages for IM AACD and PTM
h. Wake/MET Data: SC–206 Status/ Tiger Team Deliverable
i. ADS–B Implementation
i. ADS–B Equipage Update
ii. Avionics Issues Update
iii. FAA Broadcast Services (TIS–B, FIS–B, ADS–R) Issues Update
iv. Equip 2020 Status
v. AC 90–114A Change 1—Update Overview
j. Date, Place and Time of Next Meeting
k. New Business
l. Other Business
i. Status of 1090MHz Spectrum Study—Jim Baird
m. Review Action Items/Work Programs
n. Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 22, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04194 Filed 2–23–16; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirty-Ninth Meeting: RTCA Special Committee (224) Airport Security Access Control Systems

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

ACTION: Notice of Thirty-Ninth RTCA Special Committee 224 Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Thirty-Ninth RTCA Special Committee 224 meeting.

DATES: The meeting will be held March 10, 2016 from 10:00 a.m.–3:00 p.m.

ADDRESSES: The meeting will be held at RTCA Inc. Conference Room, 1150 18th Street NW., Suite 910, Washington, DC, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Karan Hofmann, Program Director, RTCA, Inc., *khofmann@rtca.org,* (202) 330–0680.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 224. The agenda will include the following:

Tuesday, March 8, 2016

1. Welcome/Introductions/ Administrative Remarks
2. Review/Approve Previous Meeting Summary
3. Report From the TSA
4. Report on Safe Skies on Document Distribution
5. Report on TSA Security Construction Guidelines Progress
6. Review of DO–230G Sections
7. Review of DO–230H Sections
8. Action Items for Next Meeting
9. Time and Place of Next Meeting
10. Any Other Business
11. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 23, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04214 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Forty-Third Meeting: RTCA Special Committee (206) Aeronautical Information and Meteorological Data Link Services

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

ACTION: Notice of Forty-Third RTCA Special Committee 206 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Forty-Third RTCA Special Committee 206 meeting.

DATES: The meeting will be held March 7–11, 2016 from 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at Delta Airlines Headquarters, 1010 Delta Boulevard Atlanta, Georgia 30354, Tel: (202) 330–0680.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org* or Karan Hofmann, Program Director, RTCA, Inc., *khofmann@rtca.org,* (202) 330–0680.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 206. The agenda will include the following:

Monday, March 7, 2016 (08:30 a.m.–5:00 p.m.)

1. Opening Plenary
   a. Opening remarks: DFO, RTCA, Chairman, and Hosts
   b. Attendees' introductions
   c. Review and approval of meeting agenda
   d. Approval of previous meeting minutes (Washington, DC)
   e. Action item review
   f. PMC Feedback on TOR Changes
   i. Kickoff of SG5 FIS–B UAT MOPS
   g. Sub-Groups' reports (SG1/6: MASPS, SG4: EDR, & SG7: Winds)
   h. Industry presentations
   i. Status of EDR Standards—Mike Emanuel
   ii. ICAO Information Management Panel—Allan Hart (ICCAIA Advisor)
2. Sub-Groups meetings (1:00 p.m.)

Tuesday, March 8, 2016 (08:30 a.m.–5:00 p.m.)

1. Sub-Groups meetings

Wednesday, March 9, 2016 (08:30 a.m.–5:00 p.m.)

1. Sub-Groups meetings

Thursday, March 10, 2016 (08:30 a.m.–5:00 p.m.)

1. Sub-Groups meetings

Friday, March 11, 2016 (08:30 a.m.–11:00 a.m.)

1. Closing Plenary
   a. Sub-Groups' reports
   b. Future meetings plans and dates
   c. Industry coordination
   d. SC–206 action item review
   e. Other business
2. Adjourn (11 a.m.)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Plenary information will be provided upon request. Persons who wish to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 22, 2016.

Latasha Robinson,

Management & Program Analyst, NextGen, Enterprise Support Services Division, Federal Aviation Administration.

[FR Doc. 2016–04187 Filed 2–23–16; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Beverly Airport in Beverly, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Under the provisions of Title 49, U.S.C. Section 47153(d), notice is being given that the FAA is considering a request from Beverly Airport in Beverly, MA to change the use of a certain parcel of land and associated building from Aeronautical to Non-Aeronautical Land for future non-aeronautical revenue generation at Beverly Airport in Beverly, MA.

The subject parcel contains Building #45 and 19 automobile parking spaces which is currently vacant and is landside with no access to aviation areas. The building is in poor condition. The City of Beverly, working with the Beverly Airport Commission, will renovate the building and in the near term, serve as office space for a City Department. Space within the building will also be prepared for future lease to generate non-aeronautical revenue for the airport. The cost to renovate the building was estimated at a minimum of approximately $300,000 and will serve as the in-lieu lease payment over the next 10 years. The area for non-aeronautical revenue generation for the airport will be derived from leasing of this space by the airport and those proceeds will be deposited into the Airport's dedicated fund and will be used for continued operation and maintenance of the airport. At the end of the 10 year lease with the City, the building will be available for future non-aeronautical lease revenue generation for the airport.

DATES: Comments must be received on or before March 28, 2016.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 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.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts, Telephone 781–238–7618.

Issued in Burlington, Massachusetts, on February 16, 2016.

Mary T. Walsh,

Manager, Airports Division.

[FR Doc. 2016–04225 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2016–18]

Petition for Exemption; Summary of Petition Received; General Electric Company

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 March 17, 2016.

ADDRESSES: Send comments identified by docket number FAA–2016–2573 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: Brent Hart (202) 267–4034, 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 February 18, 2016.

James M. Crotty,

Acting Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2016–2573.

Petitioner: The General Electric Company.

Section(s) of 14 CFR Affected: 21.6(a) and 21.9(c)(1).

Description of Relief Sought: The General Electric Company (GE) seeks relief from the requirements of §§ 21.6(a) and 21.9(c)(1) to permit relief from the requirement to require the manufacturer to hold a type certificate or licensing agreement from the holder to manufacturer the product, and meet the requirements of 21.6, subpart F or G of this part, as well as relief from the requirement that a person may not sell or represent an article as suitable for installation on an aircraft type-certificated under part 21 unless that article was declared surplus by the U.S. Armed Forces and was intended for use on that aircraft model by the U.S. Armed Forces.

[FR Doc. 2016–03982 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Collier County, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice of cancellation to advise the public that an Environmental Impact Statement (EIS) for the proposed SR 29 from Oil Well Road to SR 82 in Collier County, Florida will no longer be prepared due to changes in the proposed project. This is formal cancellation of the Notice of Intent that was published in the **Federal Register** on August 17, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Kendall, Senior Environmental Specialist, Federal Highway Administration, 3500 Financial Plaza, Suite 400, Tallahassee, FL 32312; Telephone: 850–553–2225;

SUPPLEMENTARY INFORMATION: The Notice of Intent to prepare an EIS was for improving SR 29 from an existing two-lane to a four-lane facility. The Notice of Intent to prepare an EIS is rescinded.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued On: February 22, 2016.

James Christian,

Division Administrator, Tallahassee, Florida.

[FR Doc. 2016–04135 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2014–2015 Public Transportation on Indian Reservations Program Project Selections

AGENCY: Federal Transit Administration (FTA), U.S. Department of Transportation (DOT).

ACTION: CORRECTION: Tribal Transit Program announcement of project selections.

SUMMARY: This notice is providing Table 1 (Fiscal Years 2014–2015 Tribal Transit Program Discretionary Project Selections) that was inadvertently omitted from the notice that was published on February 22, 2016, titled ''Fiscal Year 2014–2015 Public Transportation on Indian Reservations Program Project Selections.''

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional office for information regarding applying for the funds or program-specific information. A list of Regional offices, along with a list of tribal liaisons can be found at *www.fta.dot.gov.* Unsuccessful applicants may contact Élan Flippin, Office of Program Management at (202) 366–3800, email: *Elan.Flippin@dot.gov,* to arrange a proposal debriefing within 30 days of this announcement. In the event the contact information provided by your tribe in the application has changed, please contact your regional tribal liaison with the current information in order to expedite the grant award process. A TDD is available at 1–800–877–8339 (TDD/FIRS).

Therese W. McMillan,

Acting Administrator.

State	Recipient	Project ID	Project description	Allocation
AK	Craig Tribal Association	D2014–TRTR–001	Start-up/Capital	$264,495
	Hydaburg Cooperative Association (HCA)	D2014–TRTR–002	Replacement/Capital	300,000
	Kaltag Tribal Council	D2014–TRTR–003	Start-up/Capital	56,925
	Kenaitze Indian Tribe	D2014–TRTR–004	Expansion/Capital, Operating.	300,000
	Native Village of Eyak	D2014–TRTR–005	Expansion/Planning	25,000
	Native Village of Fort Yukon	D2014–TRTR–006	Existing/Operating	51,086
	Native Village of Point Hope Council	D2014–TRTR–007	Start-up/Capital	174,740
	Native Village of Point Hope Council	D2014–TRTR–008	Start-up/Operating	33,030
	Native Village of Point Hope Council	D2014–TRTR–009	Start-up/Capital	1,350
	Ninilchik Village Tribe	D2014–TRTR–010	Start-up/Operating, Capital.	300,000
	Seldovia Village Tribe	D2014–TRTR–011	Existing/Operating	150,000
AZ	Hualapai Indian Tribe	D2014–TRTR–012	Replacement/Capital	19,800
	Quechan Indian Tribe	D2014–TRTR–013	Existing/Operating	243,213
	Yavapai-Apache Nation	D2014–TRTR–014	Expansion/Operating, Capital.	300,000
CA	Blue Lake Rancheria, California	D2014–TRTR–015	Start-up/Planning	15,662
	Morongo Band of Mission Indians	D2014–TRTR–016	Expansion/Capital, Operating.	212,333
	North Fork Rancheria of Mono Indians of California.	D2014–TRTR–017	Existing/Operating	171,949

State	Recipient	Project ID	Project description	Allocation
	Reservation Transportation Authority	D2014–TRTR–018	Replacement/Capital	216,833
	Reservation Transportation Authority	D2014–TRTR–019	Existing/Planning	25,000
	Yurok Tribe of the Yurok Reservation, California.	D2014–TRTR–020	Expansion, Replacement Capital.	121,500
CO	Southern Ute Indian Tribe	D2014–TRTR–021	Replacement/Capital	69,419
	Southern Ute Indian Tribe	D2014–TRTR–022	Replacement/Capital	52,200
ID	Nez Perce Tribe	D2014–TRTR–023	Expansion, Replacement/ Capital.	300,000
KS	Sac and Fox Nation of Missouri	D2014–TRTR–024	Start-up/Operating	252,879
MI	Sault Ste. Marie Tribe of Chippewa Indians	D2014–TRTR–025	Start-up/Operating	300,000
MN	Bois Forte Band of Chippewa	D2014–TRTR–026	Expansion/Capital	300,000
	Fond du Lac Band of Lake Superior Chippewa.	D2014–TRTR–027	Existing/Capital	160,776
	White Earth Band of Chippewa Indians	D2014–TRTR–028	Existing/Capital	124,921
MS	Mississippi Band of Choctaw Indians	D2014–TRTR–029	Expansion/Capital	95,294
MT	Confederated Salish and Kootenai Tribes	D2014–TRTR–030	Expansion/Capital	300,000
	Crow Tribe of Indians	D2014–TRTR–031 ($61,595) D2015–TRTR–001 ($48,116).	Existing/Capital	109,711
	Crow Tribe of Indians	D2015–TRTR–002	Existing/Capital	3,492
	Crow Tribe of Indians	D2015–TRTR–003	Existing/Capital	53,687
	Crow Tribe of Indians	D2015–TRTR–004	Expansion/Capital	26,841
	Fort Belknap Indian Community	D2015–TRTR–005	Expansion/Capital	220,000
NE	Omaha Tribe of Nebraska	D2015–TRTR–006	Existing/Operating, Capital	300,000
	Ponca Tribe of Nebraska	D2015–TRTR–007	Expansion/Capital	97,500
	Santee Sioux Nation	D2015–TRTR–008	Replacement/Capital	79,662
	Winnebago Tribe of Nebraska	D2015–TRTR–009	Replacement/Capital	109,800
	Winnebago Tribe of Nebraska	D2015–TRTR–010	Expansion/Capital	36,000
NM	Pueblo of Laguna	D2015–TRTR–011	Expansion/Planning	22,500
	Pueblo of Santa Ana	D2015–TRTR–012	Replacement/Capital	80,000
	Pueblo of Santa Ana	D2015–TRTR–013	Expansion/Planning	25,000
	Pueblo of Jemez	D2015–TRTR–014	Existing/Operating	189,760
	Pueblo of Jemez	D2015–TRTR–015	Expansion/Capital	80,000
NV	Te-Moak Tribe of Western Shoshone	D2015–TRTR–016	Start-up/Operating	300,000
	Yerington Paiute Tribe	D2015–TRTR–017	Replacement/Capital	125,604
NY	Seneca Nation of Indians	D2015–TRTR–018	Expansion/Capital	250,000
OK	Cherokee Nation, Oklahoma	D2015–TRTR–019	Replacement/Capital	92,500
	Choctaw Nation of Oklahoma	D2015–TRTR–020	Replacement/Capital	300,000
	Citizen Potawatomi Nation	D2015–TRTR–021	Replacement/Capital	254,000
	Kickapoo Tribe of Oklahoma	D2015–TRTR–022	Start-up/Planning	25,000
	Miami Tribe of Oklahoma	D2015–TRTR–023	Replacement/Capital	201,694
	Muscogee (Creek) Nation	D2015–TRTR–024	Replacement/Capital	216,175
	United Keetoowah Band of Cherokee Indians in Oklahoma.	D2015–TRTR–025	Replacement/Capital	112,000
SD	Cheyenne River Sioux Tribe	D2015–TRTR–026	Replacement/Capital	300,000
	Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.	D2015–TRTR–027	Start-up/Capital, Operating.	300,000
WA	Confederated Tribes and Bands of the Yakama Nation.	D2015–TRTR–028	Existing/Planning	19,986
	Cowlitz Indian Tribe	D2015–TRTR–029	Expansion/Planning	25,000
	Jamestown S'Klallam Tribe	D2015–TRTR–030	Existing/Operating	76,413
	Makah Tribe of Indians	D2015–TRTR–031	Expansion/Capital	83,535
	Muckleshoot Indian Tribe	D2015–TRTR–032	Start-up/Operating	300,000
	Skokomish Indian Tribe	D2015–TRTR–033	Existing/Operating	63,735
WI	Lac du Flambeau Band of Lake Superior Chippewa Indians.	D2015–TRTR–034	Expansion/Capital, Operating.	300,000
	Menominee Indian Tribe of Wisconsin	D2015–TRTR–035	Replacement/Capital	300,000
Total Allocation				$10,018,000

[FR Doc. 2016–04085 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2016–0012]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about its intention to request the Office of Management and Budget's (OMB) approval to renew the following information collection:

Transit Research, Development, Demonstration and Training Projects

The Federal Transit Administration's Research, Development, Demonstration, Deployment, Cooperative Research, Technical Assistance, Standards Development, and Human Resources and Training programs are authorized at 49 U.S.C. 5312, 5313, 5314, and 5322 and collectively seek to develop solutions that improve public transportation. Its primary goals are to increase transit ridership, improve safety and emergency preparedness, improve operating efficiencies, protect the environment, promote energy independence, and provide transit research leadership; develop and conduct workforce development activities, training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid relating to public transportation work; and to sponsor development of voluntary and consensus-based standards to more effectively and efficiently provide transit service, as well as support the improved administration of Federal transit funds. To accomplish this, FTA funds projects to support research and development, demonstration, deployments of various technologies and operational models for transit; a national cooperative research program, a national training institute, national technical assistance centers, and transit workforce development programs. The **Federal Register** notice with a 60-day comment period soliciting comments for the Transit Research, Development, Demonstration and Training Projects was published on December 21, 2015 (Citation 80 FR 244). No comments were received from that notice.

DATES: Comments must be submitted before March 28, 2016. A comment to OMB is most effective, if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Office of Management Planning, (202) 366–0354.

SUPPLEMENTARY INFORMATION:

Title: Transit Research, Development, Demonstration and Training Projects (*OMB Number: 2132–0546*).

Abstract: The Transit Research, Development, Demonstration and Training Projects program supports research not undertaken by the private sector including studies on transit policy issues, operational efficiency, and travel behavior. Funding also provides for training and educational programs which may include courses in recent developments, techniques, and procedures related to intermodal and public transportation planning; management; environmental factors; acquisition and joint use rights-of-way; engineering and architectural design; procurement strategies for public transportation systems; new technologies; emission reduction technologies; way to make public transportation accessible to individuals with disabilities; construction, construction management, insurance, and risk management; maintenance; contract administration; inspection; innovative finance; workplace safety; and public transportation security. The program also funds innovative workforce development activities in areas with special emphasis on targeting areas with high unemployment; provide advanced training related to maintenance of alternative energy efficient or zero emission vehicle; and address current or projected workforce shortages in areas that require technical expertise. In addition, it will provide for the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for safety, fare collection, Intelligent Transportation Systems, accessibility, procurement, security, asset management to maintain a state of good repair, operations, maintenance, vehicle propulsion, communications, and vehicle electronics.

Estimated Total Burden: 20,550 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

William Hyre,

Deputy Associate Administrator for Administration.

[FR Doc. 2016–04126 Filed 2–25–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0010]

Notice of Buy America Waiver

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of Buy America Waiver.

SUMMARY: This notice provides NHTSA's finding with respect to a request from the Michigan Office of Highway Safety Planning (OHSP) to waive the requirements of Buy America. NHTSA finds that a non-availability waiver is appropriate for OHSP to purchase twenty foreign-made motorcycles using Federal grant funds because there are no suitable motorcycles produced in the United States for motorcyclist safety training purposes.

DATES: The effective date of this waiver is March 14, 2016. Written comments regarding this notice may be submitted to NHTSA and must be received on or before: March 14, 2016.

ADDRESSES: Written comments may be submitted using any one of the following methods:

- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* Written comments may be faxed to (202) 493–2251.
- *Internet:* To submit comments electronically, go to the Federal regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Instructions: All comments submitted in relation to this waiver must include the agency name and docket number. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You

may also call the Docket at 202–366–9324.

FOR FURTHER INFORMATION CONTACT: For program issues, contact Barbara Sauers, Office of Regional Operations and Program Delivery, NHTSA (phone: 202–366–0144). For legal issues, contact Andrew DiMarsico, Office of Chief Counsel, NHTSA (phone: 202–366–5263). You may send mail to these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This notice provides NHTSA's finding that a waiver of the Buy America requirements, 23 U.S.C. 313, is appropriate for Michigan's OHSP to purchase twenty motorcycles for motorcyclist safety training using grant funds authorized under 23 U.S.C. 402 and 405(f). Section 402 funds are available for use by state highway safety programs that, among other things, reduce or prevent injuries and deaths resulting from speeding motor vehicles, driving while impaired by alcohol and or drugs, motorcycle accidents, school bus accidents, and unsafe driving behavior. 23 U.S.C. 402(a). Section 405(f) funds are available for use by state highway safety programs to implement effective programs to reduce the number of single and multi-vehicle crashes involving motorcyclists that, among other things, include supporting training of motorcyclists and the purchase of motorcycles. 23 U.S.C. 405(f)(1) & (4).

Buy America provides that NHTSA ''shall not obligate any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or [Title 23] and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.'' 23 U.S.C. 313. However, NHTSA may waive those requirements if: ''(1) Their application would be inconsistent with the public interest; (2) such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or (3) the inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.'' 23 U.S.C. 313(b); 49 CFR 1.95(f).

Recently, NHTSA published its finding that a public interest waiver of the Buy America requirements is appropriate for a manufactured product whose purchase price is $5,000 or less, excluding a motor vehicle, when such product is purchased using Federal grant funds administered under Chapter 4 of Title 23 of the United States Code. *See* 80 FR 37359 (June 30, 2015). Under this public interest waiver, therefore, states are no longer required to submit a waiver of Buy America to NHTSA for items costing $5,000 or less, except for motor vehicles, when they purchase the item with Federal grant funds.

Michigan's OHSP seeks both a non-availability waiver—that the product is not produced in the United States in sufficient quantities—and a cost waiver—that the purchase of comparable domestic made motorcycles are 25 percent greater than the cost of foreign made motorcycles—to purchase twenty motorcycles for motorcyclist training purposes. It seeks to purchase a combination of the following make, model and model year motorcycles and unit price: 2016 Suzuki TU250X ($4,399); 2015 Yamaha V-Star 250 ($4,340); 2016 Yamaha TW200 ($4,590); 2015 Honda Grom ($3,199); and 2016 Honda Rebel 250 ($4,190). Michigan asserts that a diverse training motorcycle fleet makes it easier to match novice riders to training motorcycles they can ride safely and comfortably during the training sessions. It notes that the Motorcycle Safety Foundation's (MSF) level one classroom curriculum includes a discussion of motorcycle types and styles, and how to choose a motorcycle that matches a rider's body type and riding experience. Michigan adds that the two outdoor sessions of its training program are 5 hours each, which is long enough that the student's comfort on the motorcycle becomes a significant aspect of their training experience. The total purchase price for all twenty motorcycles ranges from $63,980–$91,800. This training program is designed to improve traffic safety by assuring that individuals seeking to obtain a Michigan motorcycle operator's license are properly trained in basic motorcycle operation and safety.

OHSP requires that its training motorcycles meet certain specifications. The engine displacement must be no more than 250 cubic centimeters (CC). Michigan, however, is unable to identify any motorcycles with this specification that meet the Buy America requirements. OHSP researched motorcycle models made by several American motorcycle manufacturers: Harley-Davidson, Inc., Victory Motorcycles, Indian Motorcycles, ATK Motorcycles and Cleveland CycleWerks. Harley-Davidson produces a 500 CC motorcycle called the Street 500, with a MSRP of $6,849. Victory Motorcycles and Indian Motorcycles produce motorcycles with a much heavier and larger engine displacement than 500 CC, with the lowest MSRP of $12,499 for the Victory Vegas 8-ball motorcycle and the lowest MSRP of $10,999 for the Indian Scout. OHSP reached out to ATK Motorcycles, a domestic manufacturer located in Utah, and determined that ATK Motorcycles are not currently produced or available for sale. OHSP also found that Cleveland CycleWerks manufactures motorcycles in China, with minimal assemblage in the United States.

Michigan states that its fleet of training motorcycles consists of motorcycles with less than 500 CC engine displacement and states that its practice is to use motorcycles with 250 CC engine displacement or less to enhance safety and minimize risk to participants of the training course. OHSP was unable to find a motorcycle that meets its requirements for training motorcycles that also meets the Buy America requirements. OHSP seeks to use the aforementioned motorcycles for its 2016 motorcycle safety training program because they are smaller motorcycles with smaller engine displacement (250 CC). These motorcycles have universal applicability to all rider characteristics. For example, tall and short individuals can train with these smaller motorcycles; whereas, shorter individuals would have difficulty riding taller motorcycles, which, in general, have larger engine displacement. Moreover, motorcycles with smaller engine displacement are lighter and have less engine power that permit novice riders, or those with smaller physical stature, the ability to maneuver the motorcycles with limited risk of the motorcycle overpowering the riders causing injury. While some larger motorcycles (500 CC) are suitable for some motorcycle riders to train on, these motorcycles may overwhelm novice riders with their engine power and weight. Motorcycles with larger engine displacements do not have the universal applicability of the 250 CC motorcycles and would limit the effectiveness of Michigan's training courses. The smaller motorcycles will enable Michigan to continue to have effective motorcycle safety training courses that further the goal of section 402 and 405 to reduce motorcycle crashes and develop effective motorcyclist training for all its constituents.

NHTSA is unaware of any other domestic motorcycle manufacturers than Harley-Davidson, Victory, and Indian. As these manufacturers do not sell a motorcycle that meets the requirements for Michigan's motorcycle safety training purposes, a Buy America

waiver is appropriate. NHTSA invites public comment on this conclusion.

In light of the above discussion, and pursuant to 23 U.S.C. 313(b)(3), NHTSA finds that it is appropriate to grant a waiver from the Buy America requirements to Michigan to purchase twenty motorcycles for training purposes. Michigan seeks both a non-availability waiver—where the product is not produced in the United States in sufficient quantities—and a cost basis waiver—where the purchase of a comparable domestic made motorcycle is 25 percent greater than the cost of foreign a made motorcycle. We have construed this as a non-availability waiver request because a cost basis waiver is not appropriate when there is no comparable domestic product against which to compare the price of the foreign product. Here, no domestic manufacturer produces a motorcycle with 250 CC engine displacement. As smaller engine displacement is common for training purposes and no American manufacturer produces motorcycles with this specification, a non-availability waiver is appropriate.

This waiver applies to Michigan and all other States seeking to use section 402 and 405 funds to purchase the make and model motorcycles above and for the purposes mentioned herein. This waiver will continue through fiscal year 2016 and will allow the purchase of these items as required for Michigan's OHSP and its motorcyclist training programs. Accordingly, this waiver will expire at the conclusion of fiscal year 2016 (September 30, 2016). In accordance with the provisions of Section 117 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy of Users Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), NHTSA is providing this notice as its finding that a waiver of the Buy America requirements is appropriate for certain Suzuki, Yamaha and Honda motorcycles.

Written comments on this finding may be submitted through any of the methods discussed above. NHTSA may reconsider these findings, if through comment, it learns of and can confirm the existence of a comparable domestically made product to the items granted a waiver.

This finding should not be construed as an endorsement or approval of any products by NHTSA or the U.S. Department of Transportation. The United States Government does not endorse products or manufacturers.

Authority: 23 U.S.C. 313; Pub. L. 110–161.

Issued in Washington, DC, on February 22, 2016 under authority delegated in 49 CFR part 1.95.

Paul A. Hemmersbaugh,

Chief Counsel.

[FR Doc. 2016–04211 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Notice of Funding Opportunity for the Department of Transportation's National Infrastructure Investments Under the Consolidated Appropriations Act, 2016

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice of funding opportunity.

SUMMARY: The Consolidated Appropriations Act, 2016 (Pub. L. 114–113, December 18, 2015) (''FY 2016 Appropriations Act'' or the ''Act'') appropriated $500 million to be awarded by the Department of Transportation (''DOT'' or the ''Department'') for National Infrastructure Investments. This appropriation is similar, but not identical, to the program funded and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act'') known as the Transportation Investment Generating Economic Recovery, or ''TIGER Discretionary Grants,'' program. Because of the similarity in program structure, DOT will continue to refer to the program as ''TIGER Discretionary Grants.'' Funds for the FY 2016 TIGER program (''TIGER FY 2016'') are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. The purpose of this final notice is to solicit applications for TIGER Discretionary Grants.

DATES: Applications must be submitted by 8:00 p.m. EDT on April 29, 2016.

ADDRESSES: Applications must be submitted through Grants.gov.

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice, please contact the TIGER Discretionary Grants program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications as well as information about webinars for further guidance on DOT's Web site at *www.transportation.gov/TIGER.*

SUPPLEMENTARY INFORMATION: This notice is substantially similar to the final notice published for the TIGER Discretionary Grants program in the **Federal Register** on April 3, 2015 (80 FR 18283) for fiscal year 2015 funds. However, unlike that round of TIGER Discretionary Grants, this year a pre-application is not required to enhance efficiency of review. In addition, this round of TIGER Discretionary Grants reduces the minimum grant to $5 million from $10 million for urban areas and maximum grant to $100 million from $200 million, as specified in the FY 2016 Appropriations Act. Additionally, the FY 2016 Appropriations Act extends the amount of time that 2016 TIGER funds are available for obligation by one additional year, to expire September 30, 2019. Each section of this notice contains information and instructions relevant to the application process for these TIGER Discretionary Grants, and all applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

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A. Program Description

Since the TIGER Discretionary Grants program was first created, $4.6 billion has been awarded for capital investments in surface transportation infrastructure over seven rounds of competitive grants. The TIGER Discretionary Grants program seeks to award projects that advance DOT's strategic goals for the nation's transportation system found in DOT's Strategic Plan for FY 2014–FY 2018 (*https://www.transportation.gov/policy-initiatives/draft-dot-strategic-plan-fy-2014-2018*). Section E, Application Review Information, of this notice describes the TIGER Discretionary Grants selection criteria based on these goals. Please see DOT's Web site at *www.transportation.gov/TIGER* for background on previous rounds of TIGER Discretionary Grants.

Throughout the TIGER program, TIGER Discretionary Grants awards have supported innovative projects, including multimodal and

multijurisdictional projects which are difficult to fund through traditional Federal programs. Successful TIGER projects leverage resources, encourage partnership, catalyze investment and growth, fill a critical void in the transportation system or provide a substantial benefit to the nation, region or metropolitan area in which the project is located. The FY 2016 TIGER program will continue to make transformative surface transportation investments that dramatically improve the status quo by providing significant and measurable improvements over existing conditions. Transformative improvements anchor broad and long-lasting, positive changes in economic development, safety, quality of life, environmental sustainability, or state of good repair. Because each TIGER project is unique, applicants are encouraged to present, in measurable terms, how TIGER investment will lead to transformative change(s) in their community.

The FY 2016 TIGER program will fund transformative projects of all eligible types, including projects that promote Ladders of Opportunity, to the extent permitted by law. The FY 2014 TIGER and FY 2015 TIGER programs gave consideration to projects that sought to improve access to reliable, safe, and affordable transportation for disconnected communities in urban, suburban, and rural areas. This included, but was not limited to, capital projects that better connected people to jobs, removed physical barriers to access, and strengthened communities through neighborhood redevelopment. The FY 2015 and 2016 TIGER programs clearly identify this concept as Ladders of Opportunity. Ladders of Opportunity projects may increase connectivity to employment, education, services and other opportunities; support workforce development; or contribute to community revitalization, particularly for disadvantaged groups: Low income groups, persons with visible and hidden disabilities, elderly individuals, and minority persons and populations.

B. Federal Award Information

The FY 2016 Appropriations Act appropriated $500 million to be awarded by DOT for the TIGER Discretionary Grants program. The FY 2016 TIGER Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. The Act also allows DOT to use a small portion of the $500 million for oversight and administration of grants and credit assistance made under the TIGER Discretionary Grants program. If this solicitation does not result in the award and obligation of all available funds, DOT may publish additional solicitations.

The FY 2016 Appropriations Act specifies that TIGER Discretionary Grants may not be less than $5 million and not greater than $100 million, except that for projects located in rural areas (as defined in Section C.3) the minimum TIGER Discretionary Grant size is $1 million.

Pursuant to the FY 2016 Appropriations Act, no more than 20 percent of the funds made available for TIGER Discretionary Grants (or $100 million) may be awarded to projects in a single State. The Act also directs that not less than 20 percent of the funds provided for TIGER Discretionary Grants (or $100 million) shall be used for projects located in rural areas. Further, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

The FY 2016 Appropriations Act requires that FY 2016 TIGER funds are only available for obligation through September 30, 2019. Obligation occurs when a selected applicant and DOT enter into a written grant agreement and is generally after the applicant has satisfied applicable administrative requirements, including transportation planning and environmental review requirements. No FY 2016 TIGER funds may be expended (actually paid out) after September 30, 2024. As part of the review and selection process described in Section E.2., DOT will consider whether a project is ready to proceed with an obligation of grant funds from DOT within the statutory time provided. No waiver is possible for these deadlines.

The FY 2016 Appropriations Act allows for up to 20 percent of available funds (or $100 million) to be used by the Department to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, if that use of the FY 2016 TIGER funds would further the purposes of the TIGER Discretionary Grants program.

Recipients of prior TIGER Discretionary Grants may apply for funding to support additional phases of a project awarded funds in earlier rounds of this program. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project phase has been able to meet estimated project schedules and budget, as well as the ability to realize the benefits expected for the project.

A relevant DOT modal administration will administer each TIGER Discretionary Grant, pursuant to a grant agreement between the TIGER Discretionary Grant recipient and that modal administration.

C. Eligibility Information

To be selected for a TIGER Discretionary Grant, an applicant must be an Eligible Applicant and the project must be an Eligible Project.

1. Eligible Applicants

Eligible Applicants for TIGER Discretionary Grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), and other political subdivisions of State or local governments.

Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact, and also identify the primary recipient of the award. Each applicant in a joint application must be an Eligible Applicant. Joint applications must include a description of the roles and responsibilities of each applicant and must be signed by each applicant.

2. Cost Sharing or Matching

TIGER Discretionary Grants may be used for up to 80 percent of the costs of a project located in an urban area[1] and up to 100 percent of the costs of a project located in a rural area. Urban area and rural area are defined in section C.3.ii of this notice. Matching funds are subject to the same Federal requirements described in Section F.2. as awarded funds.

DOT will consider the following funds or contributions as a local match for the purpose of this program, and as further described in Section F.1.v:

- Non-Federal funds
- Funds from the Tribal Transportation Program (23 U.S.C. 202)

But DOT cannot consider the following funds or contributions as a local match:

- Funds already expended (or otherwise encumbered)
- Funds for which the source of those funds is ultimately a Federal program.
- Toll credits under 23 U.S.C. 120(i)

[1] To meet match requirements, the minimum total project cost for a project located in an urban area must be $6.25 million.

3. Other

i. *Eligible Projects*—Eligible projects for TIGER Discretionary Grants are capital projects that include, but are not limited to: (1) Highway or bridge projects eligible under title 23, United States Code (including bicycle and pedestrian related projects); (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects. This description of eligible projects is identical to the description of eligible projects under earlier rounds of the TIGER Discretionary Grants program.[2] Research, demonstration, or pilot projects are eligible only if they result in long-term, permanent surface transportation infrastructure that has independent utility as defined in Section C.3.iii. Applicants are strongly encouraged to submit applications only for eligible award amounts.

ii. *Rural/Urban Definition*—For purposes of this notice, DOT defines ''rural area'' as any area not within an Urbanized Area, as such term is defined by the Census Bureau,[3] and will consider a project to be in a rural area if all or the majority of a project (determined by geographic location(s) where the majority of project money is to be spent) is located in a rural area. In this notice ''urban'' means not rural. This definition affects three aspects of the program. First, the FY 2016 Appropriations Act directs that not less than $100 million of the funds provided for TIGER Discretionary Grants are to be used for projects in rural areas. Second, for a project in a rural area the minimum award is $1 million. Third, the Secretary may increase the Federal share above 80 percent to pay for the costs of a project in a rural area.

To the extent more than a *de minimis* portion of a project is located in an Urbanized Area, applicants should identify the estimated percentage of project costs that will be spent in Urbanized Areas and the estimated percentage that will be spent in rural areas. The Department will not provide an award to a project in a rural area without information showing that the majority of the project funds will be expended in a rural area. Rural and urban definitions differ in some other DOT programs, including TIFIA and the Nationally Significant Freight and Highway Projects Program (§ 1105; 23 U.S.C. 117).

iii. *Project Components*—An application may describe a project that contains more than one component, and may describe components that may be carried out by parties other than the applicant. DOT may award funds for a component, instead of the larger project, if that component (1) independently meets minimum award amounts described in Section B and all eligibility requirements described in Section C; (2) independently aligns well with the selection criteria specified in Section E; and (3) meets National Environmental Policy Act (NEPA) requirements with respect to independent utility. Independent utility means that the component will represent a transportation improvement that is usable and represents a reasonable expenditure of DOT funds even if no other improvements are made in the area, and will be ready for intended use upon completion of that component's construction. All project components that are presented together in a single application must demonstrate a relationship or connection between them. (See Section D.2.f. for Required Approvals).

Applicants should be aware that, depending upon the relationship between project components and upon applicable Federal law, DOT funding of only some project components may make other project components subject to Federal requirements as described in Section F.2.

DOT strongly encourages applicants to identify in their applications the project components that have independent utility and separately detail costs and requested TIGER funding for those components. If the application identifies one or more independent project components, the application should clearly identify how each independent component addresses selection criteria and produces benefits on its own, in addition to describing how the full proposal of which the independent component is a part addresses selection criteria.

iv. *Limit on Number of Applications*—Each lead applicant may submit no more than three applications. Unrelated project components should not be bundled in an application for the purpose of avoiding the three applications per lead applicant limit. Please note that the three-application limit applies only to applications where the applicant is the lead applicant. There is no limit on the number of applications for which an applicant can be listed as a partnering agency. If a lead applicant submits more than three applications as the lead applicant, only the first three received will be considered. The Nationally Significant Freight and Highway Projects (NSFHP) program (§ 1105; 23 U.S.C. 117) and the 2016 TIGER Discretionary Grant program have independent application limits. Applicants applying to both the NSFHP and the 2016 TIGER Discretionary Grants program may apply for the same project to both programs (noted in each application), but must timely submit separate applications that independently address how the project satisfies applicable selection criteria for the relevant grant program.

D. Application and Submission Information

1. Address

Applications must be submitted to Grants.gov. General information for submitting applications through Grants.gov can be found at *www.transportation.gov/TIGER* along with specific instructions for the forms and attachments required for submission. Failure to submit the information as requested can delay review of the application.

2. Content and Form of Application Submission

Applications must include the Standard Form 424 (Application for Federal Assistance), the Project Narrative, and any additional required attachments as specified by the instructions provided. Applicants should also complete and attach to their application the ''TIGER 2016 Project Information'' form available at *www.transportation.gov/TIGER.* Additional clarifying guidance and FAQs to assist applicants in completing the SF–424 are available at *www.transportation.gov/TIGER.* DOT may ask any applicant to supplement data in its application, but expects applications to be complete upon submission. To the extent practicable, applicants should provide data and evidence of project merits in a form that is verifiable or publicly available.

[2] Please note that the Department may use a TIGER Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER Discretionary Grants to pay for the surface transportation components of these projects.

[3] For Census 2010, the Census Bureau defined an Urbanized Area (UA) as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Web site at *http://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/*. Urban Clusters (UCs) are rural areas for purposes of the TIGER Discretionary Grants program. Please note that while individual jurisdictions might have a population of fewer than 50,000, if they are included as part of an UA, they will be classified as urban for purposes of the TIGER program.

The Project Narrative (attachment to SF–424) must respond to the application requirements outlined below. The application must include information required for DOT to assess each of the criteria specified in Section E.1 (Criteria). Applicants must demonstrate the responsiveness of a project to any pertinent selection criteria with the most relevant information that they can provide, regardless of whether such information has been specifically requested, or identified, in this notice. An application should provide evidence of the feasibility of achieving project milestones, and of financial capacity and commitment in order to support project readiness.

An application should also include a description of how the project addresses the needs of the area, creates economic opportunity, and sparks community revitalization, particularly for disadvantaged groups.

DOT recommends that the project narrative adhere to the following basic outline and, in addition to a detailed statement of work, project schedule, and project budget, should include a table of contents, maps, and graphics as appropriate that make the information easier to review:

i. *Project Description* (including a description of what TIGER funds will support, information on the expected users of the project, a description of the transportation challenges that the project aims to address, how the project will address these challenges, and whether, and how, the project promotes Ladders of Opportunity.) Include relevant data, such as passenger or freight volumes, congestion levels, infrastructure condition, and safety experience;

ii. *Project Location* (a detailed description of the proposed project and geospatial data for the project, including a map of the project's location and its connections to existing transportation infrastructure, as well as a description of the national, regional, or metropolitan area in which the project is located, including economic information such as population size, median income for transportation facility users, or major industries affected, and project map);

iii. *Project Parties* (information about the grant recipient and other project parties);

iv. *Grant Funds and Sources/Uses of Project Funds* (information about the amount of grant funding requested, availability/commitment of fund sources and uses of all project funds, total project costs, percentage of project costs that would be paid with TIGER Discretionary Grants funds, and the identity of all parties providing funds for the project and their percentage shares.) Include any other pending or past Federal funding requests for the project as well as Federal funds already provided under other programs and the size, nature/source of the required match for those funds, to clarify that these are not the same funds counted under the matching requirement for this grant request. Describe any restrictions attached to specific funds; compliance or a schedule for compliance with all conditions applicable to each funding source, and, to the extent possible, funding commitment letters from non-Federal sources.

v. *Selection Criteria* (information about how the project aligns with each of the primary and secondary selection criteria):

(i) Primary Selection Criteria
  (a) State of Good Repair
  (b) Economic Competitiveness
  (c) Quality of Life
  (d) Environmental Sustainability
  (e) Safety
(ii) Secondary Selection Criteria
  (a) Innovation
  (b) Partnership

vi. *Results of Benefit-Cost Analysis*;

vii. *Project Readiness,* including planning approvals, NEPA and other environmental reviews/approvals, (including information about permitting, legislative approvals, State and local planning, and project partnership and implementation agreements); and

viii. *Federal Wage Rate Certification* (a certification, signed by the applicant(s), stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code [Federal wage rate requirements], as required by the FY 2016 Appropriations Act).

The purpose of this recommended format is to ensure that applications clearly address the program requirements and make critical information readily apparent.

DOT recommends that the project narrative be prepared with standard formatting preferences (*i.e.,* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins). The project narrative may not exceed 30 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. Cover pages, tables of contents, and the federal wage rate certification do not count towards the 30-page limit for the narrative portion of the application. The only substantive portions of the application that may exceed the 30-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 30-page narrative section. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. Otherwise, supporting documents should be included as appendices to the application. Applicants' references to supporting documentation should clearly identify the relevant portion of the supporting material. At the applicant's discretion, relevant materials provided previously to a relevant modal administration in support of a different DOT discretionary financial assistance program (for example, New Starts or TIFIA) may be referenced and described as unchanged. This information need not be resubmitted for the TIGER Discretionary Grant application but may be referenced as described above; Web site links to the materials are highly recommended. DOT recommends using appropriately descriptive file names (*e.g.,* ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and Letters of Support,'' etc.) for all attachments.

3. Unique Entity Identifier and System for Award Management (SAM)

DOT may not make a TIGER Discretionary Grant award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements. If an applicant has not fully complied with the requirements by the submission deadline, the application will not be considered. To submit an application through Grants.gov, applicants must:

i. Obtain a Data Universal Numbering System (DUNS) number;

ii. Register with the System for Award Management (SAM) at *www.SAM.gov;*

iii. Create a Grants.gov username and password; and

iv. The E-Business Point of Contact (POC) at the applicant's organization must respond to the registration email from Grants.gov and login at Grants.gov to authorize the applicant as the Authorized Organization Representative (AOR). Please note that there can be more than one AOR for an organization.

For information and instructions on each of these processes, please see instructions at *http://www.grants.gov/web/grants/applicants/applicant-faqs.html.*

If an applicant is selected for an award, the applicant will be required to maintain an active SAM registration

with current information throughout the period of the award.

4. Submission Dates and Times

i. *Deadline:* Applications must be submitted by 8:00 p.m. EDT on April 29, 2016. The Grants.gov ''Apply'' function will open on February 26, 2016.

ii. Only applicants who comply with all submission deadlines described in this notice and electronically submit valid applications through Grants.gov will be eligible for award.

Applicants are strongly encouraged to make submissions in advance of the deadline. Please be aware that applicants must complete the Grants.gov registration process before submitting the final application, and that this process usually takes 2–4 weeks to complete. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7:00 a.m. to 9:00 p.m. EDT.

iii. *Late Applications:* DOT will not consider applications received after the deadline except in the case of unforeseen technical difficulties outlined below. DOT will not consider late applications that are the result of failure to register or comply with Grants.gov applicant requirements in a timely manner.

Applicants experiencing technical issues with Grants.gov that are beyond the applicant's control must contact *TIGERGrants@dot.gov* or Howard Hill at 202–366–0301 prior to the corresponding deadline with the user name of the registrant and details of the technical issue experienced. The applicant must provide:

a. Details of the technical issue experienced.

b. Screen capture(s) of the technical issue experienced along corresponding ''Grant tracking number'' (Grants.Gov).

c. The ''Legal Business Name'' for the applicant that was provided in the SF–424 or pre-application.

d. The AOR name submitted in the SF–424 (Grants.gov).

e. The DUNS number associated with the pre-application/application.

f. The Grants.gov or Pre-Application Help Desk Tracking Number.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in this notice of funding availability; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment. After DOT staff review all of the information submitted and contacted the Grants.gov Help Desk to validate the technical issues reported, DOT staff will contact applicants to either approve or deny the request to submit a late application through Grants.gov. If the technical issues reported cannot be validated, the application will be rejected as untimely.

5. Funding Restrictions

There is no specific set-aside funding solely for pre-construction activities [4] in the FY 2016 TIGER Discretionary Grants program. However, these activities may be eligible to the extent that they are part of an overall construction project that receives TIGER Discretionary Grants funding. For TIGER funds to be considered for pre-construction activities, the applicant must clearly state, in the application, the pre-construction activity and amount of TIGER funds that will be expended on that activity.

E. Application Review Information

1. Criteria

This section specifies the criteria that DOT will use to evaluate and award applications for TIGER Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. There are two categories of selection criteria, ''Primary Selection Criteria'' and ''Secondary Selection Criteria.'' Within each relevant selection criterion, applicants are encouraged to present in measurable terms how TIGER investment will lead to transformative change(s) in their community. Projects will also be evaluated for demonstrated project readiness, benefits and costs, and cost share.

i. Primary Selection Criteria

Applications that do not demonstrate a likelihood of significant long-term benefits based on these criteria will not proceed in the evaluation process. DOT does not consider any primary selection criterion more important than the others. The primary selection criteria, which will receive equal consideration, are:

a. Safety. Improving the safety of U.S. transportation facilities and systems for all modes of transportation and users. DOT will assess the project's ability to reduce the number, rate, and consequences of surface transportation-related accidents, serious injuries, and fatalities among transportation users, including pedestrians, the project's contribution to the elimination of highway/rail grade crossings, and the project's contribution to preventing unintended releases of hazardous materials. DOT will consider the project's ability to foster a safe, connected, accessible transportation system for the multimodal movement of goods and people.

b. State of Good Repair. Improving the condition and resilience of existing transportation facilities and systems. DOT will assess whether and to what extent: (1) The project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (2) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (3) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (4) a sustainable source of revenue is available for operations and maintenance of the project; and (5) the project improves the transportation asset's ability to withstand probable occurrence or recurrence of an emergency or major disaster or other impacts of climate change. Additional consideration will be given to a project's contribution to improving the overall reliability of a multimodal transportation system that serves all users, and to projects that offer significant transformational improvements to the condition of existing transportation systems and facilities.

c. Economic Competitiveness. Contributing to the economic competitiveness of the United States over the medium- to long-term, revitalizing communities, and creating and preserving jobs. DOT will assess whether the project will (1) decrease transportation costs and improve access for Americans with transportation disadvantages through reliable and timely access to employment centers, education and training opportunities, and other basic needs of workers; (2) improve long-term efficiency, reliability or costs in the movement of workers or goods; (3) increase the economic productivity of land, capital, or labor at

[4] Pre-Construction activities are activities related to the planning, preparation, or design of surface transportation projects. These activities include but are not limited to environmental analysis, feasibility studies, design, and engineering of surface transportation projects as described in Section C.3.

specific locations, or through community revitalization efforts; (4) result in long-term job creation and other economic opportunities; or (5) help the United States compete in a global economy by facilitating efficient and reliable freight movement, including border infrastructure and projects that have a significant effect on reducing the costs of transporting export cargoes. DOT will prioritize projects that exhibit strong leadership and vision, and are part of a larger strategy to significantly revitalize communities and increase economic opportunities.

d. Quality of Life. Increasing transportation choices and improving access to essential services for people in communities across the United States, particularly for disadvantaged groups. DOT will assess whether the project furthers the six ''Livability Principles'' developed by DOT with the Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) as part of the Partnership for Sustainable Communities.[5] DOT will focus on the first principle, the creation of affordable and convenient transportation choices.[6] Further, DOT will prioritize projects developed in coordination with land-use planning and economic development decisions, including through programs like TIGER Planning Grants, the Department of Housing and Urban Development's Regional Planning Grants, the Environmental Protection Agency's Brownfield Area-Wide Planning Pilot Program, and technical assistance programs focused on quality of life or economic development planning. DOT will assess the extent to which the project will anchor transformative, positive, and long-lasting quality of life changes at the national, regional or metropolitan level.

e. Environmental Sustainability. Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions, improving water quality, avoiding and mitigating environmental impacts and otherwise benefitting the environment. DOT will assess the project's ability to: (i) Reduce energy use and air or water pollution; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; or (iii) provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation, including green infrastructure. Applicants are encouraged to provide quantitative information, including baseline information that demonstrates how the project will reduce energy consumption, stormwater runoff, or achieve other benefits for the environment.

ii. Secondary Selection Criteria

a. Innovation. Use of innovative strategies to pursue the long-term outcomes outlined above. DOT will also assess the extent to which the project uses innovative technology to pursue one or more of the long-term outcomes outlined above or to significantly enhance the operational performance of the transportation system. DOT will also assess the extent to which the project incorporates innovations in transportation funding and finance and leverages both existing and new sources of funding through both traditional and innovative means. Further, DOT will consider the extent to which the project utilizes innovative practices in contracting, congestion management, safety management, asset management, or long-term operations and maintenance. DOT is interested in projects that apply innovative strategies to improve the efficiency of project development or to improve project delivery.

b. Partnership. Demonstrating strong collaboration among a broad range of stakeholders, and the product of a robust, inclusive planning process.

(i) Jurisdictional and Stakeholder Collaboration. DOT will consider the extent to which projects involve multiple partners in project development and funding, such as State and local governments, other public entities, and/or private or nonprofit entities. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions to achieve national, regional, or metropolitan benefits. In the context of public-private partnerships, DOT will assess the extent to which partners are encouraged to ensure long-term asset performance, such as through pay-for-success approaches.

(ii) Disciplinary Integration. DOT will consider the extent to which projects include partnerships that bring together diverse transportation agencies and/or are supported, financially or otherwise, by non-transportation public agencies that are pursuing similar objectives. For example, DOT will give priority to transportation projects that are coordinated with economic development, housing, water infrastructure, and land use plans and policies or other public service efforts. Similarly, DOT will give priority to transportation projects that are coordinated with housing, social services, or education agencies. Projects that demonstrate a robust planning process—such as those conducted with DOT's various planning programs and initiatives, the Department of Housing and Urban Development's Regional Planning Grants and Choice Neighborhood Planning Grants, or the Environmental Protection Agency's Brownfield Area-Wide Planning Pilot Program, as well as technical assistance programs focused on livability or economic development planning—will also be given priority.

iii. Demonstrated Project Readiness

For projects that receive funding in this round of TIGER, DOT must obligate funds by September 30, 2019, or the funding will expire. Therefore, DOT will assess every application to determine whether the project is likely to proceed to obligation by the statutory deadline (see *Additional Information on Project Readiness Guidelines* located at *www.transportation.gov/TIGER* for further details), as evidenced by:

a. Technical Feasibility. The technical feasibility of the project should be demonstrated by engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the TIGER application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants must include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed.

b. Financial Feasibility. The viability and completeness of the project's financing package (assuming the availability of the requested TIGER Discretionary Grant funds) should be demonstrated including evidence of stable and reliable capital and (as appropriate) operating fund commitments sufficient to cover estimated costs; the availability of contingency reserves should planned capital or operating revenue sources not materialize; evidence of the financial condition of the project sponsor; and evidence of the grant recipient's ability to manage grants. The applicant must include a detailed project budget in this section of the application containing a breakdown of how the funds will be

[5] *https://www.transportation.gov/livability/101.*

[6] In full, this principle reads: ''Provide more transportation choices. Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nations' dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.''

spent. That budget must estimate—both dollar amount and percentage of cost—the cost of work for each project component. If the project will be completed in segments or phases, a budget for each segment or phase must be included. Budget spending categories must be broken down between TIGER, other Federal, and non-Federal sources,[7] and identify how each funding source will share in each activity.

c. Project Schedule. The applicant must include a detailed project schedule that includes all major project milestones—such as start and completion of environmental reviews and approvals; design; right of way acquisition; approval of plan, specification and estimate (PS&E); procurement; and construction- with sufficiently detailed information to demonstrate that:

(i) All necessary pre-construction activities will be complete to allow grant funds to be obligated no later than June 30, 2019, to give DOT reasonable assurance that the TIGER Discretionary Grant funds will be obligated sufficiently in advance of the September 30, 2019, statutory deadline, and that any unexpected delays will not put the funds at risk of expiring before they are obligated;

(ii) the project can begin construction quickly upon receipt of a TIGER Discretionary Grant, and that the grant funds will be spent steadily and expeditiously once construction starts; and

(iii) any applicant that is applying for a TIGER Discretionary Grant and does not own all of the property or right-of-way required to complete the project should provide evidence that the property and/or right-of-way acquisition can and will be completed expeditiously.

DOT may revoke any award of TIGER Discretionary Grant funds and award those funds to another project if the funds cannot be timely obligated or construction does not begin in accordance with the project schedule established in the grant agreement.

d. Required Approvals

(i) Environmental Permits and Reviews. An application for a TIGER Discretionary Grant must detail whether the project will significantly impact the natural, social and/or economic environment. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule and necessary to meet the statutory obligation deadline, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act (''NEPA'') process. Although Section C.3.iii (Project Components) of this notice encourages applicants to identify independent project components, those components may not be separable for the NEPA process. In such cases, the NEPA review for the independent project component may have to include evaluation of all project components as connected, similar, or cumulative actions, as detailed at 40 CFR 1508.25. The applicant should submit the information listed below with the application:

(1) Information about the NEPA status of the project. If the NEPA process is completed, an applicant must indicate the date of, and provide a Web site link or other reference to the final Categorical Exclusion, Finding of No Significant Impact or Record of Decision. If the NEPA process is underway but not complete, the application must detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion. Applicants must provide a Web site link or other reference to copies of any NEPA documents prepared.

(2) Information on reviews by other agencies. An application for a TIGER Discretionary Grant must indicate whether the proposed project requires reviews or approval actions by other agencies,[8] indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and/or demonstrate compliance with any other applicable Federal, State, or local requirements.

(3) Environmental studies or other documents—preferably through a Web site link—that describe in detail known project impacts, and possible mitigation for those impacts.

(4) A description of discussions with the appropriate DOT modal administration field or headquarters office regarding compliance with NEPA and other applicable environmental reviews and approvals.

(ii) Legislative Approvals. The applicant should demonstrate receipt of state and local approvals on which the project depends. Additional support from relevant State and local officials is not required; however, an applicant should demonstrate that the project is broadly supported.

(iii) State and Local Planning. The planning requirements of the modal administration administering the TIGER project will apply.[9] Applicants should demonstrate that a project that is required to be included in the relevant State, metropolitan, and local planning documents has been or will be included. If the project is not included in the relevant planning documents at the time the application is submitted, the applicant should submit a certification from the appropriate planning agency that actions are underway to include the project in the relevant planning document. Because projects have different schedules, the construction start date for each TIGER Discretionary Grant will be specified in the project-specific grant agreements signed by relevant modal administration and the grant recipients and will be based on critical path items identified by applicants in response to items (i)(1) through (4) above.

e. Assessment of Project Risks and Mitigation Strategies. The applicant should identify the material risks to the project and the strategies that the lead

[7] Non-Federal sources include State funds originating from State revenue funded programs, local funds originating from State or local revenue funded programs, private funds or other funding sources of non-Federal origins.

[8] Projects that may impact protected resources such as wetlands, species habitat, cultural or historic resources require review and approval by Federal and State agencies with jurisdiction over those resources. Examples of these reviews and approvals can be found at *www.transportation.gov/TIGER.*

[9] All projects requiring an action by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) in accordance with 23 CFR part 450, must be in the metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will not receive a TIGER Discretionary Grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and metropolitan planning organization (MPO). Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a TIGER Discretionary Grant. Port, freight and passenger rail projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008. This is consistent with the exemption for high-speed and intercity passenger rail projects under the Recovery Act. However, applicants seeking funding for freight and passenger rail projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals. To the extent possible, freight projects should be included in a state freight plan and supported by a state freight advisory committee (see MAP–21 §§ 1117–1118). Further information and guidance information on transportation planning and is available from the following FHWA and FTA sites respectively—*http://www.fhwa.transportation.gov/planning* and *http://www.fta.transportation.gov/about/12347.html.* Port planning guidelines are available at StrongPorts.gov.

applicant and any project partners have undertaken or will undertake in order to mitigate those risks. In past rounds of TIGER Discretionary Grants, certain projects have been affected by procurement delays, environmental uncertainties, and increases in real estate acquisition costs. The applicant must assess the greatest risks to the projects and identify how the project parties will mitigate those risks. DOT will consider projects that contain risks so long as the applicant clearly and directly describes achievable mitigation strategies.

The applicant, to the extent they are unfamiliar with the Federal program, should contact DOT modal field or headquarters offices for information on what steps are pre-requisite to the obligation of Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying Federal requirements.

Contacts for the Federal Highway Administration Division offices—which are located in all 50 States, Washington, DC, and Puerto Rico—can be found at *http://www.fhwa.dot.gov/about/field.cfm.* Contacts for the ten Federal Transit Administration regional offices can be found at *http://www.fta.dot.gov/12926.html.* Contacts for the nine Maritime Administration Gateway Offices can be found at *http://www.marad.dot.gov/about_us_landing_page/gateway_offices/Gateway_Presence.htm.* For Federal Railroad Administration Contacts, please contact TIGER program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301.

iv. Project Costs and Benefits

An applicant for TIGER Discretionary Grants is generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications: [10]

An applicant must prepare and submit an analysis of benefits and costs. The level of sophistication of the benefit-cost analysis (BCA) should be reasonably related to the size of the overall project and the amount of grant funds requested in the application. For smaller projects, DOT understands that a less detailed analysis for items such as surveys, travel demand forecasts, market forecasts, and statistical analyses is appropriate. For larger projects, DOT expects that applicants will provide a robust and detailed analysis of benefits and costs. Any subjective estimates of benefits and costs should be quantified, and the applicant should provide appropriate evidence to support their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least one non-monetary quantitative estimate (in physical, non-monetary terms) should be provided. Examples of such benefits include:

- Crash rates
- Ridership estimates
- Emissions levels
- Energy efficiency improvements

However, an applicant should use qualitative measures to include benefits that cannot be readily monetized or quantified.

Depending on the level of sophistication of a BCA that is reasonably related to the size of an overall project, the lack of a useful analysis of expected project benefits and costs may be a basis for not selecting a project for award of a TIGER Discretionary Grant. However, DOT will use the results of the BCA review as one of several criteria considered during the TIGER Discretionary Grants evaluation process.

The *2016 Benefit-Cost Analyses Guidance for TIGER Grant Applicants* and in the *BCA Resource Guide* (available at *www.transportation.gov/TIGER*) provides detailed guidance for preparing benefit-cost analyses. A recording of the *Benefit-Cost Analysis Practitioner's Workshop (2010)* and two BCA-related webinars are also available for viewing at *www.transportation.gov/TIGER,* along with examples of benefit-cost analyses that have been submitted in previous rounds of TIGER.

Spreadsheets supporting the benefit-cost analysis should be original Excel spreadsheets, not PDFs of those spreadsheets. Benefits should be presented, whenever possible, in a tabular form showing benefits and costs in each year for the useful life of the project. The application should include projections of costs, travel conditions, safety outcomes, and environmental impacts for both the build and no-build scenarios for the project for each year between the completion of the project and a point in time at least 20 years beyond the project's completion date or the lifespan of the project, whichever is closer to the present. The BCA should demonstrate how the benefits and costs of the proposed project are based on differences in the future values of these measures between the baseline or no-build scenario and with the proposed project in place. Benefits and costs should both be discounted to the year 2016, and calculations should be presented for discounted values of both the stream of benefits and the stream of costs. If the project has multiple components, each of which has independent utility, the benefits and costs of each component should be estimated and presented separately. The results of the benefit-cost analysis should be summarized in the Project Narrative section of the application itself, but the details should be presented in an attachment to the application if the full analysis cannot be included within the page limit for the project narrative.

BCA Flexibility for Tribal Governments: Based on feedback over previous rounds of TIGER, DOT recognizes that the benefit-cost analysis can be particularly burdensome on Tribal governments. Therefore, the Department is providing additional flexibility to Tribal governments for the purposes of this notice. At their discretion, Tribal applicants may elect to provide raw data to support the need for a project (such as crash rates, ridership estimates, and the number of people who will benefit from the project), without additional analysis. DOT will use this data to develop estimates (given the data provided) of benefits and costs. DOT will use these results as one of several criteria considered during the TIGER Discretionary Grants evaluation process. Examples of BCAs by successful Tribal applicants are available online at *http://www.transportation.gov/policy-initiatives/tiger/tribal-tiger-bca-examples*.

v. Cost Sharing or Matching

The FY 2016 Appropriations Act directs DOT to prioritize projects that require a contribution of Federal funds to complete an overall financing package, and all projects can increase their competitiveness for purposes of the TIGER program by demonstrating significant non-Federal financial contributions. The applicant should clearly demonstrate the extent to which the project cannot be readily and efficiently completed without a TIGER Discretionary Grant, and describe the extent to which other sources of funds, including Federal, State, or local funding, may or may not be readily available for the project. The Department may consider the form of cost sharing presented in an application. Firm commitments of cash that indicate a complete project funding package and demonstrate local support for the project are more competitive than other

[10] DOT has a responsibility under Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233, to base infrastructure investments on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures.

forms of cost sharing. DOT recognizes that applicants have varying abilities and resources to contribute non-Federal contributions, especially those communities that are not routinely receiving and matching Federal funds. DOT recognizes certain communities with fewer financial resources may struggle to provide cost-share that exceeds the minimum requirements and will, therefore, consider an applicant's broader fiscal constraints when evaluating non-Federal contributions. In the first seven rounds, on average, projects attracted more than 3.5 matching dollars for every TIGER grant dollar.

2. Review and Selection Process

DOT reviews all eligible applications received before the deadline. The TIGER review and selection process consists of three phases: Technical Review, Tier 2 Analysis consisting of project readiness and economic analysis, and Senior Review. A Control and Calibration Team ensures consistency across projects and appropriate documentation throughout the review and selection process. In the Technical Evaluation phase, teams comprising staff from the Office of the Secretary (OST) and modal administrations review all eligible applications and rate projects as Highly Recommended, Recommended, Acceptable, or Not Recommended based on how well the projects align with the selection criteria.

Tier 2 Analysis consists of (1) an Economic Analysis and (2) a Project Readiness Analysis. The Economic Analysis Team, comprising OST and modal administration economic staff, assess the potential benefits and costs of the proposed projects. The Project Readiness Team, comprising Office of the Secretary Office of Policy (OST–P) and modal administration staff, evaluates the proposed project's technical and financial feasibility, potential risks and mitigation strategies, and project schedule, including the status of environmental approvals and readiness to proceed.

In the third review phase, the Senior Review Team, which includes senior leadership from OST and the modal administrations, considers all projects that were rated Acceptable, Recommended, or Highly Recommended and determines which projects to advance to the Secretary as Highly Rated. The Secretary selects from the Highly Rated projects for final awards.

3. Additional Information

Prior to award, each selected applicant will be subject to a risk assessment required by 2 CFR 200.205. The Department must review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS). An applicant may review information in FAPIIS and comment on any information about itself. The Department will consider comments by the applicant in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants.

F. Federal Award Administration Information

1. Federal Award Notice

Following the evaluation outlined in Section E, the Secretary will announce awarded projects by posting a list of selected projects at *www.transportation.gov/TIGER*. Following that announcement, the relevant modal administration will contact the point of contact listed in the SF 424 to initiate negotiation of the grant agreement.

2. Administrative and National Policy Requirements

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR part 200, as adopted by DOT at 2 CFR part 1201. Additionally, applicable Federal laws, rules and regulations of the relevant modal administration administering the project will apply to the projects that receive TIGER Discretionary Grants awards, including planning requirements, Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT's other highway, transit, rail, and port grant programs.

For projects administered by the Federal Highway Administration (FHWA), applicable Federal laws, rules, and regulations set forth in Title 23 U.S.C. and Title 23 CFR apply. For an illustrative list of the applicable laws, rules, regulations, executive orders, polices, guidelines, and requirements as they relate to a TIGER project administered by the FHWA, please see *http://www.ops.fhwa.dot.gov/freight/infrastructure/tiger/fy2015_gr_exhbt/index.htm*. For TIGER projects administered by the Federal Transit Administration and partially funded with Federal transit assistance, all relevant requirements under chapter 53 of title 49 U.S.C. apply. For transit projects funded exclusively with TIGER Discretionary Grants funds, some requirements of chapter 53 of title 49 U.S.C. and chapter VI of title 49 CFR apply. For projects administered by the Federal Railroad Administration, FRA requirements described in 49 U.S.C. Subtitle V, Part C apply.

Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with TIGER Discretionary Grant funds, other Federal funds, or non-Federal funds.

3. Reporting

i. Progress Reporting on Grant Activities

Each applicant selected for TIGER Discretionary Grants funding must submit quarterly progress reports and Federal Financial Report (SF–425) on the financial condition of the project and the project's progress, as well as an Annual Budget Review and Program Plan to monitor the use of Federal funds and ensure accountability and financial transparency in the TIGER program.

ii. System Performance Reporting

Each applicant selected for TIGER Discretionary Grant funding must collect information and report on the project's observed performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the TIGER Discretionary Grants program are achieved. To the extent possible, performance indicators used in the reporting should align with the measures included in the application and should relate to at least one of the primary selection criteria defined in Section E. Performance reporting continues for several years after project construction is completed, and DOT does not provide TIGER Discretionary Grant funding specifically for performance reporting.

iii. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants,

cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110–417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111–212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

G. Federal Awarding Agency Contacts

For further information concerning this notice please contact the TIGER Discretionary Grants program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will post answers to questions and requests for clarifications on DOT's Web site at *www.transportation.gov/TIGER.* To ensure applicants receive accurate information about eligibility or the program, the applicant is encouraged to contact DOT directly, rather than through intermediaries or third parties, with questions. DOT staff may also conduct briefings on the TIGER Discretionary Grants selection and award process upon request.

H. Other Information

1. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI)''; (2) mark each affected page ''CBI''; and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

Anthony R. Foxx,

Secretary.

[FR Doc. 2016–04217 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT–OST–2015–0139]

Proposed Information Collection Request; Notice of New Requirements and Procedures for Grant Payment Request Submission

AGENCY: Department of Transportation (DOT).

ACTION: Notice with request for comments.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary (OST) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on October 29, 2015, allowing for a 60-day public comment period.

DATES: Comments must be submitted on or before March 28, 2016.

ADDRESSES: Direct comments to the Department of Transportation Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the information collection title and OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attn: Desk Officer for Department of Transportation.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from US Department of Transportation, Office of Financial Management, B–30, Room W93–431, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, (202) 366–0448, *DOTElectronicInvoicing@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Notice of Procedures for Vendor Invoice Submission Pilot.

OMB Control Number: 2106–XXXX.

Type of Request: New information collection.

Background: This notice sets forth new processes and procedures for vendors that submit invoices and receive payments from DOT Operating Administrations (OAs). The vendors involved in the pilot must meet the following requirements to participate—

- Vendors will need to have electronic internet access to register in the Delphi eInvoicing system.
- Vendors will submit invoices electronically and DOT OAs must process invoices electronically.
- The identities of system users must be verified prior to receiving access to the Delphi eInvoicing system. Prospective Users must complete a user request form and provide the following information: Full name, work address, work phone number, work email address, home address and home phone number. Prospective users must present the completed form to a Notary Public for verification. Prospective users will then return the notarized form to DOT to receive their login credentials.

Affected Public: DOT Vendors.

Total Estimated Number of Respondents: 255.

Total Estimated Number of Responses: 2603.

Estimated Total Annual Burden Hours: 5206 (initial registration only).

Frequency of Collection: One time.

Annual Estimated Total Annual Burden Costs: $52,060.

Comments: Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520, as amended.

Issued in Washington, DC, on February 17, 2016.

Habib Azarsina,

OST Privacy & PRA Officer, Department of Transportation.

[FR Doc. 2016–04212 Filed 2–25–16; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulations Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments regarding the burden estimate or any other aspect of this collection of information entitled ''Affordable Care Act—Summary of Benefits and Coverage Disclosures.''

DATES: Written comments should be received on or before March 28, 2016 to be assured of consideration.

ADDRESSES: Direct all written comments to Carrie Holland, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Tuawana Pinkston at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Tuawana.Pinkston@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Affordable Care Act—Summary of Benefits and Coverage Disclosures.

OMB Number: 1545–2229.

Regulation Number: TD 9724.

Abstract: This information collection request (ICR) document seeks OMB approval of the revision to the summary of benefits and coverage and uniform glossary pursuant to 26 CFR 54.9815–2715. The Patient Protection and Affordable Care Act amends the Public Health Service Act by adding section 2715 ''Development and Utilization of Uniform Explanation of Coverage Documents and Standardized Definitions.'' This section directs the Department of Health and Human Services, the Department of Labor, and the Department of the Treasury (collectively, the Departments), in consultation with the National Association of Insurance Commissioners and a working group comprised of stakeholders, to develop standards for use by a group health plan and a health insurance issuer in compiling and providing to applicants, enrollees, policyholders, and certificate holders a summary of benefits and coverage explanation that accurately describes the benefits and coverage under the applicable plan or coverage. A final rule was published on February 14, 2012 containing the documents. A proposed rule, and proposed templates, instructions and related materials were published in the **Federal Register** on December 30, 2014. A final rule was published on June 16, 2015. The Departments are proposing to finalize, as of April 1, 2016, the templates, instructions and related materials and this ICR relates to them.[1]

Current Actions: There is no change in the paperwork burden previously approved by OMB. This information collection is being submitted for revision purposes.

Type of Review: Renewal of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, Not-for-profit institutions.

Estimated Number of Respondents: 2,388,923.

Estimated Time per Respondent: 0.1806 hours.

Estimated Total Annual Burden Hours: 431,552 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

[1] The final template, instructions and related materials are expected to be posted on the DOL/EBSA Web site and the CMS/The Center for Consumer Information & Insurance Oversight Web site.

Approved: February 24, 2016.

Carrie Holland,

Director, Tax Forms and Publication.

[FR Doc. 2016–04313 Filed 2–25–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 23, 2016.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before March 28, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, 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 8117, 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) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0005.

Type of Review: Extension of a currently approved collection.

Title: Letterhead Applications and Notices Filed by Brewers, TTB REC 5130/2; and Brewer's Notice.

Form: F 5130.10.

Abstract: The Internal Revenue Code (IRC) requires brewers to file a notice of intent to operate a brewery. TTB F 5130.10, the Brewer's Notice, collects

information similar to that collected on a permit application and, when approved by TTB, is a brewer's authorization to operate. The brewer shall maintain the approved Brewer's Notice and all associated documents at the brewery premises, in complete and current condition, readily available for inspection by an appropriate TTB officer. The regulations also require that a brewer submit a letterhead application or notice to conduct certain activities, such as to vary from regulatory requirements or to alternate brewery premises. Letterhead applications and notices are necessary to identify brewery activities so that TTB may ensure that proposed operations would comply with the IRC and would not jeopardize Federal revenues.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 14,870.

OMB Number: 1513–0010.

Type of Review: Revision of a currently approved collection.

Title: Formula and Process for Wine.

Form: F 5120.29.

Abstract: Proprietors intending to produce a special wine, other than standard wine or nonbeverage wine, must obtain TTB's prior approval of the formula by which the wine, or wine product made from wine, is to be made. Such proprietors may file formula approval requests on TTB F 5120.29, which describes the person filing, the type of product to be made, and the ingredients and process by which the product is to be made. TTB also may use the form to audit the product.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 60.

OMB Number: 1513–0014.

Type of Review: Extension of a currently approved collection.

Title: Power of Attorney.

Form: F 5000.8.

Abstract: The Internal Revenue Code (IRC) at 26 U.S.C. 6061 provides that any documents filed by industry members under the provisions of the IRC must be signed and filed in accordance with the forms and regulations prescribed by the Secretary of the Treasury. Also, the Federal Alcohol Administration Act at 27 U.S.C. 204(c) states that the Secretary shall prescribe the manner and form of all applications for basic permits under the Act. The TTB regulations require individuals signing documents and forms filed with TTB on behalf of an applicant or principal to have specific authority to do so on their behalf. TTB F 5000.8 is used to delegate authority to a specific individual to sign documents on behalf of an applicant or principal.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 3,250.

OMB Number: 1513–0057.

Type of Review: Extension of a currently approved collection.

Title: Letterhead Applications and Notices Relating to Wine.

Abstract: The Internal Revenue Code (IRC) regulates certain aspects of wine production and treatment because the production and treatment affect the volume of taxable wine produced. The IRC also imposes standards for natural wine, cellar treatment of natural wine, agricultural wine, and the labeling of all wines in order to protect consumers and protect the product integrity of the wine. TTB therefore requires proprietors to file letterhead applications and notices relating to certain production and treatment activities to ensure that the intended activity will not jeopardize the revenue or defraud consumers.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 825.

OMB Number: 1513–0088.

Type of Review: Extension of a currently approved collection.

Title: Alcohol, Tobacco, and Firearms Related Documents for Tax Returns and Claims.

Abstract: TTB is responsible for the collection of Federal excise taxes on firearms, ammunition, distilled spirits,wine, beer, tobacco products, and cigarette papers and tubes, and the collection of special occupational taxes related to tobacco products and cigarette papers and tubes. The Internal Revenue Code (IRC) requires that these excise and special occupational taxes be collected on the basis of a return and requires taxpayers to maintain records that support the information in the return. The IRC also allows for the filing of claims for the abatement or refund of taxes under certain circumstances, and the IRC requires claimants to maintain records to support such claims. The maintenance of records is necessary to determine the appropriate tax liability, verify computations on tax returns, determine the adequacy of bond coverage, and verify the correctness of claims and other adjustments to tax liability.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 503,921.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–04204 Filed 2–25–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

February 23, 2016.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before March 28, 2016 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collections, 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 8117, 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) 622–1295, or viewing the entire information collection request at *www.reginfo.gov*.

Bureau of the Fiscal Service

OMB Control Number: 1530–0045.

Type of Review: Revision of a currently approved collection.

Title: Supporting Statement of Ownership for Overdue United States Bearer Securities.

Form: FS Form 1071.

Abstract: Form FS Form 1071 is used by the Bureau of the Fiscal Service to establish ownership and support a request for payment when an overdue security is presented and surrendered for redemption.

Affected Public: Individuals or households.

Estimated Total Annual Burden Hours: 50.

OMB Control Number: 1535–0138.

Type of Review: Revision of a currently approved collection.

Title: Treasury Direct.

Abstract: The information collection enables the Bureau of the Fiscal Service and its agents to issue securities, process transactions, make payments, identify owners and their accounts, and provide reports to the Internal Revenue Service.

Affected Public: Individuals or households.

Estimated Total Annual Burden Hours: 351,316.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2016–04203 Filed 2–25–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 38 U.S.C. App. 2 that a meeting of the Advisory Committee on Homeless Veterans will be held April 6, 2016 through April 8, 2016. On April 6 and April 7, the Committee will meet at the Department of Veterans Affairs, 810 Vermont Avenue NW., Room 930, Washington, DC, from 8:00 a.m. to 4:00 p.m. On April 8, the Committee will meet at the Department of Veterans Affairs, 810 Vermont Avenue NW., Room 930, Washington, DC, from 8:00 a.m. to 12:00 p.m. The meeting is open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of VA in assisting homeless Veterans. The Committee shall assemble and review information related to the needs of homeless Veterans and provide advice on the most appropriate means of providing assistance to that subset of the Veteran population. The Committee will make recommendations to the Secretary regarding such activities.

The agenda will include briefings from officials at VA and other agencies regarding services for homeless Veterans. The Committee will also receive a briefing on the annual report that was developed after the last meeting of the Advisory Committee on Homeless Veterans and will then discuss topics for its upcoming annual report and recommendations to the Secretary of Veterans Affairs.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments on issues affecting homeless Veterans for review by the Committee to Ms. Lisa Pape, Designated Federal Officer, VHA Homeless Programs Office (10NC1), Department of Veterans Affairs, 90 K Street, Northeast, Washington, DC, or email to *Lisa.Pape2@va.gov* or *Anthony.Love@va.gov.*

Members of the public who wish to attend should contact both Charles Selby and Timothy Underwood of the VHA Homeless Program Office by March 18, 2016, at *Charles.Selby@va.gov* and *Timothy.Underwood@va.gov,* while providing their name, professional affiliation, address, and phone number. Because the meeting is being held in a government building, a valid government issued ID must be presented at the Guard's Desk as a part of the clearance process. Therefore, you should allow an additional 15 minutes before the meeting begins. Attendees who require reasonable accommodation should state so in their requests.

Dated: February 23, 2016.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2016–04165 Filed 2–25–16; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 218

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training Activities in the Gulf of Alaska Temporary Maritime Activities Area; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 141125997–6058–01]

RIN 0648–BE67

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training Activities in the Gulf of Alaska Temporary Maritime Activities Area

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

ACTION: Proposed rule; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to the training activities conducted in the Gulf of Alaska (GOA) Temporary Maritime Activities Area (TMAA) Study Area (hereafter referred to the Study Area) from May 2016 through May 2021. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue regulations and subsequent Letter of Authorization (LOA) to the Navy to incidentally harass marine mammals.

DATES: Comments and information must be received no later than March 28, 2016.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2016–0008, by any of the following methods:

- *Electronic submissions:* submit all electronic public comments via the Federal eRulemaking Portal, Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0008,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit comments to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225.
- *Fax:* (301) 713–0376; Attn: Jolie Harrison.

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

FOR FURTHER INFORMATION CONTACT: John Fiorentino, Office of Protected Resources, NMFS, (301) 427–8477.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's LOA application, which contains a list of the references used in this proposed rule, may be obtained by visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm.* The Navy is preparing a Supplemental Environmental Impact Statement (SEIS)/Overseas EIS (OEIS) for the GOA TMAA Study Area to evaluate all components of the proposed training activities. The Navy previously analyzed training activities in the Study Area in the 2011 GOA Navy Training Activities FEIS (GOA FEIS/OEIS) (U.S. Department of the Navy, 2011a). The GOA Draft Supplemental EIS (DSEIS)/OEIS was released to the public on August 23, 2014, for review until October 22, 2014. The Navy is the lead agency for the GOA SEIS/OEIS, and NMFS is a cooperating agency pursuant to 40 CFR 1501.6 and 1508.5. The GOA DSEIS/OEIS, which also contains a list of the references used in this proposed rule, may be viewed at: *http://www.goaeis.com.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

Background

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

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

The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108–136) removed the ''small numbers'' and ''specified geographical region'' limitations indicated above and amended the definition of ''harassment'' as applies to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA, 16 U.S.C. 1362(18)(B)): ''(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild'' [Level A Harassment]; or ''(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered'' [Level B Harassment].

Summary of Request

On July 28, 2014, NMFS received an application from the Navy requesting a LOA for the take of 19 species of marine mammals incidental to Navy training activities to be conducted in the Study Area over 5 years. On October 14, 2014, the Navy submitted a revised LOA application to reflect minor changes in the number and types of training activities. To address minor inconsistencies with the DSEIS, the Navy submitted a final revision to the LOA application (hereafter referred to as the LOA application) on January 21, 2015.

The Navy is requesting a 5-year LOA for training activities to be conducted from 2016 through 2021. The Study Area is a polygon roughly the shape of a 300 nm by 150 nm rectangle oriented northwest to southeast in the long direction, located south of Prince William Sound and east of Kodiak Island, Alaska (see Figure 1–1 of the LOA application for a map of the Study Area). The activities conducted within the Study Area are classified as military readiness activities. The Navy states that these activities may expose some of the marine mammals present within the Study Area to sound from underwater

acoustic sources and explosives. The Navy requests authorization to take 19 marine mammal species by Level B (behavioral) harassment; one of those marine mammal species (Dall's porpoise) may be taken by Level A (injury) harassment. The Navy is not requesting mortality takes for any species.

The LOA application and the GOA DSEIS/OEIS contain acoustic thresholds that, in some instances, represent changes from what NMFS has used to evaluate the Navy's activities for previous authorizations. The revised thresholds, which the Navy developed in coordination with NMFS, are based on the evaluation and inclusion of new information from recent scientific studies; a detailed explanation of how they were derived is provided in the GOA DSEIS/OEIS Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis Technical Report (available at *http://www.goaeis.com*). The revised thresholds are adopted for this proposed rulemaking.

NOAA is currently in the process of developing Acoustic Guidance on thresholds for onset of auditory impacts from exposure to sound, which will be used to support assessments of the effects of anthropogenic sound on marine mammals. To develop this Guidance, NOAA is compiling, interpreting, and synthesizing the best information currently available on the effects of anthropogenic sound on marine mammals, and is committed to finalizing the Guidance through a systematic, transparent process that involves internal review, external peer review, and public comment.

In December 2013, NOAA released for public comment a ''Draft Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammals: Acoustic Threshold Levels for Onset of Permanent and Temporary Threshold Shifts'' (78 FR 78822) (the term ''threshold shift'' refers to noise-induced hearing loss). The Draft Guidance was generally consistent with the Navy's Permanent Threshold Shifts/Temporary Threshold Shifts (PTS/TTS) criteria used in the GOA DSEIS/OEIS and detailed within Finneran and Jenkins (2012). Prior to the finalization of this guidance by NOAA, the Navy suggested revisions to the criteria (*e.g.,* auditory weighting functions and PTS/TTS thresholds) based on a number of studies available since the Navy's Phase 2 modeling (the acoustic effects modeling currently employed by the Navy for training and testing activities), including Finneran *et al.* (2005), Finneran *et al.* (2010), Finneran and Schlundt (2013), Kastelein *et al.* (2012a), Kastelein *et al.* (2012b), Kastelein *et al.* (2014a), Kastelein *et al.* (2014b), Popov *et al.* (2013), and Popov *et al.* (2011). In January 2015, the Navy submitted a draft proposal (Finneran 2015) to NOAA staff for their consideration.

Finneran (2015) proposed new weighting functions and thresholds for predicting PTS/TTS in marine mammals. The methodologies presented within this paper build upon the methodologies used to develop the criteria applied within the Navy's GOA DSEIS/OEIS (Finneran and Jenkins, 2012) and incorporate relevant auditory research made available since 2012. While Finneran and Jenkins (2012) presented a conservative approach to development of auditory weighting functions where data was limited, Finneran (2015) synthesizes a wide range of auditory data, including newly available studies, to predict refined auditory weighting functions and corresponding TTS thresholds across the complete hearing ranges of functional hearing groups.

During the development process of NOAA's Draft Guidance, NOAA incorporated Finneran (2015) into its Draft Guidance. As a result, the Navy's proposal (Finneran, 2015) was submitted for peer review by external subject matter experts, in accordance with the process previously conducted for NOAA's Draft Guidance. Peer review comments were received by NOAA in April 2015. NOAA subsequently developed a Peer Review Report, which was published on its Web site on July 31, 2015. The published report documents the Navy's proposal (Finneran, 2015) that underwent peer review, the peer-review comments, and NOAA's responses to those comments. NOAA then incorporated this information into revised Draft Guidance which was published in the **Federal Register** for public review and comment (80 FR 45642) on July 31, 2015. The auditory weighting functions and PTS/TTS thresholds provided in that revised Draft Guidance will not be adopted by NOAA or applied to applicants until Final Guidance is issued. At the time of this proposed rulemaking, Final Guidance has not been issued. Therefore, the Navy has not adopted these proposed criteria in its GOA DSEIS/OEIS. However, the underlying science contained within Finneran (2015) has been addressed qualitatively within the applicable sections of the GOA DSEIS/OEIS and this rulemaking.

If the proposed criteria in Finneran (2015) were adopted by NOAA, incorporated into its Final Guidance, and applied to the Navy in the future, predicted numbers of PTS/TTS would change for most functional hearing groups. However, because Finneran (2015) relies on much of the same data as the auditory criteria presented in the Navy's GOA DSEIS/OEIS, these changes would not be substantial, and in most cases would result in a reduction in the predicted impacts. Predicted PTS/TTS would be reduced over much to all of their hearing range for low-frequency cetaceans and phocids. Predicted PTS/TTS for mid-frequency and high-frequency cetaceans would be reduced for sources with frequencies below about 3.5 kHz and remain relatively unchanged for sounds above this frequency. Predicted auditory effects on otariids would increase for frequencies between about 1 kHz and 20 kHz and decrease for frequencies above and below these points, although otariids remain the marine mammals with the least sensitivity to potential PTS/TTS. Overall, predicted auditory effects within this rulemaking would not change significantly.

In summary, NOAA's continuing evaluation of all available science for the Acoustic Guidance could result in changes to the acoustic criteria used to model the Navy's activities for this rulemaking, and, consequently, the enumerations of ''take'' estimates. However, at this time, the results of prior Navy modeling described in this notice represent the best available estimate of the number and type of take that may result from the Navy's use of acoustic sources in the GOA Study Area. Further, consideration of the revised Draft Guidance and information contained in Finneran (2015) does not alter our assessment of the likely responses of marine mammals to acoustic sources employed by Navy in the GOA Study Area, or the likely fitness consequences of those responses. Finally, while acoustic criteria may also inform mitigation and monitoring decisions, this rulemaking requires a robust adaptive management program that regularly addresses new information and allows for modification of mitigation and/or monitoring measures as appropriate.

Background of Request

The Navy's mission is to organize, train, equip, and maintain combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. This mission is mandated by federal law (10 U.S.C. 5062), which ensures the readiness of

the naval forces of the United States.[1] The Navy executes this responsibility by establishing and executing training programs, including at-sea training and exercises, and ensuring naval forces have access to the ranges, operating areas (OPAREAs), and airspace needed to develop and maintain skills for conducting naval activities.

The Navy proposes to continue conducting training activities within the Study Area, which have been ongoing since the 1990s. The tempo and types of training activities have fluctuated because of the introduction of new technologies, the evolving nature of international events, advances in war fighting doctrine and procedures, and force structure (organization of ships, submarines, aircraft, weapons, and personnel) changes. Such developments influence the frequency, duration, intensity, and location of required training activities.

The Navy's LOA request covers training activities that would occur for a 5-year period following the expiration of the current MMPA authorization for the GOA TMAA, which expires in 2016.

Description of the Specified Activity

The Navy is requesting authorization to take marine mammals incidental to conducting training activities. The Navy has determined that sonar use and underwater detonations are the stressors most likely to result in impacts on marine mammals that could rise to the level of harassment. Detailed descriptions of these activities are provided in the DSEIS/OEIS and in the LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*) and are summarized here.

Overview of Training Activities

The Navy routinely trains in the Study Area in preparation for national defense missions. Training activities and exercises covered in the Navy's LOA request are briefly described below, and in more detail within chapter 2 of the GOA DSEIS/OEIS. Each military training activity described meets a requirement that can be traced ultimately to requirements set forth by the National Command Authority.[2]

The Navy categorizes training activities into eight functional warfare areas called primary mission areas: anti-air warfare; amphibious warfare; strike warfare; anti-surface warfare (ASUW); anti-submarine warfare (ASW); electronic warfare; mine warfare (MIW); and naval special warfare (NSW). Most training activities are categorized under one of these primary mission areas; those activities that do not fall within one of these areas are in a separate ''other'' category. Each warfare community (surface, subsurface, aviation, and special warfare) may train within some or all of these primary mission areas. However, not all primary mission areas are conducted within the Study Area.

The Navy described and analyzed the effects of its training activities within the GOA DSEIS/OEIS. In its assessment, the Navy concluded that of the activities conducted within the Study Area, sonar use and underwater detonations were the stressors resulting in impacts on marine mammals that could rise to the level of harassment as defined under the MMPA. Therefore, the LOA application provides the Navy's assessment of potential effects from these stressors. The specific acoustic sources used in the LOA application are contained in the GOA DSEIS/OEIS and are presented in the following sections based on the primary mission areas.

Anti-Surface Warfare (ASUW)

The mission of ASUW is to defend against enemy ships or boats. In the conduct of ASUW, aircraft use cannons, air-launched cruise missiles or other precision-guided munitions; ships employ torpedoes, naval guns, and surface-to-surface (S–S) missiles; and submarines attack surface ships using torpedoes or submarine-launched, anti-ship cruise missiles.

Anti-surface warfare training in the Study Area includes S–S gunnery and missile exercises (GUNEX and MISSILEX) and air-to-surface (A–S) bombing exercises (BOMBEX), GUNEX, and MISSILEX. Also included in this mission area is a sinking exercise that may include S–S and A–S components.

Anti-Submarine Warfare (ASW)

The mission of ASW is to locate, neutralize, and defeat hostile submarine threats to surface forces. ASW is based on the principle of a layered defense of surveillance and attack aircraft, ships, and submarines all searching for hostile submarines. These forces operate together or independently to gain early warning and detection, and to localize, track, target, and attack hostile submarine threats.

Anti-submarine warfare training addresses basic skills such as detection and classification of submarines, distinguishing between sounds made by enemy submarines and those of friendly submarines, ships, and marine life. ASW training evaluates the ability of fleet assets to use systems, for example, active and passive sonar and torpedo systems to counter hostile submarine threats. More advanced, integrated ASW training exercises are conducted in coordinated, at-sea training events involving submarines, ships, and aircraft. This training integrates the full spectrum of ASW from detecting and tracking a submarine to attacking a target using simulated weapons.

Description of Sonar, Ordnance, Targets, and Other Systems

The Navy uses a variety of sensors, platforms, weapons, and other devices to meet its mission. Training with these systems and devices may introduce acoustic (sound) energy into the environment. The Navy's current LOA application describes underwater sound as one of two types: impulsive and non-impulsive. Sonar and similar sound producing systems are categorized as non-impulsive sound sources. Underwater detonations of explosives and other percussive events are impulsive sounds.

Sonar and Other Active Acoustic Sources

Modern sonar technology includes a variety of sonar sensor and processing systems. In concept, the simplest active sonar emits sound waves, or ''pings,'' sent out in multiple directions, and the sound waves then reflect off of the target object in multiple directions. The sonar source calculates the time it takes for the reflected sound waves to return; this calculation determines the distance to the target object. More sophisticated active sonar systems emit a ping and then rapidly scan or listen to the sound waves in a specific area. This provides both distance to the target and directional information. Even more advanced sonar systems use multiple receivers to listen to echoes from several directions simultaneously and provide efficient detection of both direction and distance. Active sonar is rarely used continuously throughout the listed activities. In general, when sonar is in use, the sonar 'pings' occur at intervals, referred to as a duty cycle, and the signals themselves are very short in duration. For example, sonar that emits a 1-second ping every 10 seconds has a 10 percent duty cycle. The Navy's largest hull-mounted mid-frequency sonar source typically emits a 1-second ping every 50 seconds representing a 2 percent duty cycle. The Navy utilizes sonar systems and other acoustic sensors in support of a variety of

[1] Title 10, Section 5062 of the U.S.C.

[2] ''National Command Authority'' is a term used by the United States military and government to refer to the ultimate lawful source of military orders. The term refers collectively to the President of the United States (as commander-in-chief) and the United States Secretary of Defense.

mission requirements. Primary uses include the detection of and defense against submarines (ASW) and mines (MIW); safe navigation and effective communications; use of unmanned undersea vehicles; and oceanographic surveys. Sources of sonar and other active acoustic sources include surface ship sonar, sonobuoys, torpedoes, and unmanned underwater vehicles.

Ordnance and Munitions

Most ordnance and munitions used during training events fall into three basic categories: Projectiles (such as gun rounds), missiles (including rockets), and bombs. Ordnance can be further defined by their net explosive weight (NEW), which considers the type and quantity of the explosive substance without the packaging, casings, bullets, etc. NEW is the trinitrotoluene (TNT) equivalent of energetic material, which is the standard measure of strength of bombs and other explosives. For example, a 5-inch shell fired from a Navy gun is analyzed at approximately 9.5 pounds (lb.) (4.3 kilograms [kg]) of NEW. The Navy also uses non-explosive ordnance in place of explosive ordnance in many training and testing events. Non-explosive ordnance look and perform similarly to explosive ordnance, but lack the main explosive charge.

Defense Countermeasures

Naval forces depend on effective defensive countermeasures to protect themselves against missile and torpedo attack. Defensive countermeasures are devices designed to confuse, distract, and confound precision-guided munitions. Defensive countermeasures analyzed in this LOA application include acoustic countermeasures, which are used by surface ships and submarines to defend against torpedo attack. Acoustic countermeasures are either released from ships and submarines, or towed at a distance behind the ship.

Classification of Non-Impulsive and Impulsive Sources Analyzed

In order to better organize and facilitate the analysis of approximately 300 individual sources of underwater acoustic sound or explosive energy, a series of source classifications, or source bins, were developed by the Navy. The use of source classification bins provides the following benefits:

- Provides the ability for new sensors or munitions to be covered under existing regulatory authorizations, as long as those sources fall within the parameters of a ''bin'';
- Simplifies the source utilization data collection and reporting requirements anticipated under the MMPA;
- Ensures a conservative approach to all impact analysis, as all sources in a single bin are modeled as the loudest source (*e.g.,* lowest frequency, highest source level [the term ''source level'' refers to the loudness of a sound at its source], longest duty cycle, or largest net explosive weight [NEW]) within that bin, which:
  - Allows analysis to be conducted more efficiently, without compromising the results; and
  - Provides a framework to support the reallocation of source usage (hours/explosives) between different source bins, as long as the total number and severity of marine mammal takes remain within the overall analyzed and authorized limits. This flexibility is required to support evolving Navy training requirements, which are linked to real world events.

There are two primary types of acoustic sources: Impulsive and non-impulsive. A description of each source classification is provided in Tables 1 and 2. Impulsive source class bins are based on the NEW of the munitions or explosive devices or the source level for air and water guns. Non-impulsive acoustic sources are grouped into source class bins based on the frequency,[3] source level,[4] and, when warranted, the application in which the source would be used. The following factors further describe the considerations associated with the development of non-impulsive source bins:

- Frequency of the non-impulsive source.
  - Low-frequency sources operate below 1 kilohertz (kHz)
  - Mid-frequency sources operate at and above 1 kHz, up to and including 10 kHz
  - High-frequency sources operate above 10 kHz, up to and including 100 kHz
  - Very high-frequency sources operate above 100 kHz but below 200 kHz
- Source level of the non-impulsive source.
  - Greater than 160 decibels (dB), but less than 180 dB
  - Equal to 180 dB and up to 200 dB
  - Greater than 200 dB
- Application in which the source would be used.
  - How a sensor is employed supports how the sensor's acoustic emissions are analyzed.
  - Factors considered include pulse length (time source is on); beam pattern (whether sound is emitted as a narrow, focused beam or, as with most explosives, in all directions); and duty cycle (how often or how many times a transmission occurs in a given time period during an event).

As described in the GOA DSEIS/OEIS, non-impulsive acoustic sources that have low source levels (not loud), narrow beam widths, downward directed transmission, short pulse lengths, frequencies beyond known hearing ranges of marine mammals, or some combination of these characteristics, are not anticipated to result in takes of protected species and therefore were not modeled. These sources generally meet the following criteria and are qualitatively analyzed in the GOA DSEIS/OEIS:

- Acoustic sources with frequencies greater than 200 kHz (based on known marine mammal hearing ranges)
- Sources with source levels less than 160 dB

TABLE 1—IMPULSIVE (EXPLOSIVE) TRAINING SOURCE CLASSES ANALYZED

Source class	Representative munitions	Net explosive weight (lbs)
E5	5-inch projectiles	>5–10
E6	AGM–114 Hellfire missile	>10–20
E7	AGM–88 High-speed Anti-Radiation Missile	>20–60
E8	250 lb. bomb	>60–100
E9	500 lb. bomb	>100–250

[3] Bins are based on the typical center frequency of the source. Although harmonics may be present, those harmonics would be several decibels (dB) lower than the primary frequency.

[4] Source decibel levels are expressed in terms of sound pressure level (SPL) and are values given in dB referenced to 1 micropascal at 1 meter.

TABLE 1—IMPULSIVE (EXPLOSIVE) TRAINING SOURCE CLASSES ANALYZED—Continued

Source class	Representative munitions	Net explosive weight (lbs)
E10	1,000 lb. bomb/Air-to-surface missile	>250–500
E11	MK–48 torpedo	>500–650
E12	2,000 lb. bomb	>650–1,000

TABLE 2—NON-IMPULSIVE TRAINING SOURCE CLASSES ANALYZED.

Source class category	Source class	Description of representative sources
Mid-Frequency (MF): Tactical and non-tactical sources that produce mid-frequency (1–10 kHz) signals.	MF1	Hull-mounted surface ship sonar (*e.g.*, AN/SQS–53C and AN/SQS–60).
	MF3	Hull-mounted submarine sonar (*e.g.*, AN/BQQ–10).
	MF4	Helicopter-deployed dipping sonar (*e.g.*, AN/AQS–22 and AN/AQS–13).
	MF5	Active acoustic sonobuoys (*e.g.*, DICASS).
	MF6	Active underwater sound signal devices (*e.g.*, MK–84).
	MF11	Hull-mounted surface ship sonar with an active duty cycle greater than 80%.
High-Frequency (HF): Tactical and non-tactical sources that produce high-frequency (greater than 10 kHz but less than 100 kHz) signals.	HF1	Hull-mounted submarine sonar (*e.g.*, AN/BQQ–10).
	HF6	Active sources (equal to 180 dB and up to 200 dB).
Anti-Submarine Warfare (ASW): Tactical sources such as active sonobuoys and acoustic countermeasures systems used during the conduct of ASW training activities.	ASW2	
	ASW3	Mid-frequency Multistatic Active Coherent sonobuoy (*e.g.*, AN/SSQ–125).
		Mid-frequency towed active acoustic countermeasure systems (*e.g.*, AN/SLQ–25).
	ASW4	Mid-frequency expendable active acoustic device countermeasures (*e.g.*, MK–3).
Torpedoes (TORP): Source classes associated with the active acoustic signals produced by torpedoes.	TORP2	Heavyweight torpedo (*e.g.*, MK–48, electric vehicles).

Notes: dB = decibels, DICASS = Directional Command Activated Sonobuoy System, kHz = kilohertz

Training

The training activities that the Navy proposes to conduct in the Study Area are described in Table 3. The table is organized according to primary mission areas and includes the activity name, associated stressor(s), description of the activity, the primary platform used (*e.g.,* ship or aircraft type), duration of activity, type of non-impulsive or impulsive sources used in the activity, and the number of activities per year. More detailed activity descriptions can be found in chapter 2 of the GOA DSEIS/OEIS. The Navy's Proposed Activities are anticipated to meet training needs in the years 2016–2021.

TABLE 3—TRAINING ACTIVITIES WITHIN THE STUDY AREA

Category	Training activity	Description	Weapons/rounds/sound source
Anti-Surface Warfare (ASUW)			
Impulsive	Gunnery Exercise, Surface-to-Surface (Ship) (GUNEX–S–S [Ship]).	Ship crews engage surface targets with ship's small-, medium-, and large-caliber guns. Some of the small- and medium-caliber gunnery exercises analyzed include those conducted by the U.S. Coast Guard.	Small-, Medium-, and Large-caliber high explosive rounds.
Impulsive	Sinking Exercise	Fixed-wing aircrews, surface ships and submarine firing precision-guided and non-precision weapons against a surface target.	High explosive bombs, missiles, Large-caliber rounds and torpedoes.
Impulsive	Bombing Exercise (Air-to-Surface) (BOMBEX [A–S]).	Fixed-wing aircrews deliver bombs against surface targets.	High explosive bombs.
Anti-Submarine Warfare (ASW)			
Non-impulsive	Tracking Exercise—Submarine (TRACKEX—Sub).	Submarine searches for, detects, and tracks submarine(s) and surface ship(s).	Mid- and high-frequency submarine sonar.

TABLE 3—TRAINING ACTIVITIES WITHIN THE STUDY AREA—Continued

Category	Training activity	Description	Weapons/rounds/sound source
Non-impulsive	Tracking Exercise—Surface (TRACKEX—Surface).	Surface ship searches for, tracks, and detects submarine(s).	Mid-frequency surface ship sonar, acoustic countermeasures, and high-frequency active sources.
Non-impulsive	Tracking Exercise—Helicopter (TRACKEX—Helo).	Helicopter searches, tracks, and detects submarine(s)	Mid-frequency dipping sonar systems and sonobuoys.
Non-impulsive	Tracking Exercise—Maritime Patrol Aircraft (TRACKEX—MPA).	Maritime patrol aircraft use sonobuoys to search for, detect, and track submarine(s).	Sonobuoys, such as DICASS sonobuoys.
Non-impulsive	Tracking Exercise—Maritime Patrol Aircraft (MAC Sonobuoys).	Maritime patrol aircraft crews search for, detect and track submarines using MAC sonobuoys.	mid-frequency MAC sonobuoys.

Notes: DICASS = Directional Command Activated Sonobuoy System; MAC=Multistatic Active Coherent

Summary of Impulsive and Non-Impulsive Sources

Table 4 provides a quantitative annual summary of training activities by sonar and other active acoustic source class analyzed in the Navy's LOA request.

TABLE 4—ANNUAL HOURS OF SONAR AND OTHER ACTIVE ACOUSTIC SOURCES USED DURING TRAINING WITHIN THE STUDY AREA

Source class category	Source class	Units	Annual use
Mid-Frequency (MF) Active sources from 1 to 10 kHz	MF1	Hours	541
	MF3	Hours	48
	MF4	Hours	53
	MF5	Items	25
	MF6	Items	21
	MF11	Hours	78
High-Frequency (HF): Tactical and non-tactical sources that produce signals greater than 10 kHz but less than 100 kHz.	HF1	Hours	24
	HF6	Hours	80
Anti-Submarine Warfare (ASW) Active ASW sources	ASW2	Hours	80
	ASW3	Hours	546
	ASW4	Items	4
Torpedoes (TORP) Source classes associated with active acoustic signals produced by torpedoes.	TORP2	Items	5

Table 5 provides a quantitative annual summary of training explosive source classes analyzed in the Navy's LOA request.

TABLE 5—ANNUAL NUMBER OF TRAINING EXPLOSIVE SOURCE DETONATIONS USED DURING TRAINING WITHIN THE STUDY AREA

Explosive class net explosive weight (pounds [lb.])	Annual in-water detonations training
E5 (> 5–10 lb.)	112
E6 (> 10–20 lb.)	2
E7 (> 20–60 lb.)	4
E8 (> 60–100 lb.)	6
E9 (> 100–250 lb.)	142
E10 (> 250–500 lb.)	32
E11 (> 500–650 lb.)	2
E12 (> 650–1,000 lb.)	4

Duration and Location

Training activities would be conducted in the Study Area during two exercises of up to 21 days each per year (for a total of up to 42 days per year) to support a major joint training exercise in Alaska and off the Alaskan coast that involves the Departments of the Navy, the Army and the Air Force, and the U.S. Coast Guard (Coast Guard). The Service participants report to a unified or joint commander who coordinates the activities planned to demonstrate and evaluate the ability of the services to engage in a conflict and carry out plans in response to a threat to national security. The exercises would occur between the months of May and October of each year from 2016 to 2021.

The Study Area (see Figure 1–1 of the LOA application) is entirely at sea and is composed of the established GOA TMAA and a warning area in the Gulf of Alaska. The Navy uses ''at-sea'' to include its training activities in the Study Area that occur (1) on the ocean surface, (2) beneath the ocean surface, and (3) in the air above the ocean surface. Navy training activities occurring on or over the land outside the GOA TMAA are covered under previously prepared environmental documentation prepared by the U.S. Air Force and the U.S. Army.

Gulf of Alaska Temporary Maritime Activities Area (GOA TMAA)

The GOA TMAA is a temporary area established in conjunction with the Federal Aviation Administration (FAA) for up to two exercise periods of up to 21 days each, for a total of 42 days per year, that is a surface, undersea space, and airspace maneuver area within the Gulf of Alaska for ships, submarines, and aircraft to conduct required training activities. The GOA TMAA is a polygon roughly resembling a rectangle oriented from northwest to southeast,

approximately 300 nautical miles (nm) in length by 150 nm in width, located south of Prince William Sound and east of Kodiak Island.

Airspace of the GOA TMAA

The airspace of the GOA TMAA overlies the surface and subsurface training area and is called an Altitude Reservation (ALTRV). This ALTRV is a temporary airspace designation, typically requested by the Alaskan Command (ALCOM) and coordinated through the FAA for the duration of the exercise. This overwater airspace supports the majority of aircraft training activities conducted by Navy and Joint aircraft throughout the joint training exercise. The ALTRV over the GOA TMAA typically extends from the ocean surface to 60,000 feet (ft.) (18,288 meters [m]) above mean sea level and encompasses 42,146 square nautical miles (nm^2) of airspace. For safety considerations, ALTRV information is sent via Notice to Airmen (NOTAM)/International NOTAM so that all pilots are aware of the area and that Air Traffic Control will keep known Instrument Flight Rules aircraft clear of the area.

Additionally, the GOA TMAA overlies a majority of Warning Area W–612 (W–612) located over Blying Sound, towards the northwestern quadrant of the GOA TMAA. When not included as part of the GOA TMAA, W–612 provides 2,256 nm^2 of special use airspace for the Air Force and Coast Guard to fulfill some of their training requirements. Air Force, Army, National Guard, and Coast Guard activities conducted as part of at-sea joint training within the GOA TMAA are included in the DSEIS/OEIS analysis. No Navy training activities analyzed in this proposed rule occur in the area of W–612 that is outside of the GOA TMAA (see Figure 1–1 of the LOA application).

Sea and Undersea Space of the GOA TMAA

The GOA TMAA surface and subsurface areas are also depicted in Figure 1–1 of the LOA application. Total surface area of the GOA TMAA is 42,146 nm^2. Due to weather conditions, annual joint training activities are typically conducted during the summer months (April–October). The GOA TMAA undersea area lies beneath the surface area as depicted in Figure 1–1 of the LOA application. The undersea area extends to the seafloor.

The complex bathymetric and oceanographic conditions, including a continental shelf, submarine canyons, numerous seamounts, and fresh water infusions from multiple sources, create a challenging environment in which to search for and detect submarines in ASW training activities. In the summer, the GOA TMAA provides a safe cold-water training environment that resembles other areas where Navy may need to operate in a real-world scenario.

The GOA TMAA meets large-scale joint exercise training objectives to support naval and joint operational readiness by providing a ''geographically realistic'' training area for U.S. Pacific Command, Joint Task Force Commander scenario-based training, and supports the mission requirement of Alaskan Command (ALCOM) to conduct joint training for Alaska-based forces. The strategic vision of the Commander, U.S. Pacific Fleet is that the training area support naval operational readiness by providing a realistic, live-training environment for forces assigned to the Pacific Fleet and other users with the capability and capacity to support current, emerging, and future training requirements.

Description of Marine Mammals in the Area of the Specified Activities

Marine mammal species known to occur in the Study Area and their currently recognized stocks are presented in Table 6 consistent with the NMFS' U.S. Pacific Marine Mammal Stock Assessment Report (Carretta *et al.,* 2015) and the Alaska Marine Mammal Stock Assessment Report (Muto and Angliss, 2015). Twenty-two marine mammal species have confirmed or possible occurrence within or adjacent to the Study Area, including seven species of baleen whales (mysticetes), eight species of toothed whales (odontocetes), six species of seals (pinnipeds), and the sea otter (mustelid). Nine of these species are listed under the ESA: Blue whale, fin whale, humpback whale, sei whale, sperm whale, gray whale (Western North Pacific stock), North Pacific right whale, Steller sea lion (Western U.S. stock), and sea otter. All these species are managed by NMFS or the U.S. Fish and Wildlife Service (USFWS) in the U.S. Exclusive Economic Zone (EEZ).

The species carried forward for analysis are those likely to be found in the Study Area based on the most recent data available, and do not include stocks or species that may have once inhabited or transited the area but have not been sighted in recent years (*e.g.,* species which were extirpated because of factors such as nineteenth and twentieth century commercial exploitation). Several species that may be present in the Gulf of Alaska have an extremely low probability of presence in the Study Area. These species are considered extralimital, meaning there may be a small number of sighting or stranding records within the Study Area, but the area of concern is outside the species' range of normal occurrence. These species include beluga whale (*Delphinapterus leucas*), false killer whale (*Pseudorca crassidens*), short-finned pilot whale (*Globicephala macrorhynchus*), northern right whale dolphin (*Lissodelphis borealis*), and Risso's dolphin (*Grampus griseus*), and have been excluded from subsequent analysis.

TABLE 6—MARINE MAMMALS WITH POSSIBLE OR CONFIRMED PRESENCE WITHIN THE STUDY AREA

Common name	Scientific name [1]	Stock [2]	Stock abundance [3] (CV)	Occurrence in region [4]	ESA/MMPA Status
Order Cetacea Suborder Mysticeti (baleen whales) Family Balaenidae (right whales)					
North Pacific right whale.	*Eubalaena japonica* ..	Eastern North Pacific	31 (0.23)	Rare	Endangered/Depleted.
Family Balaenopteridae (rorquals)					
Humpback whale	*Megaptera novaeangliae.*	Central North Pacific	10,252 (0.042)	Likely	Endangered/D Depleted.
		Western North Pacific	893 (0.079)	Likely	Endangered/D Depleted.

TABLE 6—MARINE MAMMALS WITH POSSIBLE OR CONFIRMED PRESENCE WITHIN THE STUDY AREA—Continued

Common name	Scientific name [1]	Stock [2]	Stock abundance [3] (CV)	Occurrence in region [4]	ESA/MMPA Status
Blue whale	*Balaenoptera musculus*.	Eastern North Pacific	1,647 (0.07)	Seasonal; highest likelihood July to December.	Endangered/D Depleted.
		Central North Pacific	81 (1.14)	Seasonal; highest likelihood July to December.	Endangered/D Depleted.
Fin whale	*Balaenoptera physalus*.	Northeast Pacific	1,368 (minimum estimate) (n/a).	Likely	Endangered/D Depleted.
Sei whale	*Balaenoptera borealis*	Eastern North Pacific	126 (0.53)	Rare	Endangered/D Depleted.
Minke whale	*Balaenoptera acutorostrata*.	Alaska	Not available	Likely.	
Family Eschrichtiidae (gray whale)					
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	20,990 (0.05)	Likely: Highest numbers during seasonal migrations.	
		Western North Pacific	140 (0.043)	Rare: Individuals migrate through GOA.	Endangered/D Depleted.
Suborder Odontoceti (toothed whales) Family Physeteridae (sperm whale)					
Sperm whale	*Physeter macrocephalus*.	North Pacific	Not available	Likely; More likely in waters > 1,000 m depth, most often > 2,000 m.	Endangered/D Depleted.
Family Delphinidae (dolphins)					
Killer whale	*Orcinus orca*	Alaska Resident	2,347 (n/a)	Likely.	
		Eastern North Pacific Offshore.	211: includes known offshore killer whales along the U.S. west coast, Canada, and Alaska (n/a).	Infrequent: few sightings.	
		AT1 Transient	7	Rare; more likely inside Prince William Sound and Kenai Fjords.	
		GOA, Aleutian Island, and Bering Sea Transient.	587	Likely.	
Pacific white-sided dolphin.	*Lagenorhynchus obliquidens*.	North Pacific	26,880; specific to the GOA, not the management stock (n/a).	Likely.	
Family Phocoenidae (porpoises)					
Harbor porpoise	*Phocoena phocoena*	GOA	31,046 (0.21)	Likely in nearshore locations.	
		Southeast Alaska	11,146 (0.24)	Likely in nearshore locations.	
Dall's porpoise	*Phocoenoides dalli*	Alaska	83,400 (0.097); based on survey data from 1987–1991.	Likely.	
Family Ziphiidae (beaked whales)					
Cuvier's beaked whale	*Ziphius cavirostris*	Alaska	Not available	Likely.	
Baird's beaked whale	*Berardius bairdii*	Alaska	Not available	Likely.	
Stejneger's beaked whale.	*Mesoplodon stejnegeri*.	Alaska	Not available	Likely.	

TABLE 6—MARINE MAMMALS WITH POSSIBLE OR CONFIRMED PRESENCE WITHIN THE STUDY AREA—Continued

Common name	Scientific name [1]	Stock [2]	Stock abundance [3] (CV)	Occurrence in region [4]	ESA/MMPA Status
Order Carnivora Suborder Pinnipedia [5] Family Otariidae (fur seals and sea lions)					
Steller sea lion	*Eumetopias jubatus*	Eastern U.S.	59,968 (minimum estimate) (n/a).	Likely.	
		Western U.S.	49,497 (minimum estimate) (n/a).	Likely	Endangered/D Depleted.
California sea lion	*Zalophus californianus.*	U.S.	296,750 (n/a)	Rare.	
Northern fur seal	*Callorhinus ursinus*	Eastern Pacific	648,534 (n/a)	Likely	Depleted.
Family Phocidae (true seals)					
Northern elephant seal	*Mirounga angustirostris.*	California Breeding	179,000 (n/a)	Likely.	
Harbor seal	*Phoca vitulina*	Aleutian Islands	6,431 (n/a)	Extralimital	
		Pribilof Islands	232 (n/a)	Extralimital.	
		Bristol Bay	32,350 (n/a)	Extralimital.	
		N. Kodiak	8,321 (n/a)	Rare (inshore waters).	
		S. Kodiak	19,199 (n/a)	Rare (inshore waters).	
		Prince William Sound	29,889 (n/a)	Rare (inshore waters).	
		Cook Inlet/Shelikof	27,386 (n/a)	Extralimital.	
		Glacier Bay/Icy Strait	7,210 (n/a)	Rare (inshore waters).	
		Lynn Canal/S Stephens.	9,478 (n/a)	Extralimital.	
		Sitka/Chatham	14,855 (n/a)	Rare (inshore waters).	
		Dixon/Cape Decision	18,105 (n/a)	Rare (inshore waters).	
		Clarence Strait	31,634 (n/a)	Extralimital.	
Ribbon seal	*Histriophoca fasciata*	Alaska	184,000	Rare.	
Family Mustelidae (otters) [6]					
Northern sea otter	*Enhydra lutris kenyoni.*	Southeast Alaska	10,563	Rare.	
		Southcentral Alaska	15,090	Rare.	
		Southwest Alaska	47,676	Rare	Threatened.

[1] Taxonomy follows Perrin *et al.* (2009).

[2] Stock names and abundance estimates from Muto and Angliss (2015) and Carretta *et al.* (2015) except where noted.

[3] The stated coefficient of variation (CV) from the NMFS Stock Assessement Reports is an indicator of uncertainty in the abundance estimate and describes the amount of variation with respect to the population mean. It is expressed as a fraction or sometimes a percentage and can range upward from zero, indicating no uncertainty, to high values. For example, a CV of 0.85 would indicate high uncertainty in the population estimate. When the CV exceeds 1.0, the estimate is very uncertain. The uncertainty associated with movements of animals into or out of an area (due to factors such as availability of prey or changing oceanographic conditions) is much larger than is indicated by the CVs that are given.

[4] EXTRALIMITAL: There may be a small number of sighting or stranding records, but the area is outside the species range of normal occurrence. RARE: The distribution of the species is near enough to the area that the species could occur there, or there are a few confirmed sightings. INFREQUENT: Confirmed, but irregular sightings or acoustic detections. LIKELY: Confirmed and regular sightings or acoustic detections of the species in the area year-round. SEASONAL: Confirmed and regular sightings or acoustic detections of the species in the area on a seasonal basis.

[5] There are no data regarding the CV for some of the pinniped species given that abundance is determined by different methods than those used for cetaceans.

[6] There are no data regarding the CV for sea otter given that abundance is determined by different methods than those used for cetaceans.

Notes: CV = coefficient of variation, ESA = Endangered Species Act, GOA = Gulf of Alaska, m = meter(s), MMPA = Marine Mammal Protection Act, n/a = not available, U.S. = United States.

Information on the status, distribution, abundance, and vocalizations of marine mammal species in the Study Area may be viewed in Chapter 4 of the LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*). Additional information on the general biology and ecology of marine mammals are included in the GOA DSEIS/OEIS. In addition, NMFS annually publishes Stock Assessment Reports (SARs) for all marine mammals in U.S. EEZ waters, including stocks that occur within the Study Area (U.S. Pacific Marine Mammal Stock Assessments, Carretta *et al.,* 2015; Alaska Marine Mammal Stock Assessments, Muto and Angliss, 2015).

Marine Mammal Hearing and Vocalizations

Cetaceans have an auditory anatomy that follows the basic mammalian pattern, with some changes to adapt to the demands of hearing underwater. The typical mammalian ear is divided into an outer ear, middle ear, and inner ear.

The outer ear is separated from the inner ear by a tympanic membrane, or eardrum. In terrestrial mammals, the outer ear, eardrum, and middle ear transmit airborne sound to the inner ear, where the sound waves are propagated through the cochlear fluid. Since the impedance of water is close to that of the tissues of a cetacean, the outer ear is not required to transduce sound energy as it does when sound waves travel from air to fluid (inner ear). Sound waves traveling through the inner ear cause the basilar membrane to vibrate. Specialized cells, called hair cells, respond to the vibration and produce nerve pulses that are transmitted to the central nervous system. Acoustic energy causes the basilar membrane in the cochlea to vibrate. Sensory cells at different positions along the basilar membrane are excited by different frequencies of sound (Pickles, 1998).

Marine mammal vocalizations often extend both above and below the range of human hearing; vocalizations with frequencies lower than 20 Hz are labeled as infrasonic and those higher than 20 kHz as ultrasonic (National Research Council (NRC), 2003; Figure 4–1). Measured data on the hearing abilities of cetaceans are sparse, particularly for the larger cetaceans such as the baleen whales. The auditory thresholds of some of the smaller odontocetes have been determined in captivity. It is generally believed that cetaceans should at least be sensitive to the frequencies of their own vocalizations. Comparisons of the anatomy of cetacean inner ears and models of the structural properties and the response to vibrations of the ear's components in different species provide an indication of likely sensitivity to various sound frequencies. The ears of small toothed whales are optimized for receiving high-frequency sound, while baleen whale inner ears are best in low to infrasonic frequencies (Ketten, 1992; 1997; 1998).

Baleen whale vocalizations are composed primarily of frequencies below 1 kHz, and some contain fundamental frequencies as low as 16 Hz (Watkins *et al.,* 1987; Richardson *et al.,* 1995; Rivers, 1997; Moore *et al.,* 1998; Stafford *et al.,* 1999; Wartzok and Ketten, 1999) but can be as high as 24 kHz (humpback whale; Au *et al.,* 2006). Clark and Ellison (2004) suggested that baleen whales use low-frequency sounds not only for long-range communication, but also as a simple form of echo ranging, using echoes to navigate and orient relative to physical features of the ocean. Information on auditory function in baleen whales is extremely lacking. Sensitivity to low-frequency sound by baleen whales has been inferred from observed vocalization frequencies, observed reactions to playback of sounds, and anatomical analyses of the auditory system. Although there is apparently much variation, the source levels of most baleen whale vocalizations lie in the range of 150–190 dB re 1 microPascal (μPa) at 1 m. Low-frequency vocalizations made by baleen whales and their corresponding auditory anatomy suggest that they have good low-frequency hearing (Ketten, 2000), although specific data on sensitivity, frequency or intensity discrimination, or localization abilities are lacking. Marine mammals, like all mammals, have typical U-shaped audiograms that begin with relatively low sensitivity (high threshold) at some specified low frequency with increased sensitivity (low threshold) to a species specific optimum followed by a generally steep rise at higher frequencies (high threshold) (Fay, 1988).

The toothed whales produce a wide variety of sounds, which include species-specific broadband ''clicks'' with peak energy between 10 and 200 kHz, individually variable ''burst pulse'' click trains, and constant frequency or frequency-modulated (FM) whistles ranging from 4 to 16 kHz (Wartzok and Ketten, 1999). The general consensus is that the tonal vocalizations (whistles) produced by toothed whales play an important role in maintaining contact between dispersed individuals, while broadband clicks are used during echolocation (Wartzok and Ketten, 1999). Burst pulses have also been strongly implicated in communication, with some scientists suggesting that they play an important role in agonistic encounters (McCowan and Reiss, 1995), while others have proposed that they represent ''emotive'' signals in a broader sense, possibly representing graded communication signals (Herzing, 1996). Sperm whales, however, are known to produce only clicks, which are used for both communication and echolocation (Whitehead, 2003). Most of the energy of toothed whale social vocalizations is concentrated near 10 kHz, with source levels for whistles as high as 100 to 180 dB re 1 μPa at 1 m (Richardson *et al.,* 1995). No odontocete has been shown audiometrically to have acute hearing (<80 dB re 1 μPa) below 500 Hz (DoN, 2001). Sperm whales produce clicks, which may be used to echolocate (Mullins *et al.,* 1988), with a frequency range from less than 100 Hz to 30 kHz and source levels up to 230 dB re 1 μPa 1 m or greater (Mohl *et al.,* 2000).

Brief Background on Sound

An understanding of the basic properties of underwater sound is necessary to comprehend many of the concepts and analyses presented in this proposed rule. A summary is included below.

Sound is a wave of pressure variations propagating through a medium (*e.g.,* water). Pressure variations are created by compressing and relaxing the medium. Sound measurements can be expressed in two forms: Intensity and pressure. Acoustic intensity is the average rate of energy transmitted through a unit area in a specified direction and is expressed in watts per square meter (W/m^2). Acoustic intensity is rarely measured directly, but rather from ratios of pressures; the standard reference pressure for underwater sound is 1 μPa; for airborne sound, the standard reference pressure is 20 μPa (Richardson *et al.,* 1995).

Acousticians have adopted a logarithmic scale for sound intensities, which is denoted in decibels (dB). Decibel measurements represent the ratio between a measured pressure value and a reference pressure value (in this case 1 μPa or, for airborne sound, 20 μPa). The logarithmic nature of the scale means that each 10-dB increase is a ten-fold increase in acoustic power (and a 20-dB increase is then a 100-fold increase in power; and a 30-dB increase is a 1,000-fold increase in power). A ten-fold increase in acoustic power does not mean that the sound is perceived as being ten times louder, however. Humans perceive a 10-dB increase in sound level as a doubling of loudness, and a 10-dB decrease in sound level as a halving of loudness. The term ''sound pressure level'' implies a decibel measure and a reference pressure that is used as the denominator of the ratio. Throughout this proposed rule, NMFS uses 1 μPa (denoted re: 1μPa) as a standard reference pressure unless noted otherwise.

It is important to note that decibel values underwater and decibel values in air are not the same (different reference pressures and densities/sound speeds between media) and should not be directly compared. Because of the different densities of air and water and the different decibel standards (*i.e.,* reference pressures) in air and water, a sound with the same level in air and in water would be approximately 62 dB lower in air. Thus, a sound that measures 160 dB (re 1 μPa) underwater would have the same approximate effective level as a sound that is 98 dB (re 20 μPa) in air.

Sound frequency is measured in cycles per second, or Hertz (abbreviated Hz), and is analogous to musical pitch; high-pitched sounds contain high frequencies and low-pitched sounds contain low frequencies. Natural sounds in the ocean span a huge range of frequencies: From earthquake noise at 5 Hz to harbor porpoise clicks at 150,000 Hz (150 kHz). These sounds are so low or so high in pitch that humans cannot even hear them; acousticians call these infrasonic (typically below 20 Hz) and ultrasonic (typically above 20,000 Hz) sounds, respectively. A single sound may be made up of many different frequencies together. Sounds made up of only a small range of frequencies are called ''narrowband'', and sounds with a broad range of frequencies are called ''broadband''; explosives are an example of a broadband sound source and active tactical sonars are an example of a narrowband sound source.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Current data indicate that not all marine mammal species have equal hearing capabilities (Richardson *et al.,* 1995; Southall *et al.,* 1997; Wartzok and Ketten, 1999; Au and Hastings, 2008).

Southall *et al.* (2007) designated ''functional hearing groups'' for marine mammals based on available behavioral data; audiograms derived from auditory evoked potentials; anatomical modeling; and other data. Southall *et al.* (2007) also estimated the lower and upper frequencies of functional hearing for each group. However, animals are less sensitive to sounds at the outer edges of their functional hearing range and are more sensitive to a range of frequencies within the middle of their functional hearing range. Note that direct measurements of hearing sensitivity do not exist for all species of marine mammals, including low-frequency cetaceans. The functional hearing groups and the associated frequencies developed by Southall *et al.* (2007) were revised by Finneran and Jenkins (2012) and have been further modified by NOAA. Table 7 provides a summary of sound production and general hearing capabilities for marine mammal species (note that values in this table are not meant to reflect absolute possible maximum ranges, rather they represent the best known ranges of each functional hearing group). For purposes of the analysis in this proposed rule, marine mammals are arranged into the following functional hearing groups based on their generalized hearing sensitivities: High-frequency cetaceans, mid-frequency cetaceans, low-frequency cetaceans (mysticetes), phocids (true seals), otariids (sea lion and fur seals), and mustelids (sea otters). A detailed discussion of the functional hearing groups can be found in Southall et al. (2007) and Finneran and Jenkins (2012).

TABLE 7—MARINE MAMMAL FUNCTIONAL HEARING GROUPS

Functional hearing group	Functional hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 25 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	200 Hz to 180 kHz.
Phocid pinnipeds (underwater) (true seals)	75 Hz to 100 kHz.
Otariid pinnipeds (underwater) (sea lions and fur seals)	100 Hz to 48 kHz.

Adapted and derived from Southall *et al.* (2007)

* Represents frequency band of hearing for entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Functional hearing is defined as the range of frequencies a group hears without incorporating non-acoustic mechanisms (Wartzok and Ketten, 1999). This is ~60 to ~70 dB above best hearing sensitivity (Southall *et al.,* 2007) for all functional hearing groups except LF cetaceans, where no direct measurements on hearing are available. For LF cetaceans, the lower range is based on recommendations from Southall *et al.,* 2007 and the upper range is based on information on inner ear anatomy and vocalizations.

When sound travels (propagates) from its source, its loudness decreases as the distance traveled by the sound increases. Thus, the loudness of a sound at its source is higher than the loudness of that same sound a kilometer away. Acousticians often refer to the loudness of a sound at its source (typically referenced to one meter from the source) as the source level and the loudness of sound elsewhere as the received level (*i.e.,* typically the receiver). For example, a humpback whale 3 km from a device that has a source level of 230 dB may only be exposed to sound that is 160 dB loud, depending on how the sound travels through water (*e.g.,* spherical spreading [3 dB reduction with doubling of distance] was used in this example). As a result, it is important to understand the difference between source levels and received levels when discussing the loudness of sound in the ocean or its impacts on the marine environment.

As sound travels from a source, its propagation in water is influenced by various physical characteristics, including water temperature, depth, salinity, and surface and bottom properties that cause refraction, reflection, absorption, and scattering of sound waves. Oceans are not homogeneous and the contribution of each of these individual factors is extremely complex and interrelated. The physical characteristics that determine the sound's speed through the water will change with depth, season, geographic location, and with time of day (as a result, in actual active sonar operations, crews will measure oceanic conditions, such as sea water temperature and depth, to calibrate models that determine the path the sonar signal will take as it travels through the ocean and how strong the sound signal will be at a given range along a particular transmission path). As sound travels through the ocean, the intensity associated with the wavefront diminishes, or attenuates. This decrease in intensity is referred to as propagation loss, also commonly called transmission loss.

Metrics Used in This Proposed Rule

This section includes a brief explanation of the two sound measurements (sound pressure level (SPL) and sound exposure level (SEL)) frequently used to describe sound levels in the discussions of acoustic effects in this proposed rule.

Sound pressure level (SPL)—Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 Pa is the pressure resulting from a force of one newton exerted over an area of one square meter. SPL is expressed as the

ratio of a measured sound pressure and a reference level.

SPL (in dB) = 20 log (pressure/reference pressure)

The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re: 1 μPa. SPL is an instantaneous pressure measurement and can be expressed as the peak, the peak-peak, or the root mean square (rms). Root mean square pressure, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this proposed rule refer to the root mean square. SPL does not take the duration of exposure into account. SPL is the applicable metric used in the risk continuum, which is used to estimate behavioral harassment takes (see Level B Harassment Risk Function (Behavioral Harassment) Section).

Sound exposure level (SEL)—SEL is an energy metric that integrates the squared instantaneous sound pressure over a stated time interval. The units for SEL are dB re: 1 μPa^2-s. Below is a simplified formula for SEL.

SEL = SPL + 10log (duration in seconds)

As applied to active sonar, the SEL includes both the SPL of a sonar ping and the total duration. Longer duration pings and/or pings with higher SPLs will have a higher SEL. If an animal is exposed to multiple pings, the SEL in each individual ping is summed to calculate the cumulative SEL. The cumulative SEL depends on the SPL, duration, and number of pings received. The thresholds that NMFS uses to indicate at what received level the onset of temporary threshold shift (TTS) and permanent threshold shift (PTS) in hearing are likely to occur are expressed as cumulative SEL.

Potential Effects of Specified Activities on Marine Mammals

The Navy has requested authorization for the take of marine mammals that may occur incidental to training activities in the Study Area. The Navy has analyzed potential impacts to marine mammals from impulsive and non-impulsive sound sources.

Other potential impacts to marine mammals from training activities in the Study Area were analyzed in the GOA DSEIS/OEIS, in consultation with NMFS as a cooperating agency, and determined to be unlikely to result in marine mammal harassment. Therefore, the Navy has not requested authorization for take of marine mammals that might occur incidental to other components of their proposed activities. In this proposed rule, NMFS analyzes the potential effects on marine mammals from exposure to non-impulsive sound sources (sonar and other active acoustic sources) and impulsive sound sources (underwater detonations).

For the purpose of MMPA authorizations, NMFS' effects assessments serve four primary purposes: (1) To prescribe the permissible methods of taking (*i.e.,* Level B harassment (behavioral harassment), Level A harassment (injury), or mortality, including an identification of the number and types of take that could occur by harassment or mortality) and to prescribe other means of effecting the least practicable adverse impact on such species or stock and its habitat (*i.e.,* mitigation); (2) to determine whether the specified activity would have a negligible impact on the affected species or stocks of marine mammals (based on the likelihood that the activity would adversely affect the species or stock through effects on annual rates of recruitment or survival); (3) to determine whether the specified activity would have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and (4) to prescribe requirements pertaining to monitoring and reporting.

This section focuses qualitatively on the different ways that non-impulsive and impulsive sources may affect marine mammals (some of which NMFS would not classify as harassment). Then the Estimated Take of Marine Mammals section discusses how the potential effects of non-impulsive and impulsive sources on marine mammals will be related to the MMPA definitions of Level A and Level B Harassment, and attempts to quantify those effects.

Non-impulsive Sources

Direct Physiological Effects

Based on the literature, there are two basic ways that non-impulsive sources might directly result in physical trauma or damage: Noise-induced loss of hearing sensitivity (more commonly-called ''threshold shift'') and acoustically mediated bubble growth. Separately, an animal's behavioral reaction to an acoustic exposure might lead to physiological effects that might ultimately lead to injury or death, which is discussed later in the Stranding section.

Threshold Shift (noise-induced loss of hearing)—When animals exhibit reduced hearing sensitivity (*i.e.,* sounds must be louder for an animal to detect them) following exposure to an intense sound or sound for long duration, it is referred to as a noise-induced threshold shift (TS). An animal can experience temporary threshold shift (TTS) or permanent threshold shift (PTS). TTS can last from minutes or hours to days (*i.e.,* there is complete recovery), can occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz), and can be of varying amounts (for example, an animal's hearing sensitivity might be reduced initially by only 6 dB or reduced by 30 dB). PTS is permanent, but some recovery is possible. PTS can also occur in a specific frequency range and amount, as mentioned above for TTS.

The following physiological mechanisms are thought to play a role in inducing auditory TS: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells, residual muscular activity in the middle ear, displacement of certain inner ear membranes, increased blood flow, and post-stimulatory reduction in both efferent and sensory neural output (Southall *et al.,* 2007). The amplitude, duration, frequency, temporal pattern, and energy distribution of sound exposure all can affect the amount of associated TS and the frequency range in which it occurs. As amplitude and duration of sound exposure increase, so, generally, does the amount of TS, along with the recovery time. For intermittent sounds, less TS could occur than compared to a continuous exposure with the same energy (some recovery could occur between intermittent exposures depending on the duty cycle between sounds) (Kryter *et al.,* 1966; Ward, 1997). For example, one short but loud (higher SPL) sound exposure may induce the same impairment as one longer but softer sound, which in turn may cause more impairment than a series of several intermittent softer sounds with the same total energy (Ward, 1997). Additionally, though TTS is temporary, prolonged exposure to sounds strong enough to elicit TTS, or shorter-term exposure to sound levels well above the TTS threshold, can cause PTS, at least in terrestrial mammals (Kryter, 1985). Although in the case of mid- and high-frequency active sonar (MFAS/HFAS), animals are not expected to be exposed to levels high enough or durations long enough to result in PTS.

PTS is considered auditory injury (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however,

other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007).

Although the published body of scientific literature contains numerous theoretical studies and discussion papers on hearing impairments that can occur with exposure to a loud sound, only a few studies provide empirical information on the levels at which noise-induced loss in hearing sensitivity occurs in nonhuman animals. For marine mammals, published data are limited to the captive bottlenose dolphin, beluga, harbor porpoise, and Yangtze finless porpoise (Finneran *et al.,* 2000, 2002b, 2003, 2005a, 2007, 2010a, 2010b; Finneran and Schlundt, 2010; Lucke *et al.,* 2009; Mooney *et al.,* 2009a, 2009b; Popov *et al.,* 2011a, 2011b; Kastelein *et al.,* 2012a; Schlundt *et al.,* 2000; Nachtigall *et al.,* 2003, 2004). For pinnipeds in water, data are limited to measurements of TTS in harbor seals, an elephant seal, and California sea lions (Kastak *et al.,* 1999, 2005; Kastelein *et al.,* 2012b).

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious (similar to those discussed in auditory masking, below). For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts. Also, depending on the degree and frequency range, the effects of PTS on an animal could range in severity, although it is considered generally more serious because it is a permanent condition. Of note, reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so one can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Acoustically Mediated Bubble Growth—One theoretical cause of injury to marine mammals is rectified diffusion (Crum and Mao, 1996), the process of increasing the size of a bubble by exposing it to a sound field. This process could be facilitated if the environment in which the ensonified bubbles exist is supersaturated with gas. Repetitive diving by marine mammals can cause the blood and some tissues to accumulate gas to a greater degree than is supported by the surrounding environmental pressure (Ridgway and Howard, 1979). The deeper and longer dives of some marine mammals (for example, beaked whales) are theoretically predicted to induce greater supersaturation (Houser *et al.,* 2001b). If rectified diffusion were possible in marine mammals exposed to high-level sound, conditions of tissue supersaturation could theoretically speed the rate and increase the size of bubble growth. Subsequent effects due to tissue trauma and emboli would presumably mirror those observed in humans suffering from decompression sickness.

It is unlikely that the short duration of sonar pings would be long enough to drive bubble growth to any substantial size, if such a phenomenon occurs. However, an alternative but related hypothesis has also been suggested: Stable bubbles could be destabilized by high-level sound exposures such that bubble growth then occurs through static diffusion of gas out of the tissues. In such a scenario the marine mammal would need to be in a gas-supersaturated state for a long enough period of time for bubbles to become of a problematic size. Recent research with *ex vivo* supersaturated bovine tissues suggested that, for a 37 kHz signal, a sound exposure of approximately 215 dB referenced to (re) 1 μPa would be required before microbubbles became destabilized and grew (Crum *et al.,* 2005). Assuming spherical spreading loss and a nominal sonar source level of 235 dB re 1 μPa at 1 m, a whale would need to be within 10 m (33 ft.) of the sonar dome to be exposed to such sound levels. Furthermore, tissues in the study were supersaturated by exposing them to pressures of 400–700 kilopascals for periods of hours and then releasing them to ambient pressures. Assuming the equilibration of gases with the tissues occurred when the tissues were exposed to the high pressures, levels of supersaturation in the tissues could have been as high as 400–700 percent. These levels of tissue supersaturation are substantially higher than model predictions for marine mammals (Houser *et al.,* 2001; Saunders *et al.,* 2008). It is improbable that this mechanism is responsible for stranding events or traumas associated with beaked whale strandings. Both the degree of supersaturation and exposure levels observed to cause microbubble destabilization are unlikely to occur, either alone or in concert.

Yet another hypothesis (decompression sickness) has speculated that rapid ascent to the surface following exposure to a startling sound might produce tissue gas saturation sufficient for the evolution of nitrogen bubbles (Jepson *et al.,* 2003; Fernandez *et al.,* 2005; Fernández *et al.,* 2012). In this scenario, the rate of ascent would need to be sufficiently rapid to compromise behavioral or physiological protections against nitrogen bubble formation. Alternatively, Tyack *et al.* (2006) studied the deep diving behavior of beaked whales and concluded that: ''Using current models of breath-hold diving, we infer that their natural diving behavior is inconsistent with known problems of acute nitrogen supersaturation and embolism.'' Collectively, these hypotheses can be referred to as ''hypotheses of acoustically mediated bubble growth.''

Although theoretical predictions suggest the possibility for acoustically mediated bubble growth, there is considerable disagreement among scientists as to its likelihood (Piantadosi and Thalmann, 2004; Evans and Miller, 2003). Crum and Mao (1996) hypothesized that received levels would have to exceed 190 dB in order for there to be the possibility of significant bubble growth due to supersaturation of gases in the blood (*i.e.,* rectified diffusion). More recent work conducted by Crum *et al.* (2005) demonstrated the possibility of rectified diffusion for short duration signals, but at SELs and tissue saturation levels that are highly improbable to occur in diving marine mammals. To date, energy levels (ELs) predicted to cause in vivo bubble formation within diving cetaceans have not been evaluated (NOAA, 2002b). Although it has been argued that traumas from some recent beaked whale strandings are consistent with gas emboli and bubble-induced tissue separations (Jepson *et al.,* 2003), there is no conclusive evidence of this. However, Jepson *et al.* (2003, 2005) and Fernandez *et al.* (2004, 2005, 2012) concluded that in vivo bubble formation, which may be exacerbated by deep, long-duration, repetitive dives may explain why beaked whales appear to be particularly vulnerable to sonar exposures. Further investigation is needed to further assess the potential

validity of these hypotheses. More information regarding hypotheses that attempt to explain how behavioral responses to non-impulsive sources can lead to strandings is included in the Stranding and Mortality section.

Acoustic Masking

Marine mammals use acoustic signals for a variety of purposes, which differ among species, but include communication between individuals, navigation, foraging, reproduction, and learning about their environment (Erbe and Farmer, 2000; Tyack, 2000). Masking, or auditory interference, generally occurs when sounds in the environment are louder than and of a similar frequency to, auditory signals an animal is trying to receive. Masking is a phenomenon that affects animals that are trying to receive acoustic information about their environment, including sounds from other members of their species, predators, prey, and sounds that allow them to orient in their environment. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations.

The extent of the masking interference depends on the spectral, temporal, and spatial relationships between the signals an animal is trying to receive and the masking noise, in addition to other factors. In humans, significant masking of tonal signals occurs as a result of exposure to noise in a narrow band of similar frequencies. As the sound level increases, though, the detection of frequencies above those of the masking stimulus decreases also. This principle is expected to apply to marine mammals as well because of common biomechanical cochlear properties across taxa.

Richardson *et al.* (1995b) argued that the maximum radius of influence of an industrial noise (including broadband low-frequency sound transmission) on a marine mammal is the distance from the source to the point at which the noise can barely be heard. This range is determined by either the hearing sensitivity of the animal or the background noise level present. Industrial masking is most likely to affect some species' ability to detect communication calls and natural sounds (*i.e.,* surf noise, prey noise, etc.; Richardson *et al.,* 1995).

The echolocation calls of toothed whales are subject to masking by high-frequency sound. Human data indicate low-frequency sound can mask high-frequency sounds (*i.e.,* upward masking). Studies on captive odontocetes by Au *et al.* (1974, 1985, 1993) indicate that some species may use various processes to reduce masking effects (*e.g.,* adjustments in echolocation call intensity or frequency as a function of background noise conditions). There is also evidence that the directional hearing abilities of odontocetes are useful in reducing masking at the high-frequencies these cetaceans use to echolocate, but not at the low-to-moderate frequencies they use to communicate (Zaitseva *et al.,* 1980). A recent study by Nachtigall and Supin (2008) showed that false killer whales adjust their hearing to compensate for ambient sounds and the intensity of returning echolocation signals.

The functional hearing ranges of mysticetes, odontocetes, and pinnipeds underwater all encompass the frequencies of the sonar sources used in the Navy's low-frequency (LF)/MFAS/HFAS training exercises. Additionally, almost all species' vocal repertoires span across the frequencies of these sonar sources used by the Navy. The closer the characteristics of the masking signal to the signal of interest, the more likely masking is to occur. For hull-mounted sonar, which accounts for a large number of the takes of marine mammals (because of the source strength and number of hours it is conducted), the pulse length and low duty cycle of the MFAS/HFAS signal makes it less likely that masking would occur as a result.

Impaired Communication

In addition to making it more difficult for animals to perceive acoustic cues in their environment, anthropogenic sound presents separate challenges for animals that are vocalizing. When they vocalize, animals are aware of environmental conditions that affect the ''active space'' of their vocalizations, which is the maximum area within which their vocalizations can be detected before it drops to the level of ambient noise (Brenowitz, 2004; Brumm *et al.,* 2004; Lohr *et al.,* 2003). Animals are also aware of environmental conditions that affect whether listeners can discriminate and recognize their vocalizations from other sounds, which is more important than simply detecting that a vocalization is occurring (Brenowitz, 1982; Brumm *et al.,* 2004; Dooling, 2004, Marten and Marler, 1977; Patricelli *et al.,* 2006). Most animals that vocalize have evolved with an ability to make adjustments to their vocalizations to increase the signal-to-noise ratio, active space, and recognizability/distinguishability of their vocalizations in the face of temporary changes in background noise (Brumm *et al.,* 2004; Patricelli *et al.,* 2006). Vocalizing animals can make adjustments to vocalization characteristics such as the frequency structure, amplitude, temporal structure, and temporal delivery.

Many animals will combine several of these strategies to compensate for high levels of background noise. Anthropogenic sounds that reduce the signal-to-noise ratio of animal vocalizations, increase the masked auditory thresholds of animals listening for such vocalizations, or reduce the active space of an animal's vocalizations impair communication between animals. Most animals that vocalize have evolved strategies to compensate for the effects of short-term or temporary increases in background or ambient noise on their songs or calls. Although the fitness consequences of these vocal adjustments remain unknown, like most other trade-offs animals must make, some of these strategies probably come at a cost (Patricelli *et al.,* 2006). For example, vocalizing more loudly in noisy environments may have energetic costs that decrease the net benefits of vocal adjustment and alter a bird's energy budget (Brumm, 2004; Wood and Yezerinac, 2006). Shifting songs and calls to higher frequencies may also impose energetic costs (Lambrechts, 1996).

Stress Responses

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses.

In the case of many stressors, an animal's first and sometimes most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly

associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose a risk to the animal's welfare. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other biotic function, which impairs those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (Seyle, 1950) or ''allostatic loading'' (McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiments; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Information has also been collected on the physiological responses of marine mammals to exposure to anthropogenic sounds (Fair and Becker, 2000; Romano *et al.,* 2002; Wright *et al.,* 2008). Various efforts have been undertaken to investigate the impact from vessels (both whale-watching and general vessel traffic noise), and demonstrated impacts do occur (Bain, 2002; Erbe, 2002; Noren et al., 2009; Williams *et al.,* 2006, 2009, 2014a, 2014b; Read *et al.,* 2014; Rolland *et al.,* 2012; Pirotta *et al.,* 2015). This body of research for the most part has investigated impacts associated with the presence of chronic stressors, which differ significantly from the proposed Navy training activities in the GOA TMAA. For example, in an analysis of energy costs to killer whales, Williams et al. (2009) suggested that whale-watching in Canada's Johnstone Strait resulted in lost feeding opportunities due to vessel disturbance, which could carry higher costs than other measures of behavioral change might suggest. Ayres *et al.* (2012) recently reported on research in the Salish Sea (Washington state) involving the measurement of southern resident killer whale fecal hormones to assess two potential threats to the species recovery: Lack of prey (salmon) and impacts to behavior from vessel traffic. Ayres *et al.* (2012) suggested that the lack of prey overshadowed any population-level physiological impacts on southern resident killer whales from vessel traffic. Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. In a conceptual model developed by the Population Consequences of Acoustic Disturbance (PCAD) working group, serum hormones were identified as possible indicators of behavioral effects that are translated into altered rates of reproduction and mortality. The Office of Naval Research hosted a workshop (Effects of Stress on Marine Mammals Exposed to Sound) in 2009 that focused on this very topic (ONR, 2009).

Studies of other marine animals and terrestrial animals would also lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to high frequency, mid-frequency and low-frequency sounds. For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (for example, elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiological stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b), for example, identified noise-induced physiological transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and to communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, it seems reasonable to assume that reducing an animal's ability to gather information about its environment and to communicate with other members of its species would be stressful for animals that use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses because terrestrial animals exhibit those responses under similar conditions (NRC, 2003). More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), we also assume that stress responses are likely to persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would

be as significant as behavioral responses to TTS.

Behavioral Disturbance

Behavioral responses to sound are highly variable and context-specific. Many different variables can influence an animal's perception of and response to (nature and magnitude) an acoustic event. An animal's prior experience with a sound or sound source affects whether it is less likely (habituation) or more likely (sensitization) to respond to certain sounds in the future (animals can also be innately pre-disposed to respond to certain sounds in certain ways) (Southall *et al.,* 2007). Related to the sound itself, the perceived nearness of the sound, bearing of the sound (approaching vs. retreating), similarity of a sound to biologically relevant sounds in the animal's environment (*i.e.,* calls of predators, prey, or conspecifics), and familiarity of the sound may affect the way an animal responds to the sound (Southall *et al.,* 2007). Individuals (of different age, gender, reproductive status, etc.) among most populations will have variable hearing capabilities, and differing behavioral sensitivities to sounds that will be affected by prior conditioning, experience, and current activities of those individuals. Often, specific acoustic features of the sound and contextual variables (*i.e.,* proximity, duration, or recurrence of the sound or the current behavior that the marine mammal is engaged in or its prior experience), as well as entirely separate factors such as the physical presence of a nearby vessel, may be more relevant to the animal's response than the received level alone. Ellison *et al.* (2012) outlined an approach to assessing the effects of sound on marine mammals that incorporates contextual-based factors. They recommend considering not just the received level of sound, but also the activity the animal is engaged in at the time the sound is received, the nature and novelty of the sound (*i.e.,* is this a new sound from the animal's perspective), and the distance between the sound source and the animal. They submit that this ''exposure context,'' as described, greatly influences the type of behavioral response exhibited by the animal. This sort of contextual information is challenging to predict with accuracy for ongoing activities that occur over large scales and large periods of time. While contextual elements of this sort are typically not included in calculations to quantify take, they are often considered qualitatively (where supporting information is available) in the subsequent analysis that seeks to assess the likely consequences of sound exposures above a certain level.

Exposure of marine mammals to sound sources can result in no response or responses including, but not limited to: Increased alertness; orientation or attraction to a sound source; vocal modifications; cessation of feeding; cessation of social interaction; alteration of movement or diving behavior; habitat abandonment (temporary or permanent); and, in severe cases, panic, flight, stampede, or stranding, potentially resulting in death (Southall *et al.,* 2007). A review of marine mammal responses to anthropogenic sound was first conducted by Richardson and others in 1995. More recent reviews (Nowacek *et al.,* 2007; Ellison *et al.,* 2012) address studies conducted since 1995 and focuses on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated. The following sub-sections provide examples of behavioral responses that provide an idea of the variability in behavioral responses that would be expected given the differential sensitivities of marine mammal species to sound and the wide range of potential acoustic sources to which a marine mammal may be exposed. Estimates of the types of behavioral responses that could occur for a given sound exposure should be determined from the literature that is available for each species, or extrapolated from closely related species when no information exists.

Flight Response—A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). Flight responses have been speculated as being a component of marine mammal strandings associated with sonar activities (Evans and England, 2001).

Response to Predator—Evidence suggests that at least some marine mammals have the ability to acoustically identify potential predators. For example, harbor seals that reside in the coastal waters off British Columbia are frequently targeted by certain groups of killer whales, but not others. The seals discriminate between the calls of threatening and non-threatening killer whales (Deecke *et al.,* 2002), a capability that should increase survivorship while reducing the energy required for attending to and responding to all killer whale calls. The occurrence of masking or hearing impairment provides a means by which marine mammals may be prevented from responding to the acoustic cues produced by their predators. Whether or not this is a possibility depends on the duration of the masking/hearing impairment and the likelihood of encountering a predator during the time that predator cues are impeded.

Diving—Changes in dive behavior can vary widely. They may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive. Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. Variations in dive behavior may also expose an animal to potentially harmful conditions (*e.g.,* increasing the chance of ship-strike) or may serve as an avoidance response that enhances survivorship. The impact of a variation in diving resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Nowacek *et al.* (2004) reported disruptions of dive behaviors in foraging North Atlantic right whales when exposed to an alerting stimulus, an action, they noted, that could lead to an increased likelihood of ship strike. However, the whales did not respond to playbacks of either right whale social sounds or vessel noise, highlighting the importance of the sound characteristics in producing a behavioral reaction. Conversely, Indo-Pacific humpback dolphins have been observed to dive for longer periods of time in areas where vessels were present and/or approaching (Ng and Leung, 2003). In both of these studies, the influence of the sound exposure cannot be decoupled from the physical presence of a surface vessel, thus complicating interpretations of the relative contribution of each stimulus to the response. Indeed, the presence of surface vessels, their approach, and speed of approach, seemed to be significant factors in the response of the Indo-Pacific humpback dolphins (Ng and Leung, 2003). Low frequency signals of the Acoustic Thermometry of Ocean Climate (ATOC) sound source were not found to affect dive times of humpback whales in Hawaiian waters (Frankel and Clark, 2000) or to overtly affect elephant seal dives (Costa *et al.,* 2003). They did, however, produce subtle effects that varied in direction and degree among the individual seals, illustrating the equivocal nature of behavioral effects and consequent

difficulty in defining and predicting them.

Due to past incidents of beaked whale strandings associated with sonar operations, feedback paths are provided between avoidance and diving and indirect tissue effects. This feedback accounts for the hypothesis that variations in diving behavior and/or avoidance responses can possibly result in nitrogen tissue supersaturation and nitrogen off-gassing, possibly to the point of deleterious vascular bubble formation (Jepson *et al.,* 2003). Although hypothetical, discussions surrounding this potential process are controversial.

Foraging—Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. Noise from seismic surveys was not found to impact the feeding behavior in western grey whales off the coast of Russia (Yazvenko *et al.,* 2007) and sperm whales engaged in foraging dives did not abandon dives when exposed to distant signatures of seismic airguns (Madsen *et al.,* 2006). However, Miller *et al.* (2009) reported buzz rates (a proxy for feeding) 19 percent lower during exposure to distant signatures of seismic airguns. Balaenopterid whales exposed to moderate low-frequency signals similar to the ATOC sound source demonstrated no variation in foraging activity (Croll *et al.,* 2001), whereas five out of six North Atlantic right whales exposed to an acoustic alarm interrupted their foraging dives (Nowacek *et al.,* 2004). Although the received sound pressure levels were similar in the latter two studies, the frequency, duration, and temporal pattern of signal presentation were different. These factors, as well as differences in species sensitivity, are likely contributing factors to the differential response. Blue whales exposed to simulated mid-frequency sonar in the Southern California Bight were less likely to produce low frequency calls usually associated with feeding behavior (Melcón *et al.,* 2012). However, Melcon *et al.* (2012) were unable to determine if suppression of low frequency calls reflected a change in their feeding performance or abandonment of foraging behavior and indicated that implications of the documented responses are unknown. Further, it is not known whether the lower rates of calling actually indicated a reduction in feeding behavior or social contact since the study used data from remotely deployed, passive acoustic monitoring buoys. In contrast, blue whales increased their likelihood of calling when ship noise was present, and decreased their likelihood of calling in the presence of explosive noise, although this result was not statistically significant (Melcón *et al.,* 2012). Additionally, the likelihood of an animal calling decreased with the increased received level of mid-frequency sonar, beginning at a SPL of approximately 110–120 dB re 1 µPa (Melcón *et al.,* 2012). Results from the 2010–2011 field season of an ongoing behavioral response study in Southern California waters indicated that, in some cases and at low received levels, tagged blue whales responded to mid-frequency sonar but that those responses were mild and there was a quick return to their baseline activity (Southall *et al.,* 2011; Southall *et al.,* 2012b). A determination of whether foraging disruptions incur fitness consequences will require information on or estimates of the energetic requirements of the individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal. Goldbogen *et al.,* (2013) monitored behavioral responses of tagged blue whales located in feeding areas when exposed simulated MFA sonar. Responses varied depending on behavioral context, with deep feeding whales being more significantly affected (*i.e.,* generalized avoidance; cessation of feeding; increased swimming speeds; or directed travel away from the source) compared to surface feeding individuals that typically showed no change in behavior. Non-feeding whales also seemed to be affected by exposure. The authors indicate that disruption of feeding and displacement could impact individual fitness and health. However, for this to be true, we would have to assume that an individual whale could not compensate for this lost feeding opportunity by either immediately feeding at another location, by feeding shortly after cessation of acoustic exposure, or by feeding at a later time. There is no indication this is the case, particularly since unconsumed prey would likely still be available in the environment in most cases following the cessation of acoustic exposure.

Breathing—Variations in respiration naturally vary with different behaviors and variations in respiration rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Mean exhalation rates of gray whales at rest and while diving were found to be unaffected by seismic surveys conducted adjacent to the whale feeding grounds (Gailey *et al.,* 2007). Studies with captive harbor porpoises showed increased respiration rates upon introduction of acoustic alarms (Kastelein *et al.,* 2001; Kastelein *et al.,* 2006a) and emissions for underwater data transmission (Kastelein *et al.,* 2005). However, exposure of the same acoustic alarm to a striped dolphin under the same conditions did not elicit a response (Kastelein *et al.,* 2006a), again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure.

Social Relationships—Social interactions between mammals can be affected by noise via the disruption of communication signals or by the displacement of individuals. Disruption of social relationships therefore depends on the disruption of other behaviors (*e.g.,* caused avoidance, masking, etc.) and no specific overview is provided here. However, social disruptions must be considered in context of the relationships that are affected. Long-term disruptions of mother/calf pairs or mating displays have the potential to affect the growth and survival or reproductive effort/success of individuals, respectively.

Vocalizations (also see Masking Section)—Vocal changes in response to anthropogenic noise can occur across the repertoire of sound production modes used by marine mammals, such as whistling, echolocation click production, calling, and singing. Changes may result in response to a need to compete with an increase in background noise or may reflect an increased vigilance or startle response. For example, in the presence of low-frequency active sonar, humpback whales have been observed to increase the length of their ''songs'' (Miller *et al.,* 2000; Fristrup *et al.,* 2003), possibly due to the overlap in frequencies between the whale song and the low-frequency active sonar. A similar compensatory effect for the presence of low-frequency vessel noise has been suggested for right whales; right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007; Roland *et al.,* 2012). Killer whales off the northwestern coast of the U.S. have been observed to increase the duration of primary calls once a threshold in

observing vessel density (*e.g.,* whale watching) was reached, which has been suggested as a response to increased masking noise produced by the vessels (Foote *et al.,* 2004; NOAA, 2014b). In contrast, both sperm and pilot whales potentially ceased sound production during the Heard Island feasibility test (Bowles *et al.,* 1994), although it cannot be absolutely determined whether the inability to acoustically detect the animals was due to the cessation of sound production or the displacement of animals from the area.

Avoidance—Avoidance is the displacement of an individual from an area as a result of the presence of a sound. Richardson *et al.* (1995) noted that avoidance reactions are the most obvious manifestations of disturbance in marine mammals. It is qualitatively different from the flight response, but also differs in the magnitude of the response (*i.e.,* directed movement, rate of travel, etc.). Oftentimes avoidance is temporary, and animals return to the area once the noise has ceased. Longer term displacement is possible, however, which can lead to changes in abundance or distribution patterns of the species in the affected region if they do not become acclimated to the presence of the sound (Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006). Acute avoidance responses have been observed in captive porpoises and pinnipeds exposed to a number of different sound sources (Kastelein *et al.,* 2001; Finneran *et al.,* 2003; Kastelein *et al.,* 2006a; Kastelein *et al.,* 2006b). Short-term avoidance of seismic surveys, low frequency emissions, and acoustic deterrents have also been noted in wild populations of odontocetes (Bowles *et al.,* 1994; Goold, 1996; 1998; Stone *et al.,* 2000; Morton and Symonds, 2002) and to some extent in mysticetes (Gailey *et al.,* 2007), while longer term or repetitive/chronic displacement for some dolphin groups and for manatees has been suggested to be due to the presence of chronic vessel noise (Haviland-Howell *et al.,* 2007; Miksis-Olds *et al.,* 2007).

Maybaum (1993) conducted sound playback experiments to assess the effects of MFAS on humpback whales in Hawaiian waters. Specifically, she exposed focal pods to sounds of a 3.3-kHz sonar pulse, a sonar frequency sweep from 3.1 to 3.6 kHz, and a control (blank) tape while monitoring behavior, movement, and underwater vocalizations. The two types of sonar signals (which both contained mid- and low-frequency components) differed in their effects on the humpback whales, but both resulted in avoidance behavior. The whales responded to the pulse by increasing their distance from the sound source and responded to the frequency sweep by increasing their swimming speeds and track linearity. In the Caribbean, sperm whales avoided exposure to mid-frequency submarine sonar pulses, in the range of 1000 Hz to 10,000 Hz (IWC 2005).

Kvadsheim *et al.* (2007) conducted a controlled exposure experiment in which killer whales fitted with D-tags were exposed to mid-frequency active sonar (Source A: A 1.0 second upsweep 209 dB @ 1–2 kHz every 10 seconds for 10 minutes; Source B: With a 1.0 second upsweep 197 dB @ 6–7 kHz every 10 seconds for 10 minutes). When exposed to Source A, a tagged whale and the group it was traveling with did not appear to avoid the source. When exposed to Source B, the tagged whales along with other whales that had been carousel feeding, ceased feeding during the approach of the sonar and moved rapidly away from the source. When exposed to Source B, Kvadsheim and his co-workers reported that a tagged killer whale seemed to try to avoid further exposure to the sound field by the following behaviors: Immediately swimming away (horizontally) from the source of the sound; engaging in a series of erratic and frequently deep dives that seemed to take it below the sound field; or swimming away while engaged in a series of erratic and frequently deep dives. Although the sample sizes in this study are too small to support statistical analysis, the behavioral responses of the killer whales were consistent with the results of other studies.

In 2007, the first in a series of behavioral response studies, a collaboration by the Navy, NMFS, and other scientists showed one beaked whale (*Mesoplodon densirostris*) responding to an MFAS playback. Tyack *et al.* (2011) indicates that the playback began when the tagged beaked whale was vocalizing at depth (at the deepest part of a typical feeding dive), following a previous control with no sound exposure. The whale appeared to stop clicking significantly earlier than usual, when exposed to mid-frequency signals in the 130–140 dB (rms) received level range. After a few more minutes of the playback, when the received level reached a maximum of 140–150 dB, the whale ascended on the slow side of normal ascent rates with a longer than normal ascent, at which point the exposure was terminated. The results are from a single experiment and a greater sample size is needed before robust and definitive conclusions can be drawn.

Tyack *et al.* (2011) also indicates that Blainville's beaked whales appear to be sensitive to noise at levels well below expected TTS (~160 dB re1μPa). This sensitivity is manifest by an adaptive movement away from a sound source. This response was observed irrespective of whether the signal transmitted was within the band width of MFAS, which suggests that beaked whales may not respond to the specific sound signatures. Instead, they may be sensitive to any pulsed sound from a point source in this frequency range. The response to such stimuli appears to involve maximizing the distance from the sound source.

Stimpert *et al.* (2014) tagged a Baird's beaked whale, which was subsequently exposed to simulated MFAS. Received levels of sonar on the tag increased to a maximum of 138 dB re 1μPa, which occurred during the first exposure dive. Some sonar received levels could not be measured due to flow noise and surface noise on the tag.

Results from a 2007–2008 study conducted near the Bahamas showed a change in diving behavior of an adult Blainville's beaked whale to playback of MFAS and predator sounds (Boyd *et al.,* 2008; Southall *et al.* 2009; Tyack *et al.,* 2011). Reaction to mid-frequency sounds included premature cessation of clicking and termination of a foraging dive, and a slower ascent rate to the surface. Results from a similar behavioral response study in southern California waters have been presented for the 2010–2011 field season (Southall *et al.* 2011; DeRuiter *et al.,* 2013b). DeRuiter *et al.* (2013b) presented results from two Cuvier's beaked whales that were tagged and exposed to simulated MFAS during the 2010 and 2011 field seasons of the southern California behavioral response study. The 2011 whale was also incidentally exposed to MFAS from a distant naval exercise. Received levels from the MFAS signals from the controlled and incidental exposures were calculated as 84–144 and 78–106 dB re 1 μPa root mean square (rms), respectively. Both whales showed responses to the controlled exposures, ranging from initial orientation changes to avoidance responses characterized by energetic fluking and swimming away from the source. However, the authors did not detect similar responses to incidental exposure to distant naval sonar exercises at comparable received levels, indicating that context of the exposures (*e.g.,* source proximity, controlled source ramp-up) may have been a significant factor. Specifically, this result suggests that caution is needed when using marine mammal response data collected from smaller, nearer sound sources to predict at what

received levels animals may repond to larger sound sources that are significantly farther away—as the distance of the source appears to be an important contextual variable and animals may be less responsive to sources at notably greater distances. Cuvier's beaked whale responses suggested particular sensitivity to sound exposure as consistent with results for Blainville's beaked whale. Similarly, beaked whales exposed to sonar during British training exercises stopped foraging (DSTL, 2007), and preliminary results of controlled playback of sonar may indicate feeding/foraging disruption of killer whales and sperm whales (Miller *et al.,* 2011).

In the 2007–2008 Bahamas study, playback sounds of a potential predator—a killer whale—resulted in a similar but more pronounced reaction, which included longer inter-dive intervals and a sustained straight-line departure of more than 20 km from the area (Boyd *et al.,* 2008; Southall *et al.* 2009; Tyack *et al.,* 2011). The authors noted, however, that the magnified reaction to the predator sounds could represent a cumulative effect of exposure to the two sound types since killer whale playback began approximately 2 hours after mid-frequency source playback. Pilot whales and killer whales off Norway also exhibited horizontal avoidance of a transducer with outputs in the mid-frequency range (signals in the 1–2 kHz and 6–7 kHz ranges) (Miller *et al.,* 2011). Additionally, separation of a calf from its group during exposure to MFAS playback was observed on one occasion (Miller *et al.,* 2011; 2012). Miller *et al.* (2012) noted that this single observed mother-calf separation was unusual for several reasons, including the fact that the experiment was conducted in an unusually narrow fjord roughly 1 km wide and that the sonar exposure was started unusually close to the pod including the calf. Both of these factors could have contributed to calf separation. In contrast, preliminary analyses suggest that none of the pilot whales or false killer whales in the Bahamas showed an avoidance response to controlled exposure playbacks (Southall *et al.,* 2009).

Through analysis of the behavioral response studies, a preliminary overarching effect of greater sensitivity to all anthropogenic exposures was seen in beaked whales compared to the other odontocetes studied (Southall *et al.,* 2009). Therefore, recent studies have focused specifically on beaked whale responses to active sonar transmissions or controlled exposure playback of simulated sonar on various military ranges (Defence Science and Technology Laboratory, 2007; Claridge and Durban, 2009; Moretti *et al.,* 2009; McCarthy *et al.,* 2011; Miller *et al.,* 2012; Southall *et al.,* 2011, 2012a, 2012b, 2013, 2014; Tyack *et al.,* 2011). In the Bahamas, Blainville's beaked whales located on the range will move off-range during sonar use and return only after the sonar transmissions have stopped, sometimes taking several days to do so (Claridge and Durban 2009; Moretti *et al.,* 2009; McCarthy *et al.,* 2011; Tyack *et al.,* 2011). Moretti *et al.* (2014) used recordings from seafloor-mounted hydrophones at the Atlantic Undersea Test and Evaluation Center (AUTEC) to analyze the probability of Blainsville's beaked whale dives before, during, and after Navy sonar exercises.

Orientation—A shift in an animal's resting state or an attentional change via an orienting response represent behaviors that would be considered mild disruptions if occurring alone. As previously mentioned, the responses may co-occur with other behaviors; for instance, an animal may initially orient toward a sound source, and then move away from it. Thus, any orienting response should be considered in context of other reactions that may occur.

Behavioral Responses

Southall *et al.* (2007) reports the results of the efforts of a panel of experts in acoustic research from behavioral, physiological, and physical disciplines that convened and reviewed the available literature on marine mammal hearing and physiological and behavioral responses to human-made sound with the goal of proposing exposure criteria for certain effects. This peer-reviewed compilation of literature is very valuable, though Southall *et al.* (2007) note that not all data are equal, some have poor statistical power, insufficient controls, and/or limited information on received levels, background noise, and other potentially important contextual variables—such data were reviewed and sometimes used for qualitative illustration but were not included in the quantitative analysis for the criteria recommendations. All of the studies considered, however, contain an estimate of the received sound level when the animal exhibited the indicated response.

In the Southall *et al.* (2007) publication, for the purposes of analyzing responses of marine mammals to anthropogenic sound and developing criteria, the authors differentiate between single pulse sounds, multiple pulse sounds, and non-pulse sounds. MFAS/HFAS sonar is considered a non-pulse sound. Southall *et al.* (2007) summarize the studies associated with low-frequency, mid-frequency, and high-frequency cetacean and pinniped responses to non-pulse sounds, based strictly on received level, in Appendix C of their article (incorporated by reference and summarized in the three paragraphs below).

The studies that address responses of low-frequency cetaceans to non-pulse sounds include data gathered in the field and related to several types of sound sources (of varying similarity to MFAS/HFAS) including: Vessel noise, drilling and machinery playback, low-frequency M-sequences (sine wave with multiple phase reversals) playback, tactical low-frequency active sonar playback, drill ships, Acoustic Thermometry of Ocean Climate (ATOC) source, and non-pulse playbacks. These studies generally indicate no (or very limited) responses to received levels in the 90 to 120 dB re: 1 μPa range and an increasing likelihood of avoidance and other behavioral effects in the 120 to 160 dB range. As mentioned earlier, though, contextual variables play a very important role in the reported responses and the severity of effects are not linear when compared to received level. Also, few of the laboratory or field datasets had common conditions, behavioral contexts or sound sources, so it is not surprising that responses differ.

The studies that address responses of mid-frequency cetaceans to non-pulse sounds include data gathered both in the field and the laboratory and related to several different sound sources (of varying similarity to MFAS/HFAS) including: Pingers, drilling playbacks, ship and ice-breaking noise, vessel noise, Acoustic Harassment Devices (AHDs), Acoustic Deterrent Devices (ADDs), MFAS, and non-pulse bands and tones. Southall *et al.* (2007) were unable to come to a clear conclusion regarding the results of these studies. In some cases, animals in the field showed significant responses to received levels between 90 and 120 dB, while in other cases these responses were not seen in the 120 to 150 dB range. The disparity in results was likely due to contextual variation and the differences between the results in the field and laboratory data (animals typically responded at lower levels in the field).

The studies that address responses of high-frequency cetaceans to non-pulse sounds include data gathered both in the field and the laboratory and related to several different sound sources (of varying similarity to MFAS/HFAS) including: Pingers, AHDs, and various laboratory non-pulse sounds. All of these data were collected from harbor

porpoises. Southall *et al.* (2007) concluded that the existing data indicate that harbor porpoises are likely sensitive to a wide range of anthropogenic sounds at low received levels (~ 90 to 120 dB), at least for initial exposures. All recorded exposures above 140 dB induced profound and sustained avoidance behavior in wild harbor porpoises (Southall *et al.,* 2007). Rapid habituation was noted in some but not all studies. There is no data to indicate whether other high frequency cetaceans are as sensitive to anthropogenic sound as harbor porpoises.

The studies that address the responses of pinnipeds in water to non-impulsive sounds include data gathered both in the field and the laboratory and related to several different sound sources (of varying similarity to MFAS/HFAS) including: AHDs, ATOC, various non-pulse sounds used in underwater data communication, underwater drilling, and construction noise. Few studies exist with enough information to include them in the analysis. The limited data suggested that exposures to non-pulse sounds between 90 and 140 dB generally do not result in strong behavioral responses in pinnipeds in water, but no data exist at higher received levels.

Potential Effects of Behavioral Disturbance

The different ways that marine mammals respond to sound are sometimes indicators of the ultimate effect that exposure to a given stimulus will have on the well-being (survival, reproduction, etc.) of an animal. There is limited marine mammal data quantitatively relating the exposure of marine mammals to sound to effects on reproduction or survival, though data exists for terrestrial species to which we can draw comparisons for marine mammals.

Attention is the cognitive process of selectively concentrating on one aspect of an animal's environment while ignoring other things (Posner, 1994). Because animals (including humans) have limited cognitive resources, there is a limit to how much sensory information they can process at any time. The phenomenon called ''attentional capture'' occurs when a stimulus (usually a stimulus that an animal is not concentrating on or attending to) ''captures'' an animal's attention. This shift in attention can occur consciously or subconsciously (for example, when an animal hears sounds that it associates with the approach of a predator) and the shift in attention can be sudden (Dukas, 2002; van Rij, 2007). Once a stimulus has captured an animal's attention, the animal can respond by ignoring the stimulus, assuming a ''watch and wait'' posture, or treat the stimulus as a disturbance and respond accordingly, which includes scanning for the source of the stimulus or ''vigilance'' (Cowlishaw *et al.,* 2004).

Vigilance is normally an adaptive behavior that helps animals determine the presence or absence of predators, assess their distance from conspecifics, or to attend cues from prey (Bednekoff and Lima, 1998; Treves, 2000). Despite those benefits, however, vigilance has a cost of time; when animals focus their attention on specific environmental cues, they are not attending to other activities such as foraging. These costs have been documented best in foraging animals, where vigilance has been shown to substantially reduce feeding rates (Saino, 1994; Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002). Animals will spend more time being vigilant, which may translate to less time foraging or resting, when disturbance stimuli approach them more directly, remain at closer distances, have a greater group size (for example, multiple surface vessels), or when they co-occur with times that an animal perceives increased risk (for example, when they are giving birth or accompanied by a calf). Most of the published literature, however, suggests that direct approaches will increase the amount of time animals will dedicate to being vigilant. For example, bighorn sheep and Dall's sheep dedicated more time being vigilant, and less time resting or foraging, when aircraft made direct approaches over them (Frid, 2001; Stockwell *et al.,* 1991).

Several authors have established that long-term and intense disturbance stimuli can cause population declines by reducing the body condition of individuals that have been disturbed, followed by reduced reproductive success, reduced survival, or both (Daan *et al.,* 1996; Madsen, 1994; White, 1983). For example, Madsen (1994) reported that pink-footed geese in undisturbed habitat gained body mass and had about a 46-percent reproductive success rate compared with geese in disturbed habitat (being consistently scared off the fields on which they were foraging) which did not gain mass and had a 17-percent reproductive success rate. Similar reductions in reproductive success have been reported for mule deer disturbed by all-terrain vehicles (Yarmoloy *et al.,* 1988), caribou disturbed by seismic exploration blasts (Bradshaw *et al.,* 1998), caribou disturbed by low-elevation military jet-fights (Luick *et al.,* 1996), and caribou disturbed by low-elevation jet flights (Harrington and Veitch, 1992). Similarly, a study of elk that were disturbed experimentally by pedestrians concluded that the ratio of young to mothers was inversely related to disturbance rate (Phillips and Alldredge, 2000).

The primary mechanism by which increased vigilance and disturbance appear to affect the fitness of individual animals is by disrupting an animal's time budget and, as a result, reducing the time they might spend foraging and resting (which increases an animal's activity rate and energy demand). For example, a study of grizzly bears reported that bears disturbed by hikers reduced their energy intake by an average of 12 kcal/minute (50.2×10^3kJ/minute), and spent energy fleeing or acting aggressively toward hikers (White *et al.* 1999). Alternately, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a 5-day period did not cause any sleep deprivation or stress effects such as changes in cortisol or epinephrine levels.

Lusseau and Bejder (2007) present data from three long-term studies illustrating the connections between disturbance from whale-watching boats and population-level effects in cetaceans. In Sharks Bay Australia, the abundance of bottlenose dolphins was compared within adjacent control and tourism sites over three consecutive 4.5-year periods of increasing tourism levels. Between the second and third time periods, in which tourism doubled, dolphin abundance decreased by 15 percent in the tourism area and did not change significantly in the control area. In Fiordland, New Zealand, two populations (Milford and Doubtful Sounds) of bottlenose dolphins with tourism levels that differed by a factor of seven were observed and significant increases in travelling time and decreases in resting time were documented for both. Consistent short-term avoidance strategies were observed in response to tour boats until a threshold of disturbance was reached (average 68 minutes between interactions), after which the response switched to a longer term habitat displacement strategy. For one population tourism only occurred in a part of the home range, however, tourism occurred throughout the home range of the Doubtful Sound population and once boat traffic increased beyond the 68-minute threshold (resulting in abandonment of their home range/preferred habitat), reproductive success drastically decreased (increased

stillbirths) and abundance decreased significantly (from 67 to 56 individuals in short period). Last, in a study of northern resident killer whales off Vancouver Island, exposure to boat traffic was shown to reduce foraging opportunities and increase traveling time. A simple bioenergetics model was applied to show that the reduced foraging opportunities equated to a decreased energy intake of 18 percent, while the increased traveling incurred an increased energy output of 3–4 percent, which suggests that a management action based on avoiding interference with foraging might be particularly effective.

On a related note, many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Substantive behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than 1 day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multiple-day substantive behavioral reactions and multiple-day anthropogenic activities. For example, just because an at-sea exercises last for multiple days does not necessarily mean that individual animals are either exposed to those exercises for multiple days or, further, exposed in a manner resulting in a sustained multiple day substantive behavioral responses.

In order to understand how the effects of activities may or may not impact stocks and populations of marine mammals, it is necessary to understand not only what the likely disturbances are going to be, but how those disturbances may affect the reproductive success and survivorship of individuals, and then how those impacts to individuals translate to population changes. Following on the earlier work of a committee of the U.S. National Research Council (NRC, 2005), New *et al.* (2014), in an effort termed the Potential Consequences of Disturbance (PCoD), outline an updated conceptual model of the relationships linking disturbance to changes in behavior and physiology, health, vital rates, and population dynamics (below). As depicted, behavioral and physiological changes can either have direct (acute) effects on vital rates, such as when changes in habitat use or increased stress levels raise the probability of mother-calf separation or predation, or they can have indirect and long-term (chronic) effects on vital rates, such as when changes in time/energy budgets or increased disease susceptibility affect health, which then affects vital rates (New *et al.,* 2014). In addition to outlining this general framework and compiling the relevant literature that supports it, New *et al.* (2014) have chosen four example species for which extensive long-term monitoring data exist (southern elephant seals, North Atlantic right whales, Ziphidae beaked whales, and bottlenose dolphins) and developed state-space energetic models that can be used to effectively forecast longer-term, population-level impacts from behavioral changes. While these are very specific models with very specific data requirements that cannot yet be applied broadly to project-specific risk assessments, they are a critical first step.

Stranding and Mortality

When a live or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is termed a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding within the U.S. can be found in section 410 of the MMPA (16 U.S.C. 1421h).

Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979, Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a; 2005b, Romero, 2004; Sih *et al.,* 2004). For reference, between 2001 and 2009, there was an annual average of 1,400 cetacean strandings and 4,300 pinniped strandings along the coasts of the continental U.S. and Alaska (NMFS, 2011).

Several sources have published lists of mass stranding events of cetaceans in an attempt to identify relationships between those stranding events and military sonar (Hildebrand, 2004; IWC, 2005; Taylor *et al.,* 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (2005) identified ten mass stranding events of Cuvier's beaked whales had been reported and one mass stranding of four Baird's beaked whale. The IWC concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been coincident with the use of tactical mid-frequency sonar, one of those seven had been associated with the use of tactical low-frequency sonar, and the remaining stranding event had been associated with the use of seismic airguns.

Most of the stranding events reviewed by the International Whaling Commission involved beaked whales. A mass stranding of Cuvier's beaked whales in the eastern Mediterranean Sea occurred in 1996 (Frantzis, 1998) and mass stranding events involving Gervais' beaked whales, Blainville's beaked whales, and Cuvier's beaked whales occurred off the coast of the Canary Islands in the late 1980s (Simmonds and Lopez-Jurado, 1991). The stranding events that occurred in the Canary Islands and Kyparissiakos Gulf in the late 1990s and the Bahamas in 2000 have been the most intensively-studied mass stranding events and have been associated with naval maneuvers involving the use of tactical sonar.

Between 1960 and 2006, 48 strandings (68 percent) involved beaked whales, three (4 percent) involved dolphins, and 14 (20 percent) involved whale species. Cuvier's beaked whales were involved in the greatest number of these events (48 or 68 percent), followed by sperm whales (seven or 10 percent), and Blainville's and Gervais' beaked whales (four each or 6 percent). Naval activities (not just activities conducted by the U.S. Navy) that might have involved active sonar are reported to have coincided with nine or 10 (13 to 14 percent) of those stranding events. Between the mid-1980s and 2003 (the period reported by the International Whaling Commission), NMFS identified reports of 44 mass cetacean stranding events of which at least seven were coincident with naval exercises that were using MFAS.

Strandings Associated With Impulsive Sound

Silver Strand—During a Navy training event on March 4, 2011 at the Silver Strand Training Complex in San Diego, California, three or possibly four dolphins were killed in an explosion. During an underwater detonation training event, a pod of 100 to 150 long-beaked common dolphins were observed moving towards the 700-yd (640.1-m) exclusion zone around the explosive charge, monitored by personnel in a safety boat and participants in a dive boat. Approximately 5 minutes remained on a time-delay fuse connected to a single 8.76 lb (3.97 kg) explosive charge (C–4 and detonation cord). Although the dive boat was placed between the pod and the explosive in an effort to guide the dolphins away from the area, that effort was unsuccessful and three long-beaked common dolphins near the explosion died. In addition to the three dolphins found dead on March 4, the remains of a fourth dolphin were discovered on March 7, 2011 near Ocean Beach, California (3 days later and approximately 11.8 mi. [19 km] from Silver Strand where the training event occurred), which might also have been related to this event. Association of the fourth stranding with the training event is uncertain because dolphins strand on a regular basis in the San Diego area. Details such as the dolphins' depth and distance from the explosive at the time of the detonation could not be estimated from the 250 yd (228.6 m) standoff point of the observers in the dive boat or the safety boat.

These dolphin mortalities are the only known occurrence of a U.S. Navy training or testing event involving impulsive energy (underwater detonation) that caused mortality or injury to a marine mammal (of note, the time-delay firing underwater explosive training activity implicated in the March 4 incident is not proposed for the training activities in the GOA Study Area). Despite this being a rare occurrence, the Navy has reviewed training requirements, safety procedures, and possible mitigation measures and implemented changes to reduce the potential for this to occur in the future. Discussions of procedures associated with underwater explosives training and other training events are presented in the Proposed Mitigation section.

Kyle of Durness, Scotland—On July 22, 2011 a mass stranding event involving long-finned pilot whales occurred at Kyle of Durness, Scotland. An investigation by Brownlow *et al.* (2015) considered unexploded ordnance detonation activities at a Ministry of Defense bombing range, conducted by the Royal Navy prior to and during the strandings, as a plausible contributing factor in the mass stranding event. While Brownlow *et al.* (2015) concluded that the serial detonations of underwater ordnance were an influential factor in the mass stranding event (along with presence of a potentially compromised animal and navigational error in a topographically complex region) they also suggest that mitigation measures—which included observations from a zodiac only and by personnel not experienced in marine mammal observation, among other deficiencies—were likely insufficient to assess if cetaceans were in the vicinity of the detonations. The authors also cite information from the Ministry of Defense indicating ''an extraordinarily high level of activity'' (*i.e.,* frequency and intensity of underwater explosions) on the range in the days leading up to the stranding.

Strandings Associated With MFAS

Over the past 16 years, there have been five stranding events coincident with military mid-frequency sonar use in which exposure to sonar is believed to have been a contributing factor: Greece (1996); the Bahamas (2000); Madeira (2000); Canary Islands (2002); and Spain (2006). Additionally, in 2004, during the Rim of the Pacific (RIMPAC) exercises, between 150 and 200 usually pelagic melon-headed whales occupied the shallow waters of Hanalei Bay, Kauai, Hawaii for over 28 hours. NMFS determined that MFAS was a plausible, if not likely, contributing factor in what may have been a confluence of events that led to the stranding. A number of other stranding events coincident with the operation of mid-frequency sonar, including the death of beaked whales or other species (minke whales, dwarf sperm whales, pilot whales), have been reported; however, the majority have not been investigated to the degree necessary to determine the cause of the stranding and only one of these stranding events, the Bahamas (2000), was associated with exercises conducted by the U.S. Navy. Most recently, the Independent Scientific Review Panel investigating potential contributing factors to a 2008 mass stranding of melon-headed whales in Antsohihy, Madagascar released its final report suggesting that the stranding was likely initially triggered by an industry seismic survey. This report suggests that the operation of a commercial high-powered 12 kHz multi-beam echosounder during an industry seismic survey was a plausible and likely initial trigger that caused a large group of melon-headed whales to leave their typical habitat and then ultimately strand as a result of secondary factors such as malnourishment and dehydration. The report indicates that the risk of this particular convergence of factors and ultimate outcome is likely very low, but recommends that the potential be considered in environmental planning. Because of the association between tactical mid-frequency active sonar use and a small number of marine mammal strandings, the Navy and NMFS have been considering and addressing the potential for strandings in association with Navy activities for years. In addition to a suite of mitigation intended to more broadly minimize impacts to marine mammals, the Navy and NMFS have a detailed Stranding Response Plan that outlines reporting, communication, and response protocols intended both to minimize the impacts of, and enhance the analysis of, any potential stranding in areas where the Navy operates.

Greece (1996)—Twelve Cuvier's beaked whales stranded atypically (in both time and space) along a 38.2-km strand of the Kyparissiakos Gulf coast on May 12 and 13, 1996 (Frantzis, 1998). From May 11 through May 15, the North Atlantic Treaty Organization (NATO) research vessel *Alliance* was conducting sonar tests with signals of 600 Hz and 3 kHz and source levels of 228 and 226 dB re: 1μPa, respectively (D'Amico and Verboom, 1998; D'Spain *et al.,* 2006). The timing and location of the testing encompassed the time and location of the strandings (Frantzis, 1998).

Necropsies of eight of the animals were performed but were limited to basic external examination and sampling of stomach contents, blood, and skin. No ears or organs were collected, and no histological samples were preserved. No apparent abnormalities or wounds were found. Examination of photos of the animals, taken soon after their death, revealed that the eyes of at least four of the individuals were bleeding. Photos were taken soon after their death (Frantzis, 2004). Stomach contents contained the flesh of cephalopods, indicating that feeding had recently taken place (Frantzis, 1998).

All available information regarding the conditions associated with this stranding event were compiled, and many potential causes were examined including major pollution events, prominent tectonic activity, unusual physical or meteorological events,

magnetic anomalies, epizootics, and conventional military activities (International Council for the Exploration of the Sea, 2005a). However, none of these potential causes coincided in time or space with the mass stranding, or could explain its characteristics (International Council for the Exploration of the Sea, 2005a). The robust condition of the animals, plus the recent stomach contents, is inconsistent with pathogenic causes. In addition, environmental causes can be ruled out as there were no unusual environmental circumstances or events before or during this time period and within the general proximity (Frantzis, 2004).

Because of the rarity of this mass stranding of Cuvier's beaked whales in the Kyparissiakos Gulf (first one in history), the probability for the two events (the military exercises and the strandings) to coincide in time and location, while being independent of each other, was thought to be extremely low (Frantzis, 1998). However, because full necropsies had not been conducted, and no abnormalities were noted, the cause of the strandings could not be precisely determined (Cox *et al.,* 2006). A Bioacoustics Panel convened by NATO concluded that the evidence available did not allow them to accept or reject sonar exposures as a causal agent in these stranding events. The analysis of this stranding event provided support for, but no clear evidence for, the cause-and-effect relationship of tactical sonar training activities and beaked whale strandings (Cox *et al.,* 2006).

Bahamas (2000)—NMFS and the Navy prepared a joint report addressing the multi-species stranding in the Bahamas in 2000, which took place within 24 hours of U.S. Navy ships using MFAS as they passed through the Northeast and Northwest Providence Channels on March 15–16, 2000. The ships, which operated both AN/SQS–53C and AN/SQS–56, moved through the channel while emitting sonar pings approximately every 24 seconds. Of the 17 cetaceans that stranded over a 36-hr period (Cuvier's beaked whales, Blainville's beaked whales, minke whales, and a spotted dolphin), seven animals died on the beach (five Cuvier's beaked whales, one Blainville's beaked whale, and the spotted dolphin), while the other 10 were returned to the water alive (though their ultimate fate is unknown). As discussed in the Bahamas report (DOC/DON, 2001), there is no likely association between the minke whale and spotted dolphin strandings and the operation of MFAS.

Necropsies were performed on five of the stranded beaked whales. All five necropsied beaked whales were in good body condition, showing no signs of infection, disease, ship strike, blunt trauma, or fishery related injuries, and three still had food remains in their stomachs. Auditory structural damage was discovered in four of the whales, specifically bloody effusions or hemorrhaging around the ears. Bilateral intracochlear and unilateral temporal region subarachnoid hemorrhage, with blood clots in the lateral ventricles, were found in two of the whales. Three of the whales had small hemorrhages in their acoustic fats (located along the jaw and in the melon).

A comprehensive investigation was conducted and all possible causes of the stranding event were considered, whether they seemed likely at the outset or not. Based on the way in which the strandings coincided with ongoing naval activity involving tactical MFAS use, in terms of both time and geography, the nature of the physiological effects experienced by the dead animals, and the absence of any other acoustic sources, the investigation team concluded that MFAS aboard U.S. Navy ships that were in use during the active sonar exercise in question were the most plausible source of this acoustic or impulse trauma to beaked whales. This sound source was active in a complex environment that included the presence of a surface duct, unusual and steep bathymetry, a constricted channel with limited egress, intensive use of multiple, active sonar units over an extended period of time, and the presence of beaked whales that appear to be sensitive to the frequencies produced by these active sonars. The investigation team concluded that the cause of this stranding event was the confluence of the Navy MFAS and these contributory factors working together, and further recommended that the Navy avoid operating MFAS in situations where these five factors would be likely to occur. This report does not conclude that all five of these factors must be present for a stranding to occur, nor that beaked whales are the only species that could potentially be affected by the confluence of the other factors. Based on this, NMFS believes that the operation of MFAS in situations where surface ducts exist, or in marine environments defined by steep bathymetry and/or constricted channels may increase the likelihood of producing a sound field with the potential to cause cetaceans (especially beaked whales) to strand, and therefore, suggests the need for increased vigilance while operating MFAS in these areas, especially when beaked whales (or potentially other deep divers) are likely present.

Madeira, Spain (2000)—From May 10–14, 2000, three Cuvier's beaked whales were found atypically stranded on two islands in the Madeira archipelago, Portugal (Cox *et al.,* 2006). A fourth animal was reported floating in the Madeiran waters by fisherman but did not come ashore (Woods Hole Oceanographic Institution, 2005). Joint NATO amphibious training peacekeeping exercises involving participants from 17 countries 80 warships, took place in Portugal during May 2–15, 2000.

The bodies of the three stranded whales were examined post mortem (Woods Hole Oceanographic Institution, 2005), though only one of the stranded whales was fresh enough (24 hours after stranding) to be necropsied (Cox *et al.,* 2006). Results from the necropsy revealed evidence of hemorrhage and congestion in the right lung and both kidneys (Cox *et al.,* 2006). There was also evidence of intercochlear and intracranial hemorrhage similar to that which was observed in the whales that stranded in the Bahamas event (Cox *et al.,* 2006). There were no signs of blunt trauma, and no major fractures (Woods Hole Oceanographic Institution, 2005). The cranial sinuses and airways were found to be clear with little or no fluid deposition, which may indicate good preservation of tissues (Woods Hole Oceanographic Institution, 2005).

Several observations on the Madeira stranded beaked whales, such as the pattern of injury to the auditory system, are the same as those observed in the Bahamas strandings. Blood in and around the eyes, kidney lesions, pleural hemorrhages, and congestion in the lungs are particularly consistent with the pathologies from the whales stranded in the Bahamas, and are consistent with stress and pressure related trauma. The similarities in pathology and stranding patterns between these two events suggest that a similar pressure event may have precipitated or contributed to the strandings at both sites (Woods Hole Oceanographic Institution, 2005).

Even though no definitive causal link can be made between the stranding event and naval exercises, certain conditions may have existed in the exercise area that, in their aggregate, may have contributed to the marine mammal strandings (Freitas, 2004): Exercises were conducted in areas of at least 547 fathoms (1,000 m) depth near a shoreline where there is a rapid change in bathymetry on the order of 547 to 3,281 fathoms (1,000 to 6,000 m) occurring across a relatively short

horizontal distance (Freitas, 2004); multiple ships were operating around Madeira, though it is not known if MFAS was used, and the specifics of the sound sources used are unknown (Cox *et al.,* 2006, Freitas, 2004); and exercises took place in an area surrounded by landmasses separated by less than 35 nm (65 km) and at least 10 nm (19 km) in length, or in an embayment. Exercises involving multiple ships employing MFAS near land may produce sound directed towards a channel or embayment that may cut off the lines of egress for marine mammals (Freitas, 2004).

Canary Islands, Spain (2002)—The southeastern area within the Canary Islands is well known for aggregations of beaked whales due to its ocean depths of greater than 547 fathoms (1,000 m) within a few hundred meters of the coastline (Fernandez *et al.,* 2005). On September 24, 2002, 14 beaked whales were found stranded on Fuerteventura and Lanzarote Islands in the Canary Islands (International Council for Exploration of the Sea, 2005a). Seven whales died, while the remaining seven live whales were returned to deeper waters (Fernandez *et al.,* 2005). Four beaked whales were found stranded dead over the next three days either on the coast or floating offshore. These strandings occurred within near proximity of an international naval exercise that utilized MFAS and involved numerous surface warships and several submarines. Strandings began about 4 hours after the onset of MFAS activity (International Council for Exploration of the Sea, 2005a; Fernandez *et al.,* 2005).

Eight Cuvier's beaked whales, one Blainville's beaked whale, and one Gervais' beaked whale were necropsied, six of them within 12 hours of stranding (Fernandez *et al.,* 2005). No pathogenic bacteria were isolated from the carcasses (Jepson *et al.,* 2003). The animals displayed severe vascular congestion and hemorrhage especially around the tissues in the jaw, ears, brain, and kidneys, displaying marked disseminated microvascular hemorrhages associated with widespread fat emboli (Jepson *et al.,* 2003; International Council for Exploration of the Sea, 2005a). Several organs contained intravascular bubbles, although definitive evidence of gas embolism in vivo is difficult to determine after death (Jepson *et al.,* 2003). The livers of the necropsied animals were the most consistently affected organ, which contained macroscopic gas-filled cavities and had variable degrees of fibrotic encapsulation. In some animals, cavitary lesions had extensively replaced the normal tissue (Jepson *et al.,* 2003). Stomachs contained a large amount of fresh and undigested contents, suggesting a rapid onset of disease and death (Fernandez *et al.,* 2005). Head and neck lymph nodes were enlarged and congested, and parasites were found in the kidneys of all animals (Fernandez *et al.,* 2005).

The association of NATO MFAS use close in space and time to the beaked whale strandings, and the similarity between this stranding event and previous beaked whale mass strandings coincident with sonar use, suggests that a similar scenario and causative mechanism of stranding may be shared between the events. Beaked whales stranded in this event demonstrated brain and auditory system injuries, hemorrhages, and congestion in multiple organs, similar to the pathological findings of the Bahamas and Madeira stranding events. In addition, the necropsy results of Canary Islands stranding event lead to the hypothesis that the presence of disseminated and widespread gas bubbles and fat emboli were indicative of nitrogen bubble formation, similar to what might be expected in decompression sickness (Jepson *et al.,* 2003; Fernández *et al.,* 2005).

Hanalei Bay (2004)—On July 3 and 4, 2004, approximately 150 to 200 melon-headed whales occupied the shallow waters of the Hanalei Bay, Kaua'i, Hawaii for over 28 hrs. Attendees of a canoe blessing observed the animals entering the Bay in a single wave formation at 7 a.m. on July 3, 2004. The animals were observed moving back into the shore from the mouth of the Bay at 9 a.m. The usually pelagic animals milled in the shallow bay and were returned to deeper water with human assistance beginning at 9:30 a.m. on July 4, 2004, and were out of sight by 10:30 a.m.

Only one animal, a calf, was known to have died following this event. The animal was noted alive and alone in the Bay on the afternoon of July 4, 2004, and was found dead in the Bay the morning of July 5, 2004. A full necropsy, magnetic resonance imaging, and computerized tomography examination were performed on the calf to determine the manner and cause of death. The combination of imaging, necropsy and histological analyses found no evidence of infectious, internal traumatic, congenital, or toxic factors. Cause of death could not be definitively determined, but it is likely that maternal separation, poor nutritional condition, and dehydration contributed to the final demise of the animal. Although it is not known when the calf was separated from its mother, the animals' movement into the Bay and subsequent milling and re-grouping may have contributed to the separation or lack of nursing, especially if the maternal bond was weak or this was an inexperienced mother with her first calf.

Environmental factors, abiotic and biotic, were analyzed for any anomalous occurrences that would have contributed to the animals entering and remaining in Hanalei Bay. The Bay's bathymetry is similar to many other sites within the Hawaiian Island chain and dissimilar to sites that have been associated with mass strandings in other parts of the U.S. The weather conditions appeared to be normal for that time of year with no fronts or other significant features noted. There was no evidence of unusual distribution, occurrence of predator or prey species, or unusual harmful algal blooms, although Mobley *et al.* (2007) suggested that the full moon cycle that occurred at that time may have influenced a run of squid into the Bay. Weather patterns and bathymetry that have been associated with mass strandings elsewhere were not found to occur in this instance.

The Hanalei event was spatially and temporally correlated with RIMPAC. Official sonar training and tracking exercises in the Pacific Missile Range Facility (PMRF) warning area did not commence until approximately 8 a.m. on July 3 and were thus ruled out as a possible trigger for the initial movement into the Bay. However, six naval surface vessels transiting to the operational area on July 2 intermittently transmitted active sonar (for approximately 9 hours total from 1:15 p.m. to 12:30 a.m.) as they approached from the south. The potential for these transmissions to have triggered the whales' movement into Hanalei Bay was investigated. Analyses with the information available indicated that animals to the south and east of Kaua'i could have detected active sonar transmissions on July 2, and reached Hanalei Bay on or before 7 a.m. on July 3. However, data limitations regarding the position of the whales prior to their arrival in the Bay, the magnitude of sonar exposure, behavioral responses of melon-headed whales to acoustic stimuli, and other possible relevant factors preclude a conclusive finding regarding the role of sonar in triggering this event. Propagation modeling suggests that transmissions from sonar use during the July 3 exercise in the PMRF warning area may have been detectable at the mouth of the Bay. If the animals responded negatively to these signals, it may have contributed to their continued presence in the Bay. The U.S.

Navy ceased all active sonar transmissions during exercises in this range on the afternoon of July 3. Subsequent to the cessation of sonar use, the animals were herded out of the Bay.

While causation of this stranding event may never be unequivocally determined, NMFS consider the active sonar transmissions of July 2–3, 2004, a plausible, if not likely, contributing factor in what may have been a confluence of events. This conclusion is based on the following: (1) The evidently anomalous nature of the stranding; (2) its close spatiotemporal correlation with wide-scale, sustained use of sonar systems previously associated with stranding of deep-diving marine mammals; (3) the directed movement of two groups of transmitting vessels toward the southeast and southwest coast of Kauai; (4) the results of acoustic propagation modeling and an analysis of possible animal transit times to the Bay; and (5) the absence of any other compelling causative explanation. The initiation and persistence of this event may have resulted from an interaction of biological and physical factors. The biological factors may have included the presence of an apparently uncommon, deep-diving cetacean species (and possibly an offshore, non-resident group), social interactions among the animals before or after they entered the Bay, and/or unknown predator or prey conditions. The physical factors may have included the presence of nearby deep water, multiple vessels transiting in a directed manner while transmitting active sonar over a sustained period, the presence of surface sound ducting conditions, and/or intermittent and random human interactions while the animals were in the Bay.

A separate event involving melon-headed whales and rough-toothed dolphins took place over the same period of time in the Northern Mariana Islands (Jefferson *et al.,* 2006), which is several thousand miles from Hawaii. Some 500 to 700 melon-headed whales came into Sasanhaya Bay on July 4, 2004, near the island of Rota and then left of their own accord after 5.5 hours; no known active sonar transmissions occurred in the vicinity of that event. The Rota incident led to scientific debate regarding what, if any, relationship the event had to the simultaneous events in Hawaii and whether they might be related by some common factor (*e.g.,* there was a full moon on July 2, 2004, as well as during other melon-headed whale strandings and nearshore aggregations (Brownell *et al.,* 2009; Lignon *et al.,* 2007; Mobley *et al.,* 2007). Brownell *et al.* (2009) compared the two incidents, along with one other stranding incident at Nuka Hiva in French Polynesia and normal resting behaviors observed at Palmyra Island, in regard to physical features in the areas, melon-headed whale behavior, and lunar cycles. Brownell *et al.,* (2009) concluded that the rapid entry of the whales into Hanalei Bay, their movement into very shallow water far from the 100-m contour, their milling behavior (typical pre-stranding behavior), and their reluctance to leave the bay constituted an unusual event that was not similar to the events that occurred at Rota (but was similar to the events at Palmyra), which appear to be similar to observations of melon-headed whales resting normally at Palmyra Island. Additionally, there was no correlation between lunar cycle and the types of behaviors observed in the Brownell *et al.* (2009) examples.

Spain (2006)—The Spanish Cetacean Society reported an atypical mass stranding of four beaked whales that occurred January 26, 2006, on the southeast coast of Spain, near Mojacar (Gulf of Vera) in the Western Mediterranean Sea. According to the report, two of the whales were discovered the evening of January 26 and were found to be still alive. Two other whales were discovered during the day on January 27, but had already died. The first three animals were located near the town of Mojacar and the fourth animal was found dead, a few kilometers north of the first three animals. From January 25–26, 2006, Standing NATO Response Force Maritime Group Two (five of seven ships including one U.S. ship under NATO Operational Control) had conducted active sonar training against a Spanish submarine within 50 nm (93 km) of the stranding site.

Veterinary pathologists necropsied the two male and two female Cuvier's beaked whales. According to the pathologists, the most likely primary cause of this type of beaked whale mass stranding event was anthropogenic acoustic activities, most probably anti-submarine MFAS used during the military naval exercises. However, no positive acoustic link was established as a direct cause of the stranding. Even though no causal link can be made between the stranding event and naval exercises, certain conditions may have existed in the exercise area that, in their aggregate, may have contributed to the marine mammal strandings (Freitas, 2004): Exercises were conducted in areas of at least 547 fathoms (1,000 m) depth near a shoreline where there is a rapid change in bathymetry on the order of 547 to 3,281 fathoms (1,000 to 6,000 m) occurring across a relatively short horizontal distance (Freitas, 2004); multiple ships (in this instance, five) were operating MFAS in the same area over extended periods of time (in this case, 20 hours) in close proximity; and exercises took place in an area surrounded by landmasses, or in an embayment. Exercises involving multiple ships employing MFAS near land may have produced sound directed towards a channel or embayment that may have cut off the lines of egress for the affected marine mammals (Freitas, 2004).

Association Between Mass Stranding Events and Exposure to MFAS

Several authors have noted similarities between some of these stranding incidents: They occurred in islands or archipelagoes with deep water nearby, several appeared to have been associated with acoustic waveguides like surface ducting, and the sound fields created by ships transmitting MFAS (Cox *et al.,* 2006; D'Spain *et al.,* 2006). Although Cuvier's beaked whales have been the most common species involved in these stranding events (81 percent of the total number of stranded animals), other beaked whales (including *Mesoplodon europeaus, M. densirostris,* and *Hyperoodon ampullatus*) comprise 14 percent of the total. Other species (*Stenella coeruleoalba, Kogia breviceps* and *Balaenoptera acutorostrata*) have stranded, but in much lower numbers and less consistently than beaked whales.

Based on the evidence available, however, NMFS cannot determine whether (a) Cuvier's beaked whale is more prone to injury from high-intensity sound than other species; (b) their behavioral responses to sound makes them more likely to strand; or (c) they are more likely to be exposed to MFAS than other cetaceans (for reasons that remain unknown). Because the association between active sonar exposures and marine mammals mass stranding events is not consistent—some marine mammals strand without being exposed to sonar and some sonar transmissions are not associated with marine mammal stranding events despite their co-occurrence—other risk factors or a grouping of risk factors probably contribute to these stranding events.

Behaviorally Mediated Responses to MFAS That May Lead To Stranding

Although the confluence of Navy MFAS with the other contributory factors noted in the report was

identified as the cause of the 2000 Bahamas stranding event, the specific mechanisms that led to that stranding (or the others) are not understood, and there is uncertainty regarding the ordering of effects that led to the stranding. It is unclear whether beaked whales were directly injured by sound (*e.g.,* acoustically mediated bubble growth, as addressed above) prior to stranding or whether a behavioral response to sound occurred that ultimately caused the beaked whales to be injured and strand.

Although causal relationships between beaked whale stranding events and active sonar remain unknown, several authors have hypothesized that stranding events involving these species in the Bahamas and Canary Islands may have been triggered when the whales changed their dive behavior in a startled response to exposure to active sonar or to further avoid exposure (Cox *et al.,* 2006; Rommel *et al.,* 2006). These authors proposed three mechanisms by which the behavioral responses of beaked whales upon being exposed to active sonar might result in a stranding event. These include the following: Gas bubble formation caused by excessively fast surfacing; remaining at the surface too long when tissues are supersaturated with nitrogen; or diving prematurely when extended time at the surface is necessary to eliminate excess nitrogen. More specifically, beaked whales that occur in deep waters that are in close proximity to shallow waters (for example, the ''canyon areas'' that are cited in the Bahamas stranding event; see D'Spain and D'Amico, 2006), may respond to active sonar by swimming into shallow waters to avoid further exposures and strand if they were not able to swim back to deeper waters. Second, beaked whales exposed to active sonar might alter their dive behavior. Changes in their dive behavior might cause them to remain at the surface or at depth for extended periods of time which could lead to hypoxia directly by increasing their oxygen demands or indirectly by increasing their energy expenditures (to remain at depth) and increase their oxygen demands as a result. If beaked whales are at depth when they detect a ping from an active sonar transmission and change their dive profile, this could lead to the formation of significant gas bubbles, which could damage multiple organs or interfere with normal physiological function (Cox *et al.,* 2006; Rommel *et al.,* 2006; Zimmer and Tyack, 2007). Baird *et al.* (2005) found that slow ascent rates from deep dives and long periods of time spent within 50 m of the surface were typical for both Cuvier's and Blainville's beaked whales, the two species involved in mass strandings related to naval sonar. These two behavioral mechanisms may be necessary to purge excessive dissolved nitrogen concentrated in their tissues during their frequent long dives (Baird *et al.,* 2005). Baird *et al.* (2005) further suggests that abnormally rapid ascents or premature dives in response to high-intensity sonar could indirectly result in physical harm to the beaked whales, through the mechanisms described above (gas bubble formation or non-elimination of excess nitrogen).

Because many species of marine mammals make repetitive and prolonged dives to great depths, it has long been assumed that marine mammals have evolved physiological mechanisms to protect against the effects of rapid and repeated decompressions. Although several investigators have identified physiological adaptations that may protect marine mammals against nitrogen gas supersaturation (alveolar collapse and elective circulation; Kooyman *et al.,* 1972; Ridgway and Howard, 1979), Ridgway and Howard (1979) reported that bottlenose dolphins that were trained to dive repeatedly had muscle tissues that were substantially supersaturated with nitrogen gas. Houser *et al.* (2001) used these data to model the accumulation of nitrogen gas within the muscle tissue of other marine mammal species and concluded that cetaceans that dive deep and have slow ascent or descent speeds would have tissues that are more supersaturated with nitrogen gas than other marine mammals. Based on these data, Cox *et al.* (2006) hypothesized that a critical dive sequence might make beaked whales more prone to stranding in response to acoustic exposures. The sequence began with (1) very deep (to depths as deep as 2 kilometers) and long (as long as 90 minutes) foraging dives; (2) relatively slow, controlled ascents; and (3) a series of ''bounce'' dives between 100 and 400 m in depth (also see Zimmer and Tyack, 2007). They concluded that acoustic exposures that disrupted any part of this dive sequence (for example, causing beaked whales to spend more time at surface without the bounce dives that are necessary to recover from the deep dive) could produce excessive levels of nitrogen supersaturation in their tissues, leading to gas bubble and emboli formation that produces pathologies similar to decompression sickness.

Zimmer and Tyack (2007) modeled nitrogen tension and bubble growth in several tissue compartments for several hypothetical dive profiles and concluded that repetitive shallow dives (defined as a dive where depth does not exceed the depth of alveolar collapse, approximately 72 m for Ziphius), perhaps as a consequence of an extended avoidance reaction to sonar sound, could pose a risk for decompression sickness and that this risk should increase with the duration of the response. Their models also suggested that unrealistically rapid ascent rates of ascent from normal dive behaviors are unlikely to result in supersaturation to the extent that bubble formation would be expected. Tyack *et al.* (2006) suggested that emboli observed in animals exposed to mid-frequency range sonar (Jepson *et al.,* 2003; Fernandez *et al.,* 2005; Fernández *et al.,* 2012) could stem from a behavioral response that involves repeated dives shallower than the depth of lung collapse. Given that nitrogen gas accumulation is a passive process (*i.e.* nitrogen is metabolically inert), a bottlenose dolphin was trained to repetitively dive a profile predicted to elevate nitrogen saturation to the point that nitrogen bubble formation was predicted to occur. However, inspection of the vascular system of the dolphin via ultrasound did not demonstrate the formation of asymptomatic nitrogen gas bubbles (Houser *et al.,* 2007). Baird *et al.* (2008), in a beaked whale tagging study off Hawaii, showed that deep dives are equally common during day or night, but ''bounce dives'' are typically a daytime behavior, possibly associated with visual predator avoidance. This may indicate that ''bounce dives'' are associated with something other than behavioral regulation of dissolved nitrogen levels, which would be necessary day and night.

If marine mammals respond to a Navy vessel that is transmitting active sonar in the same way that they might respond to a predator, their probability of flight responses should increase when they perceive that Navy vessels are approaching them directly, because a direct approach may convey detection and intent to capture (Burger and Gochfeld, 1981, 1990; Cooper, 1997, 1998). The probability of flight responses should also increase as received levels of active sonar increase (and the ship is, therefore, closer) and as ship speeds increase (that is, as approach speeds increase). For example, the probability of flight responses in Dall's sheep (*Ovis dalli dalli*) (Frid 2001a, b), ringed seals (*Phoca hispida*) (Born *et al.,* 1999), Pacific brant (*Branta bernic nigricans*) and Canada geese (*B. Canadensis*) increased as a helicopter or

fixed-wing aircraft approached groups of these animals more directly (Ward *et al.,* 1999). Bald eagles (*Haliaeetus leucocephalus*) perched on trees alongside a river were also more likely to flee from a paddle raft when their perches were closer to the river or were closer to the ground (Steidl and Anthony, 1996).

Despite the many theories involving bubble formation (both as a direct cause of injury (see Acoustically Mediated Bubble Growth Section) and an indirect cause of stranding (See Behaviorally Mediated Bubble Growth Section), Southall *et al.,* (2007) summarizes that there is either scientific disagreement or a lack of information regarding each of the following important points: (1) Received acoustical exposure conditions for animals involved in stranding events; (2) pathological interpretation of observed lesions in stranded marine mammals; (3) acoustic exposure conditions required to induce such physical trauma directly; (4) whether noise exposure may cause behavioral reactions (such as atypical diving behavior) that secondarily cause bubble formation and tissue damage; and (5) the extent the post mortem artifacts introduced by decomposition before sampling, handling, freezing, or necropsy procedures affect interpretation of observed lesions.

Strandings in the GOA TMAA

Northern Edge—Prior to the start of Northern Edge 2015 (a joint training exercise in the GOA TMAA hosted by Alaskan Command) and before Navy vessels were in the Gulf of Alaska, the Navy was informed by NMFS of various marine mammals found dead in the Gulf of Alaska and that NMFS was attempting to obtain samples from them. It has been reported that at least nine drifting and floating fin whales and multiple pinniped species were found in Gulf of Alaska waters as early as May 23, 2015 between Kodiak Island to Unimak Pass. NMFS is still investigating these findings but a possible cause referenced has been an algal bloom. During Northern Edge 2015, two Navy vessels training in the Gulf of Alaska on separate days encountered a well-decayed whale carcass. This whale or whales may possibly be the same animal observed by both ships, and given the stage of decomposition, might have been one of the floating whales reported by other entities to NMFS before Northern Edge began. The ships followed Navy reporting procedures and the information was provided to NMFS to aid in the investigation. There is no causal connection with Navy activities given the advanced stage of decomposition and gap of timing of when Navy maritime training events began.

Impulsive Sources

Underwater explosive detonations send a shock wave and sound energy through the water and can release gaseous by-products, create an oscillating bubble, or cause a plume of water to shoot up from the water surface. The shock wave and accompanying noise are of most concern to marine animals. Depending on the intensity of the shock wave and size, location, and depth of the animal, an animal can be injured, killed, suffer non-lethal physical effects, experience hearing related effects with or without behavioral responses, or exhibit temporary behavioral responses or tolerance from hearing the blast sound. Generally, exposures to higher levels of impulse and pressure levels would result in greater impacts to an individual animal.

Injuries resulting from a shock wave take place at boundaries between tissues of different densities. Different velocities are imparted to tissues of different densities, and this can lead to their physical disruption. Blast effects are greatest at the gas-liquid interface (Landsberg, 2000). Gas-containing organs, particularly the lungs and gastrointestinal tract, are especially susceptible (Goertner, 1982; Hill, 1978; Yelverton *et al.,* 1973). In addition, gas-containing organs including the nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble (Reidenberg and Laitman, 2003). Intestinal walls can bruise or rupture, with subsequent hemorrhage and escape of gut contents into the body cavity. Less severe gastrointestinal tract injuries include contusions, petechiae (small red or purple spots caused by bleeding in the skin), and slight hemorrhaging (Yelverton *et al.,* 1973).

Because the ears are the most sensitive to pressure, they are the organs most sensitive to injury (Ketten, 2000). Sound-related damage associated with sound energy from detonations can be theoretically distinct from injury from the shock wave, particularly farther from the explosion. If a noise is audible to an animal, it has the potential to damage the animal's hearing by causing decreased sensitivity (Ketten, 1995). Sound-related trauma can be lethal or sublethal. Lethal impacts are those that result in immediate death or serious debilitation in or near an intense source and are not, technically, pure acoustic trauma (Ketten, 1995). Sublethal impacts include hearing loss, which is caused by exposures to perceptible sounds. Severe damage (from the shock wave) to the ears includes tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Moderate injury implies partial hearing loss due to tympanic membrane rupture and blood in the middle ear. Permanent hearing loss also can occur when the hair cells are damaged by one very loud event, as well as by prolonged exposure to a loud noise or chronic exposure to noise. The level of impact from blasts depends on both an animal's location and, at outer zones, on its sensitivity to the residual noise (Ketten, 1995).

There have been fewer studies addressing the behavioral effects of explosives on marine mammals compared to MFAS/HFAS. However, though the nature of the sound waves emitted from an explosion are different (in shape and rise time) from MFAS/HFAS, NMFS still anticipates the same sorts of behavioral responses to result from repeated explosive detonations (a smaller range of likely less severe responses (*i.e.,* not rising to the level of MMPA harassment) would be expected to occur as a result of exposure to a single explosive detonation that was not powerful enough or close enough to the animal to cause TTS or injury).

Baleen whales have shown a variety of responses to impulse sound sources, including avoidance, reduced surface intervals, altered swimming behavior, and changes in vocalization rates (Richardson *et al.,* 1995; Gordon *et al.,* 2003; Southall, 2007). While most bowhead whales did not show active avoidance until within 8 km of seismic vessels (Richardson *et al.,* 1995), some whales avoided vessels by more than 20 km at received levels as low as 120 dB re 1 μPa rms. Additionally, Malme *et al.* (1988) observed clear changes in diving and respiration patterns in bowheads at ranges up to 73 km from seismic vessels, with received levels as low as 125 dB re 1 μPa.

Gray whales migrating along the U.S. west coast showed avoidance responses to seismic vessels by 10 percent of animals at 164 dB re 1 μPa, and by 90 percent of animals at 190 dB re 1 μPa, with similar results for whales in the Bering Sea (Malme 1986, 1988). In contrast, noise from seismic surveys was not found to impact feeding behavior or exhalation rates while resting or diving in western gray whales off the coast of Russia (Yazvenko *et al.,* 2007; Gailey *et al.,* 2007).

Humpback whales showed avoidance behavior at ranges of 5–8 km from a seismic array during observational studies and controlled exposure experiments in western Australia (McCauley, 1998; Todd *et al.,* 1996) found no clear short-term behavioral responses by foraging humpbacks to explosions associated with construction operations in Newfoundland, but did see a trend of increased rates of net entanglement and a shift to a higher incidence of net entanglement closer to the noise source.

Seismic pulses at average received levels of 131 dB re 1 micropascal squared second (μPa^2-s) caused blue whales to increase call production (Di Iorio and Clark, 2010). In contrast, McDonald *et al.* (1995) tracked a blue whale with seafloor seismometers and reported that it stopped vocalizing and changed its travel direction at a range of 10 km from the seismic vessel (estimated received level 143 dB re 1 µPa peak-to-peak). These studies demonstrate that even low levels of noise received far from the noise source can induce behavioral responses.

Madsen *et al.* (2006) and Miller *et al.* (2009) tagged and monitored eight sperm whales in the Gulf of Mexico exposed to seismic airgun surveys. Sound sources were from approximately 2 to 7 nm away from the whales and based on multipath propagation received levels were as high as 162 dB SPL re 1 µPa with energy content greatest between 0.3 and 3.0 kHz (Madsen, 2006). The whales showed no horizontal avoidance, although the whale that was approached most closely had an extended resting period and did not resume foraging until the airguns had ceased firing (Miller *et al.,* 2009). The remaining whales continued to execute foraging dives throughout exposure; however, swimming movements during foraging dives were 6 percent lower during exposure than control periods, suggesting subtle effects of noise on foraging behavior (Miller *et al.,* 2009). Captive bottlenose dolphins sometimes vocalized after an exposure to impulse sound from a seismic watergun (Finneran *et al.,* 2010a).

A review of behavioral reactions by pinnipeds to impulse noise can be found in Richardson *et al.* (1995) and Southall *et al.* (2007). Blackwell *et al.* (2004) observed that ringed seals exhibited little or no reaction to pipe-driving noise with mean underwater levels of 157 dB re 1 µPa rms and in air levels of 112 dB re 20 µPa, suggesting that the seals had habituated to the noise. In contrast, captive California sea lions avoided sounds from an impulse source at levels of 165–170 dB re 1 µPa (Finneran *et al.,* 2003b). Experimentally, Götz and Janik (2011) tested underwater, startle responses to a startling sound (sound with a rapid rise time and a 93 dB sensation level [the level above the animal's threshold at that frequency]) and a non-startling sound (sound with the same level, but with a slower rise time) in wild-captured gray seals. The animals exposed to the startling treatment avoided a known food source, whereas animals exposed to the non-startling treatment did not react or habituated during the exposure period. The results of this study highlight the importance of the characteristics of the acoustic signal in an animal's response of habituation.

Vessels

Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or an animal just below the surface could be cut by a vessel's propeller. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007). The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records in which vessel speed was known, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 13 knots.

Jensen and Silber (2003) detailed 292 records of known or probable ship strikes of all large whale species from 1975 to 2002. Of these, vessel speed at the time of collision was reported for 58 cases. Of these cases, 39 (or 67 percent) resulted in serious injury or death (19 of those resulted in serious injury as determined by blood in the water, propeller gashes or severed tailstock, and fractured skull, jaw, vertebrae, hemorrhaging, massive bruising or other injuries noted during necropsy and 20 resulted in death). Operating speeds of vessels that struck various species of large whales ranged from 2 to 51 knots. The majority (79 percent) of these strikes occurred at speeds of 13 knots or greater. The average speed that resulted in serious injury or death was 18.6 knots. Pace and Silber (2005) found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 knots, and exceeded 90 percent at 17 knots. Higher speeds during collisions result in greater force of impact and also appear to increase the chance of severe injuries or death. While modeling studies have suggested that hydrodynamic forces pulling whales toward the vessel hull increase with increasing speed (Clyne, 1999; Knowlton *et al.,* 1995), this is inconsistent with Silber *et al.* (2010), which demonstrated that there is no such relationship (*i.e.,* hydrodynamic forces are independent of speed).

The Jensen and Silber (2003) report notes that the database represents a minimum number of collisions, because the vast majority probably goes undetected or unreported. In contrast, Navy vessels are likely to detect any strike that does occur, and they are required to report all ship strikes involving marine mammals. Overall, the percentages of Navy traffic relative to overall large shipping traffic are very small (on the order of 2 percent).

There are no records of any Navy vessel strikes to marine mammals during training or testing activities in the Study Area. There have been Navy vessel strikes of large whales in areas outside the Study Area, such as Hawaii and Southern California. However, these areas differ significantly from the Study Area given that both Hawaii and Southern California have a much higher number of Navy vessel activities and much higher densities of large whales.

Other efforts have been undertaken to investigate the impact from vessels (both whale-watching and general vessel traffic noise) and demonstrated impacts do occur (Bain, 2002; Erbe, 2002; Lusseau, 2009; Williams *et al.,* 2006, 2009, 2011b, 2013, 2014a, 2014b; Noren

et al., 2009; Read *et al.,* 2014; Rolland *et al.,* 2012; Pirotta *et al.,* 2015). This body of research for the most part has investigated impacts associated with the presence of chronic stressors, which differ significantly from generally intermittent Navy training and testing activities. For example, in an analysis of energy costs to killer whales, Williams *et al.* (2009) suggested that whale-watching in the Johnstone Strait resulted in lost feeding opportunities due to vessel disturbance, which could carry higher costs than other measures of behavioral change might suggest. Ayres *et al.* (2012) recently reported on research in the Salish Sea involving the measurement of southern resident killer whale fecal hormones to assess two potential threats to the species recovery: Lack of prey (salmon) and impacts to behavior from vessel traffic. Ayres *et al.* (2012) suggested that the lack of prey overshadowed any population-level physiological impacts on southern resident killer whales from vessel traffic.

Based on the implementation of Navy mitigation measures and the low density of Navy ships in the GOA TMAA, NMFS has concluded, preliminarily, that the probability of a ship strike is very low, especially for dolphins and porpoises, killer whales, social pelagic odontocetes and pinnipeds that are highly visible, and/or comparatively small and maneuverable. Though more probable because of their size, NMFS also believes that the likelihood of a Navy vessel striking a mysticete or sperm whale is also low with the implementation of mitigation measures and the low density of navy ships in the Study Area. The Navy did not request take from a ship strike, and based on our preliminary determination, NMFS is not recommending that they modify their request at this time. However, both NMFS and the Navy are currently engaged in a Section 7 consultation under the ESA, and that consultation will further inform our final decision.

Proposed Mitigation

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the ''permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.'' NMFS' duty under this ''least practicable adverse impact'' standard is to prescribe mitigation reasonably designed to minimize, to the extent practicable, any adverse population-level impacts, as well as habitat impacts. While population-level impacts are minimized by reducing impacts on individual marine mammals, not all takes have a reasonable potential for translating to population-level impacts. NMFS' objective under the ''least practicable adverse impact'' standard is to design mitigation targeting those impacts on individual marine mammals that are reasonably likely to contribute to adverse population-level effects.

The NDAA of 2004 amended the MMPA as it relates to military readiness activities and the ITA process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity.'' The training and testing activities described in the Navy's LOA application are considered military readiness activities.

In *Conservation Council for Hawaii* v. *National Marine Fisheries Service,* No. 1:13–cv–00684 (D. Hawaii March 31, 2015), the court stated that NMFS ''appear[s] to think that [it] satisf[ies] the statutory 'least practicable adverse impact' requirement with a 'negligible impact' finding.'' In light of the court's decision, we take this opportunity to make clear our position that the ''negligible impact'' and ''least practicable adverse impact'' requirements are distinct, even though the focus of both is on population-level impacts.

A population-level impact is an impact on the population numbers (survival) or growth and reproductive rates (recruitment) of a particular marine mammal species or stock. As we noted in the preamble to our general MMPA implementing regulations, not every population-level impact violates the negligible impact requirement. As we explained, the negligible impact standard does not require a finding that the anticipated take will have ''no effect'' on population numbers or growth rates: ''The statutory standard does not require that the same recovery rate be maintained, rather that no significant effect on annual rates of recruitment or survival occurs . . . [T]he key factor is the significance of the level of impact on rates of recruitment or survival. Only insignificant impacts on long-term population levels and trends can be treated as negligible.'' See 54 FR 40338, 40341–42 (September 29, 1989). Nevertheless, while insignificant impacts on population numbers or growth rates may satisfy the negligible impact requirement, such impacts still must be mitigated, to the extent practicable, under the ''least practicable adverse impact'' requirement. Thus, the negligible impact and least practicable adverse impact requirements are clearly distinct, even though both focus on population-level effects.

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

a. Avoid or minimize injury or death of marine mammals wherever possible (goals b, c, and d may contribute to this goal).

b. Reduce the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of MFAS/HFAS, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

c. Reduce the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of MFAS/HFAS, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

d. Reduce the intensity of exposures (either total number or number at biologically important time or location) to received levels of MFAS/HFAS, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

e. Avoid or minimize adverse effects to marine mammal habitat (including acoustic habitat), paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

f. For monitoring directly related to mitigation—increase the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation (shut-down zone, etc.).

Our final evaluation of measures that meet one or more of the above goals includes consideration of the following factors in relation to one another: The manner in which, and the degree to which, the successful implementation of the mitigation measures is expected to reduce population-level impacts to marine mammal species and stocks and impacts to their habitat; the proven or likely efficacy of the measures; and the practicability of the suite of measures

for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

NMFS reviewed the proposed activities and the suite of proposed mitigation measures as described in the Navy's LOA application to determine if they would result in the least practicable adverse effect on marine mammals. NMFS worked with the Navy in the development of the Navy's initially proposed measures, which are informed by years of experience and monitoring. Below are the mitigation measures as agreed upon by the Navy and NMFS. For additional details regarding the Navy's mitigation measures, see Chapter 5 in the GOA DSEIS/OEIS.

Lookouts

The Navy will have two types of Lookouts for the purposes of conducting visual observations: Those positioned on ships; and those positioned ashore, in aircraft, or on small boats. Lookouts positioned on ships will diligently observe the air and surface of the water. They will have multiple observation objectives, which include but are not limited to detecting the presence of biological resources and recreational or fishing boats, observing the mitigation zones, and monitoring for vessel and personnel safety concerns.

Due to manning and space restrictions on aircraft, small boats, and some Navy ships, Lookouts for these platforms may be supplemented by the aircraft crew or pilot, boat crew, range site personnel, or shore-side personnel. Lookouts positioned in minimally manned platforms may be responsible for tasks in addition to observing the air or surface of the water (*e.g.,* navigation of a helicopter or small boat). However, all Lookouts will, considering personnel safety, practicality of implementation, and impact on the effectiveness of the activity, comply with the observation objectives described above for Lookouts positioned on ships.

The procedural measures described in the remainder of this section primarily consist of having Lookouts during specific training activities.

All personnel standing watch on the bridge, Commanding Officers, Executive Officers, maritime patrol aircraft aircrews, anti-submarine warfare helicopter crews, civilian equivalents, and Lookouts will successfully complete the United States Navy Marine Species Awareness Training prior to standing watch or serving as a Lookout. Additional details on the Navy's Marine Species Awareness Training can be found in the GOA DSEIS/OEIS. The Navy proposes to use one or more Lookouts during the training activities described below, which are organized by stressor category.

Non-Impulsive Sound

Hull Mounted Mid-Frequency Active Sonar

The Navy's current Lookout mitigation measures during training activities involving hull-mounted MFAS include requirements such as the number of personnel on watch and the manner in which personnel are to visually search the area in the vicinity of the ongoing activity.

The Navy is proposing to maintain the number of Lookouts currently implemented for ships using hull-mounted MFAS. Ships using hull-mounted MFAS sources associated with ASW activities at sea (with the exception of ships less than 65 ft. [20 m] in length, which are minimally manned) will have two Lookouts at the forward position. While using hull-mounted MFAS sources underway, vessels less than 65 ft. [20 m] in length and ships that are minimally manned will have one Lookout at the forward position due to space and manning restrictions.

High-Frequency and Non-Hull-Mounted Mid-Frequency Active Sonar

The Navy currently conducts activities using high-frequency and non-hull-mounted MFAS in the Study Area. Non-hull-mounted MFAS training activities include the use of aircraft deployed sonobuoys, helicopter dipping sonar, and submarine sonar. During those activities, the Navy employs the following mitigation measures regarding Lookout procedures:

- Navy aircraft participating in exercises at sea shall conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties.
- Helicopters shall observe/survey the vicinity of an ASW training event for 10 minutes before the first deployment of active (dipping) sonar in the water.

The Navy is proposing to continue using the number of Lookouts (one) currently implemented for aircraft conducting non-hull-mounted MFA sonar activities.

Mitigation measures do not currently exist for other high-frequency active sonar activities associated with ASW, or for new platforms; therefore, the Navy is proposing to add a new Lookout and other measures for these activities and on these platforms when conducted in the Study Area. The recommended measure is provided below.

The Navy will have one Lookout on ships conducting high-frequency or non-hull mounted mid-frequency active sonar activities associated with ASW activities at sea.

Explosives and Impulsive Sound

Improved Extended Echo Ranging Sonobuoys

The Navy is not proposing use of Improved Extended Echo Ranging Sonobuoys during the GOA TMAA training activities.

Explosive Signal Underwater Sound Buoys Using >0.5–2.5 Pound Net Explosive Weight

Lookout measures do not currently exist for explosive signal underwater sound (SUS) buoy activities using >0.5–2.5 pound (lb.) net explosive weight (NEW). The Navy is proposing to add this measure. Aircraft conducting SUS activities using >0.5–2.5 lb. NEW will have one Lookout.

Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target

Currently, the Navy employs the following Lookout procedures during gunnery exercises:

- From the intended firing position, trained Lookouts shall survey the mitigation zone for marine mammals prior to commencement and during the exercise as long as practicable.
- If applicable, target towing vessels shall maintain a Lookout. If a marine mammal is sighted in the vicinity of the exercise, the tow vessel shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

The Navy is proposing to continue using the Lookout procedures currently implemented for this activity. The Navy will have one Lookout on the vessel or aircraft conducting small-, medium-, or large-caliber gunnery exercises against a surface target. Towing vessels, if applicable, shall also maintain one Lookout.

Missile Exercises Using a Surface Target

Currently, the Navy employs the following Lookout procedures during missile exercises:

- Aircraft shall visually survey the target area for marine mammals. Visual inspection of the target area shall be made by flying at 1,500 ft. (457 m) or lower, if safe to do so, and at slowest safe speed.

• Firing or range clearance aircraft must be able to actually see ordnance impact areas.

The Navy is proposing to continue using the Lookout procedures currently implemented for this activity. When aircraft are conducting missile exercises against a surface target, the Navy will have one Lookout positioned in an aircraft.

Bombing Exercises (Explosive)

Currently, the Navy employs the following Lookout procedures during bombing exercises:

• If surface vessels are involved, Lookouts shall survey for floating kelp and marine mammals.

• Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft. (460 m) or lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: Aircraft must be able to actually see ordnance impact areas. Survey aircraft should employ most effective search tactics and capabilities.

The Navy is proposing to (1) continue implementing the current measures for bombing exercises, and (2) clarify the number of Lookouts currently implemented for this activity. The Navy will have one Lookout positioned in an aircraft conducting bombing exercises, and trained Lookouts in any surface vessels involved.

Weapons Firing Noise During Gunnery Exercises

The Navy is proposing to continue using the number of Lookouts currently implemented for gunnery exercises. The Navy will have one Lookout on the ship conducting explosive and non-explosive gunnery exercises. This may be the same Lookout described for Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target when that activity is conducted from a ship against a surface target.

Sinking Exercises

The Navy is proposing to continue using the number of Lookouts currently implemented for this activity. The Navy will have two Lookouts (one positioned in an aircraft and one on a vessel) during sinking exercises.

Physical Disturbance and Strike

Vessels

Currently, the Navy employs the following Lookout procedures to avoid physical disturbance and strike of marine mammals during at-sea training:

• While underway, surface vessels shall have at least two Lookouts with binoculars; surfaced submarines shall have at least one Lookout with binoculars. Lookouts already posted for safety of navigation and man-overboard precautions may be used to fill this requirement. As part of their regular duties, Lookouts will watch for and report to the Officer of the Deck the presence of marine mammals.

Consistent with other ongoing Navy Phase 2 training and testing (NWTT, MITT, AFTT, HSTT), the Navy is proposing to revise the mitigation measures for this activity as follows: While underway, vessels will have a minimum of one Lookout.

Non-Explosive Practice Munitions

Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target

Currently, the Navy employs the same mitigation measures for non-explosive practice munitions—small-, medium-, and large-caliber gunnery exercises—as described above for Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target.

The Navy is proposing to continue using the number of Lookouts currently implemented for these activities. The Navy will have one Lookout during activities involving non-explosive practice munitions (*e.g.,* small-, medium-, and large-caliber gunnery exercises) against a surface target.

Missile Exercises Using a Surface Target

Currently, the Navy employs the same mitigation measures for non-explosive missile exercises (including rockets) using a surface target as described for Missile Exercises Using a Surface Target (explosive).

The Navy is proposing to continue using the number of Lookouts currently implemented for these activities. When aircraft are conducting non-explosive missile exercises (including exercises using rockets) against a surface target, the Navy will have one Lookout positioned in an aircraft.

Bombing Exercises

Currently, the Navy employs the same mitigation measures for non-explosive bombing exercises as described for Bombing Exercises (Explosive).

The Navy is proposing to continue using the same Lookout procedures currently implemented for these activities. The Navy will have one Lookout positioned in an aircraft during non-explosive bombing exercises, and trained Lookouts in any surface vessels involved.

Mitigation Zones

The Navy proposes to use mitigation zones to reduce the potential impacts to marine mammals from training activities. Mitigation zones are measured as the radius from a source. Unique to each activity category, each radius represents a distance that the Navy will visually observe to help reduce injury to marine species. Visual detections of applicable marine species will be communicated immediately to the appropriate watch station for information dissemination and appropriate action. If the presence of marine mammals is detected acoustically, Lookouts posted in aircraft and on surface vessels will increase the vigilance of their visual surveillance. As a reference, aerial surveys are typically made by flying at 1,500 ft. (457 m) altitude or lower at the slowest safe speed.

Many of the proposed activities have mitigation measures that are currently being implemented, as required by previous environmental documents or consultations. Most of the current mitigation zones for activities that involve the use of impulsive and non-impulsive sources were originally designed to reduce the potential for onset of TTS. For the GOA DSEIS/OEIS and the LOA application, the Navy updated the acoustic propagation modeling to incorporate updated hearing threshold metrics (*i.e.,* upper and lower frequency limits), updated density data for marine mammals, and factors such as an animal's likely presence at various depths. An explanation of the acoustic propagation modeling process can be found in the Determination of Acoustic Effects on Marine Mammals for the Gulf of Alaska Training Supplemental Environmental Impact Statement/Overseas Environmental Impact Statement technical report (Marine Species Modeling Team, 2014).

As a result of the updates to the acoustic propagation modeling, in some cases the ranges to onset of TTS effects are much larger than previous model outputs. Due to the ineffectiveness and unacceptable operational impacts associated with mitigating these large areas, the Navy is unable to mitigate for onset of TTS for every activity. In this GOA TMAA analysis, the Navy developed each recommended mitigation zone to avoid or reduce the potential for onset PTS, out to the predicted maximum range. In some cases where the ranges to effects are smaller than previous models estimated, the mitigation zones were adjusted accordingly to provide consistency

across the measures. Mitigating to the predicted maximum range to PTS consequently also mitigates to the predicted maximum range to onset mortality (1 percent mortality), onset slight lung injury, and onset slight gastrointestinal tract injury, since the maximum range to effects for these criteria are shorter than for PTS. Furthermore, in most cases, the predicted maximum range to PTS also consequently covers the predicted average range to TTS. Table 8 summarizes the predicted average range to TTS, average range to PTS, maximum range to PTS, and recommended mitigation zone for each activity category, based on the Navy's acoustic propagation modeling results.

The activity-specific mitigation zones are based on the longest range for all the functional hearing groups. The mitigation zone for a majority of activities is driven by either the high-frequency cetaceans or the sea turtles functional hearing groups. Therefore, the mitigation zones are even more protective for the remaining functional hearing groups (*i.e.,* low-frequency cetaceans, mid-frequency cetaceans, and pinnipeds), and likely cover a larger portion of the potential range to onset of TTS.

This evaluation includes explosive ranges to TTS and the onset of auditory injury, non-auditory injury, slight lung injury, and mortality. For every source proposed for use by the Navy, the recommended mitigation zones included in Table 8 exceed each of these ranges. In some instances, the Navy recommends mitigation zones that are larger or smaller than the predicted maximum range to PTS based on the effectiveness and operational assessments. The recommended mitigation zones and their associated assessments are provided throughout the remainder of this section. The recommended measures are either currently implemented, are modifications of current measures, or are new measures.

For some activities specified throughout the remainder of this section, Lookouts may be required to observe for concentrations of detached floating vegetation (Sargassum or kelp paddies), which are indicators of potential marine mammal presence within the mitigation zone. Those specified activities will not commence if floating vegetation (Sargassum or kelp paddies) is observed within the mitigation zone prior to the initial start of the activity. If floating vegetation is observed prior to the initial start of the activity, the activity will be relocated to an area where no floating vegetation is observed. Training will not cease as a result of indicators entering the mitigation zone after activities have commenced. This measure is intended only for floating vegetation detached from the seafloor.

TABLE 8—PREDICTED RANGES TO EFFECTS AND RECOMMENDED MITIGATION ZONES FOR EACH ACTIVITY CATEGORY

Activity category	Representative source (bin) [1]	Predicted (longest) average range to TTS	Predicted (longest) average range to PTS	Predicted maximum range to PTS	Recommended mitigation zone
Non-Impulse Sound					
Hull-Mounted Mid-Frequency Active Sonar.	SQS–53 ASW hull-mounted sonar (MF1).	3,821 yd. (3.5 km) for one ping.	100 yd. (91 m) for one ping.	Not Applicable	6 dB power down at 1,000 yd. (914 m); 4 dB power down at 500 yd. (457 m); and shutdown at 200 yd. (183 m).
High-Frequency and Non-Hull Mounted Mid-Frequency Active Sonar.	AQS–22 ASW dipping sonar (MF4).	230 yd. (210 m) for one ping.	20 yd. (18 m) for one ping.	Not applicable	200 yd. (183 m).
Explosive and Impulse Sound					
Signal Underwater Sound (SUS) buoys using > 0.5–2.5 lb. NEW.	Explosive sonobuoy (E3).	290 yd. (265 m)	113 yd. (103 m)	309 yd. (283 m)	350 yd. (320 m).
Gunnery Exercises—Small- and Medium-Caliber (Surface Target).	40 mm projectile (E2)	190 yd. (174 m)	83 yd. (76 m)	182 yd. (167 m)	200 yd. (183 m).
Gunnery Exercises—Large-Caliber (Surface Target).	5 in. projectiles (E5)	453 yd. (414 m)	186 yd. (170 m)	526 yd. (481 m)	600 yd. (549 m).
Missile Exercises (Including Rockets) up to 250 lb. NEW Using a Surface Target.	Maverick missile (E9)	949 yd. (868 m)	398 yd. (364 m)	699 yd. (639 m)	900 yd. (823 m).
Missile Exercises up to 500 lb. NEW (Surface Target).	Harpoon missile (E10).	1,832 yd. (1.7 km)	731 yd. (668 m)	1,883 yd. (1.7 km)	2,000 yd. (1.8 km).
Bombing Exercises	MK–84 2,000 lb. bomb (E12).	2,513 yd. (2.3 km)	991 yd. (906 m)	2,474 yd. (2.3 km)	2,500 yd. (2.3 km)[2].
Sinking Exercises	Various up to MK–84 2,000 lb. bomb (E12).	2,513 yd. (2.3 km)	991 yd. (906 m)	2,474 yd. (2.3 km)	2.5 nm [(2)].

[1] This table does not provide an inclusive list of source bins; bins presented here represent the source bin with the largest range to effects within the given activity category.

[2] Recommended mitigation zones are larger than the modeled injury zones to account for multiple types of sources or charges being used.

Notes: in = inches, km = kilometers, lb. = pounds, m = meters, nm = nautical miles, PTS = Permanent Threshold Shift, TTS = Temporary Threshold Shift, yd. = yards

Non-Impulsive Sound

Hull-Mounted Mid-Frequency Active Sonar

The Navy is proposing to (1) continue implementing the current measures for MFAS and (2) to clarify the conditions needed to recommence an activity after a marine mammal has been detected.

Activities that involve the use of hull-mounted MFA sonar will use Lookouts for visual observation from a ship immediately before and during the activity. Mitigation zones for these activities involve powering down the sonar by 6 dB when a marine mammal is sighted within 1,000 yd. (914 m) of the sonar dome, and by an additional 4 dB when sighted within 500 yd. (457 m) from the source, for a total reduction of 10 dB. Active transmissions will cease if a marine mammal is sighted within 200 yd. (183 m). Active transmission will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, (3) the mitigation zone has been clear from any additional sightings for a period of 30 minutes, (4) the ship has transited more than 2,000 yd. (1.8 km) beyond the location of the last sighting, or (5) the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the ship bow.

High-Frequency and Non-Hull-Mounted Mid-Frequency Active Sonar

Non-hull-mounted MFA sonar training activities include the use of aircraft deployed sonobuoys and helicopter dipping sonar. The Navy is proposing to: (1) Continue implementing the current mitigation measures for activities currently being executed, such as dipping sonar activities; (2) extend the implementation of its current mitigation to all other activities in this category; and (3) clarify the conditions needed to recommence an activity after a sighting. The recommended measures are provided below.

Mitigation will include visual observation from a vessel or aircraft (with the exception of platforms operating at high altitudes) immediately before and during active transmission within a mitigation zone of 200 yd. (183 m) from the active sonar source. For activities involving helicopter deployed dipping sonar, visual observation will commence 10 minutes before the first deployment of active dipping sonar. Helicopter dipping and sonobuoy deployment will not begin if concentrations of floating vegetation (kelp paddies), are observed in the mitigation zone. If the source can be turned off during the activity, active transmission will cease if a marine mammal is sighted within the mitigation zone. Active transmission will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes for an aircraft-deployed source, (4) the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a vessel-deployed source, (5) the vessel or aircraft has repositioned itself more than 400 yd. (370 m) away from the location of the last sighting, or (6) the vessel concludes that dolphins are deliberately closing in to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

Explosives and Impulsive Sound

Explosive Signal Underwater Sound Buoys Using >0.5–2.5 Pound Net Explosive Weight

Mitigation measures do not currently exist for activities using explosive signal underwater sound (SUS) buoys.

The Navy is proposing to add the following recommended measures. Mitigation will include pre-exercise aerial monitoring during deployment within a mitigation zone of 350 yd. (320 m) around an explosive SUS buoy. Explosive SUS buoys will not be deployed if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone (around the intended deployment location). SUS deployment will cease if a marine mammal is sighted within the mitigation zone. Deployment will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

Passive acoustic monitoring will also be conducted with Navy assets, such as sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to Lookouts posted in aircraft in order to increase vigilance of their visual surveillance.

Gunnery Exercises—Small- and Medium-Caliber Using a Surface Target

The Navy is proposing to (1) continue implementing the current mitigation measures for this activity, (2) clarify the conditions needed to recommence an activity after a sighting, and (3) add a requirement to visually observe for kelp paddies.

Mitigation will include visual observation from a vessel or aircraft immediately before and during the exercise within a mitigation zone of 200 yd. (183 m) around the intended impact location. Vessels will observe the mitigation zone from the firing position. When aircraft are firing, the aircrew will maintain visual watch of the mitigation zone during the activity. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, (4) the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing ship, or (5) the intended target location has been repositioned more than 400 yd. (366 m) away from the location of the last sighting.

Gunnery Exercises—Large-Caliber Explosive Rounds Using a Surface Target

The Navy is proposing to (1) continue using the currently implemented mitigation zone measures for this activity, (2) clarify the conditions needed to recommence an activity after a sighting, and (3) implement a requirement to visually observe for kelp paddies. The recommended measures are provided below.

Mitigation will include visual observation from a ship immediately before and during the exercise within a mitigation zone of 600 yd. (549 m) around the intended impact location. Ships will observe the mitigation zone

from the firing position. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 30 minutes.

Missile Exercises Up to 250 Pound Net Explosive Weight Using a Surface Target

Currently, the Navy employs a mitigation zone of 1,800 yd. (1.6 km) for all missile exercises. Because missiles have a wide range of warhead strength, the Navy is recommending two mitigation zones; one for missiles with warheads 250 lb. NEW and less, and a larger mitigation zone for missiles with larger warheads. The Navy is proposing to (1) modify the mitigation measures currently implemented for missile exercises involving missiles with 250 lb. NEW and smaller warheads by reducing the mitigation zone from 1,800 yd. (1.6 km) to 900 yd. (823 m). This new, reduced mitigation zone is a result of the most recent acoustic propogation modeling efforts (NAEMO) for the GOA TMAA and is based on a range to effect that is smaller than previously modeled for missile exercises using a surface target (as discussed below, the Navy is proposing to increase the mitigation zone for missiles with a NEW >250 lb.), (2) clarify the conditions needed to recommence an activity after a sighting, and (3) adopt the marine mammal mitigation zone size for floating vegetation for ease of implementation. The recommended measures are provided below.

When aircraft are involved in the missile firing, mitigation will include visual observation by the aircrew or supporting aircraft prior to commencement of the activity within a mitigation zone of 900 yd. (823 m) around the deployed target. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

Missile Exercises 251–500 Pound Net Explosive Weight (Surface Target)

Current mitigation measures apply to all missile exercises, regardless of the warhead size. The Navy proposes to add a mitigation zone that applies only to missiles with a NEW of 251 to 500 lb. The recommended measures are provided below.

When aircraft are involved in the missile firing, mitigation will include visual observation by the aircrew prior to commencement of the activity within a mitigation zone of 2,000 yd. (1.8 km) around the intended impact location. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

Bombing Exercises

Currently, the Navy employs the following mitigation zone procedures during bombing exercises:

- Ordnance shall not be targeted to impact within 1,000 yd. (914 m) of known or observed floating kelp or marine mammals.
- A 1,000 yd. (914 m) radius mitigation zone shall be established around the intended target.
- The exercise will be conducted only if marine mammals are not visible within the mitigation zone.

The Navy is proposing to (1) maintain the existing mitigation zone to be used for non-explosive bombing activities, (2) revise the mitigation zone procedures to account for predicted ranges to impacts to marine species when high explosive bombs are used, (3) clarify the conditions needed to recommence an activity after a sighting, and (4) add a requirement to visually observe for kelp paddies.

Mitigation will include visual observation from the aircraft immediately before the exercise and during target approach within a mitigation zone of 2,500 yd. (2.3 km) around the intended impact location for explosive bombs and 1,000 yd. (920 m) for non-explosive bombs. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Bombing will cease if a marine mammal is sighted within the mitigation zone. Bombing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

Sinking Exercises

The Navy is proposing to (1) modify the mitigation measures currently implemented for this activity by increasing the mitigation zone from 2.0 nm to 2.5 nm, (2) clarify the conditions needed to recommence an activity after a sighting, (3) add a requirement to visually observe for kelp paddies, and (4) adopt the marine mammal and sea turtle mitigation zone size for concentrations of floating vegetation and aggregations of jellyfish for ease of implementation. The recommended measures are provided below.

Mitigation will include visual observation within a mitigation zone of 2.5 nm around the target ship hulk. Sinking exercises will include aerial observation beginning 90 minutes before the first firing, visual observations from vessels throughout the duration of the exercise, and both aerial and vessel observation immediately after any planned or unplanned breaks in weapons firing of longer than 2 hours. Prior to conducting the exercise, the Navy will review remotely sensed sea surface temperature and sea surface height maps to aid in deciding where to release the target ship hulk.

The Navy will also monitor using passive acoustics during the exercise. Passive acoustic monitoring would be conducted with Navy assets, such as passive ships sonar systems or sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to Lookouts posted in aircraft and on vessels in order to increase vigilance of their visual surveillance. Lookouts will also increase observation vigilance before the use of torpedoes or unguided ordnance with a NEW of 500 lb. or greater, or if the Beaufort sea state is a 4 or above.

The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the

mitigation zone. The exercise will cease if a marine mammal, sea turtle, or aggregation of jellyfish is sighted within the mitigation zone. The exercise will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, or (3) the mitigation zone has been clear from any additional sightings for a period of 30 minutes. Upon sinking the vessel, the Navy will conduct post-exercise visual surveillance of the mitigation zone for 2 hours (or until sunset, whichever comes first).

Weapons Firing Noise During Gunnery Exercises—Large-Caliber

The Navy currently has no mitigation zone procedures for this activity in the Study Area.

The Navy is proposing to adopt measures currently used during Navy gunnery exercises in other ranges outside of the Study Area. For all explosive and non-explosive large-caliber gunnery exercises conducted from a ship, mitigation will include visual observation immediately before and during the exercise within a mitigation zone of 70 yd. (46 m) within 30 degrees on either side of the gun target line on the firing side. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, (3) the mitigation zone has been clear from any additional sightings for a period of 30 minutes, or (4) the vessel has repositioned itself more than 140 yd. (128 m) away from the location of the last sighting.

Physical Disturbance and Strike

Vessels

The Navy's current measures to mitigate potential impacts to marine mammals from vessel and in-water device strikes during training activities are provided below:

- Naval vessels shall maneuver to keep at least 500 yd. (457 m) away from any observed whale in the vessel's path and avoid approaching whales head-on. These requirements do not apply if a vessel's safety is threatened, such as when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged activities, launching and recovering aircraft or landing craft, minesweeping activities, replenishment while underway and towing activities that severely restrict a vessel's ability to deviate course.
- Vessels will take reasonable steps to alert other vessels in the vicinity of the whale. Given rapid swimming speeds and maneuverability of many dolphin species, naval vessels would maintain normal course and speed on sighting dolphins unless some condition indicated a need for the vessel to maneuver.

The Navy is proposing to continue to use the 500 yd. (457 m) mitigation zone currently established for whales, and to implement a 200 yd. (183 m) mitigation zone for all other marine mammals. Vessels will avoid approaching marine mammals head on and will maneuver to maintain a mitigation zone of 500 yd. (457 m) around observed whales and 200 yd. (183 m) around all other marine mammals (except bow-riding dolphins), providing it is safe to do so. The Navy is clarifying its existing speed protocol; while in transit, Navy vessels shall be alert at all times, use extreme caution, and proceed at a ''safe speed'' so that the vessel can take proper and effective action to avoid a collision with any sighted object or disturbance, including any marine mammal or sea turtle, and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

Towed In-Water Devices

The Navy currently has no mitigation zone procedures for this activity in the Study Area.

The Navy is proposing to adopt measures currently used in other ranges outside of the Study Area during activities involving towed in-water devices. The Navy will ensure that towed in-water devices being towed from manned platforms avoid coming within a mitigation zone of 250 yd. (229 m) around any observed marine mammal, providing it is safe to do so.

Non-Explosive Practice Munitions

Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target

Currently, the Navy employs the same mitigation measures for non-explosive gunnery exercises as described above for Gunnery Exercises—Small-, Medium-, and Large-Caliber Using a Surface Target.

The Navy is proposing to (1) continue using the mitigation measures currently implemented for this activity, and (2) clarify the conditions needed to recommence an activity after a sighting. The recommended measures are provided below.

Mitigation will include visual observation from a vessel or aircraft immediately before and during the exercise within a mitigation zone of 200 yd. (183 m) around the intended impact location. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, (4) the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing ship, or (5) the intended target location has been repositioned more than 400 yd. (366 m) away from the location of the last sighting.

Bombing Exercises

The Navy is proposing to continue using the mitigation measures currently implemented for this activity. The recommended measure includes clarification of a post-sighting activity recommencement criterion.

Mitigation will include visual observation from the aircraft immediately before the exercise and during target approach within a mitigation zone of 1,000 yd. (914 m) around the intended impact location. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Bombing will cease if a marine mammal is sighted within the mitigation zone. Bombing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on its course and speed, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

Missile Exercises (Including Rockets) Using a Surface Target

The Navy is proposing to (1) modify the mitigation measures currently

implemented for this activity by reducing the mitigation zone from 1,800 yd. (1.6 km) to 900 yd. (823 m), (2) clarify the conditions needed to recommence an activity after a sighting, (3) adopt the marine mammal and sea turtle mitigation zone size for floating vegetation for ease of implementation, and (4) modify the platform of observation to eliminate the requirement to observe when ships are firing. The recommended measures are provided below.

When aircraft are firing, mitigation will include visual observation by the aircrew or supporting aircraft prior to commencement of the activity within a mitigation zone of 900 yd. (823 m) around the deployed target. The exercise will not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing will cease if a marine mammal is sighted within the mitigation zone. Firing will recommence if any one of the following conditions is met: (1) The animal is observed exiting the mitigation zone, (2) the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, or (3) the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

Consideration of Time/Area Limitations

The Navy's and NMFS' analysis of effects to marine mammals considers emergent science regarding locations where cetaceans are known to engage in specific activities (*e.g.,* feeding, breeding/calving, or migration) at certain times of the year that are important to individual animals as well as populations of marine mammals (see discussion in Van Parijs, 2015). Where data were available, Van Parijs (2015) identified areas that are important in this way and named the areas Biologically Important Areas (BIAs). It is important to note that the BIAs were not meant to define exclusionary zones, nor were they meant to be locations that serve as sanctuaries from human activity, or areas analogous to marine protected areas (see Ferguson *et al.* (2015a) regarding the envisioned purpose for the BIA designations). The delineation of BIAs does not have direct or immediate regulatory consequences, although it is appropriate to consider them as part of the body of science that may inform mitigation decisions, depending on the circumstances. The intention was that the BIAs would serve as resource management tools and that they be considered along with any new information as well as, ''existing density estimates, range-wide distribution data, information on population trends and life history parameters, known threats to the population, and other relevant information'' (Van Parijs, 2015).

The Navy and NMFS have supported and will continue to support the Cetacean and Sound Mapping project, including representation on the Cetacean Density and distribution Working Group (CetMap), which informed NMFS' identification of BIAs. The same marine mammal density data present in the Navy's Marine Species Density Database Technical Report (U.S. Department of the Navy, 2014) and used in the analysis for the GOA SEIS/OEIS was used in the development of BIAs. The final products, including the Gulf of Alaska BIAs, from this mapping effort were completed and published in March 2015 (Aquatic Mammals, 2015; Calambokidis *et al.,* 2015; Ferguson *et al.,* 2015a, 2015b; Van Parijs, 2015). 131 BIAs for 24 marine mammal species, stocks, or populations in seven regions within U.S. waters were identified (Ferguson *et al.,* 2015a). BIAs have been identified in the Gulf of Alaska in the vicinity of the GOA TMAA Study Area and include migratory and feeding BIAs for gray whale and North Pacific right whale, respectively. However, the degree of overlap between these BIAs and the Study area is negligible geographically. NMFS' recognition of an area as biologically important for some species activity is not equivalent to designation of critical habitat under the Endangered Species Act. Furthermore, the BIAs identified by NMFS in and around the Study Area do not represent the totality of important habitat throughout the marine mammals' full range.

NMFS' Office of Protected Resources routinely considers available information about marine mammal habitat use to inform discussions with applicants regarding potential spatio-temporal limitations on their activities that might help effect the least practicable adverse impact on species or stocks and their habitat. BIAs are useful tools for planning and impact assessments and are being provided to the public via this Web site: *www.cetsound.noaa.gov.* While these BIAs are useful tools for analysts, any decisions regarding protective measures based on these areas must go through the normal MMPA evaluation process (or any other statutory process that the BIAs are used to inform); the identification of a BIA does not pre-suppose any specific management decision associated with those areas, nor does it have direct or immediate regulatory consequences. NMFS and the Navy have discussed the BIAs listed above, what Navy activities take place in these areas (in the context of what their effects on marine mammals might be or whether additional mitigation is necessary), and what measures could be implemented to reduce impacts in these areas (in the context of their potential to reduce marine mammal impacts and their practicability). An assessment of the potential spatio-temporal and activity overlap of Navy training activities with the Gulf of Alaska BIAs listed above is included below and in Chapter 3.8 of the GOA DSEIS/OEIS. In addition, in the *Group and Species-Specific Analysis* section of this proposed rule NMFS has preliminarily assessed the potential effects of Navy training on the ability of gray whale and North Pacific right whale to engage in those activities for which the BIAs have been identified (migratory and feeding). As we learn more about marine mammal density, distribution, and habitat use (and the BIAs are updated), NMFS and the Navy will continue to reevaluate appropriate time-area measures through the Adaptive Management process outlined in these regulations.

North Pacific Right Whale Feeding Area—The NMFS-identified feeding area for North Pacific right whales (see Ferguson *et al.,* 2015b) overlaps slightly with the GOA TMAA's southwestern corner. This feeding area is applicable from June to September so there is temporal overlap with the proposed Navy training but there is minimal (<1 percent) spatial overlap between this feeding area and the GOA TMAA (see Figure 3.8–2 of the GOA DSEIS/OEIS).

Given their current extremely low population numbers and the general lack of sightings in the Gulf of Alaska, the occurrence of right whales in the GOA TMAA is considered rare. North Pacific right whales have not been visually detected in the GOA TMAA since at least the 1960s. The Quinn Seamount passive acoustic detections in summer 2013 (Širović *et al.,* 2014) are the only known potential occurrence records of this species in the GOA TMAA in recent years.

Grey Whale Migratory Area—The NMFS-identified migration area for gray whales, which was bounded by the extent of the continental shelf (as provided in Ferguson *et al.,* 2015b), has slight (<1 percent) overlap with the GOA TMAA at its northernmost corner and western edge (see Ferguson *et al.,* 2015b; See Figure 3.8–4 of the GOA DSEIS/OEIS). However, this migration area is applicable only between March to May (Spring) and November to

January (Fall) (see Aquatic Mammals, 2015). This NMFS-identified gray whale migration area would not be applicable during the months when training has historically occurred (June/July) and is not likely to have temporal overlap with most of the proposed timeframe (May to October; summer) for Navy training in the GOA TMAA. It is worth mentioning that the Navy's acoustic analysis did not predict any takes of gray whales in the GOA TMAA and NMFS is not authorizing any takes of this species (see *Group and Species-Specific Analysis* section later in this proposed rule).

Potential Training Overlap with BIAs—It is very unlikely that Navy training would occur in these nearshore locations adjacent to the GOA TMAA boundary where the overlap with BIAs occurs. To ensure that the Navy is able to conduct realistic training, Navy units must maintain sufficient room to maneuver. Therefore, training activities will typically take place some distance away from an operating area boundary to ensure sufficient sea or air space is available for tactical maneuvers within an approved operating area such as the GOA TMAA. The Navy also does not typically train next to any limiting boundary because it precludes tactical consideration of the adjacent sea space and airspace beyond the boundary from being a potential threat axis during activities such as anti-submarine warfare training. It is also the case that Navy training activities will generally not be located where it is likely there would be interference from civilian vessels and aircraft that are not participating in the training activity. The nearshore boundary of the GOA TMAA is the location for multiple commercial vessel transit lanes, ship traffic, and low-altitude air routes, which all pass through the NMFS-identified feeding area and the identified migration area (see Figure 3.8–9 of the GOA DSEIS/OEIS). This level of civilian activity may otherwise conflict with Navy training activities if those Navy activities were located at that margin of the GOA TMAA and as a result such an area is generally avoided.

In short, the corners of and edge of the GOA TMAA are seldom if ever a suitable location for sustained, realistic, and coordinated training using sonar and other active acoustic sources or explosives. The Navy has lookouts and mitigation measures in place to maneuver away from and around marine mammals, and Navy vessels and aircraft are no more likely to cause any impact to these species than any other non-Navy vessels or aircraft in the area. The Navy's stand-off distance for vessels of 500 yd. (457 m) and mitigation procedures (see Proposed Mitigation) further reduce the potential that there would be any biologically meaningful effect to feeding or migration should animals be present and detected during a very unlikely Navy training event using sonar and other active acoustic sources or explosives in one of these overlapping NMFS-identified areas. Therefore, North Pacific right whales and gray whales in the NMFS-identified feeding or migration areas at these boundaries of the GOA TMAA are very unlikely to have their feeding or migration activities affected by Navy training activities using sonar and other active acoustic sources.

Conclusion—Based on the likely locations for training in the GOA TMAA, the Navy and NMFS anticipate that proposed training activities would have very limited, if any, spatial or temporal overlap with the designated North Pacific right whale area or gray whale biologically important areas. Therefore, it is unlikely that Navy training would have any biologically meaningful effect on North Pacific right whale feeding behavior or gray whale migration behavior in these areas. Moreover, appropriate mitigation measures (as detailed in Proposed Mitigation above) would be implemented for any detected marine mammals and thus further reduce the potential for the feeding or migration activities to be affected.

Stranding Response Plan

NMFS and the Navy developed a Stranding Response Plan for GOA TMAA in 2011 as part of the previous (2011–2016) incidental take authorization and rulemaking process for the Study Area. The Stranding Response Plan is specifically intended to outline the applicable requirements in the event that a marine mammal stranding is reported in the complexes during a major training exercise. NMFS considers all plausible causes within the course of a stranding investigation and this plan in no way presumes that any strandings are related to, or caused by, Navy training activities, absent a determination made during investigation. The plan is designed to address mitigation, monitoring, and compliance. The current Stranding Response Plan for the GOA TMAA is available for review at: *http://www.nmfs.noaa.gov/pr/permits/goa_tmaa_stranding_protocol.pdf*. NMFS and the Navy are currently updating the Stranding Response Plan for the GOA TMAA for 2016–2021 training activities. The updated Stranding Response Plan will be finalized prior to the release of the final rule, and will be made available for review at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm#navy_goa2021*. In addition, modifications to the Stranding Response Plan may also be made through the adaptive management process.

Mitigation Conclusions

NMFS has carefully evaluated the Navy's proposed mitigation measures—many of which were developed with NMFS' input during the first phase of Navy Training authorizations—and considered a broad range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: The manner in which, and the degree to which, the successful implementation of the mitigation measures is expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species and stocks and their habitat; the proven or likely efficacy of the measures; and the practicability of the suite of measures for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Based on our evaluation of the Navy's proposed measures, as well as other measures considered by NMFS, NMFS has determined preliminarily that the Navy's proposed mitigation measures (especially when the adaptive management component is taken into consideration (see Adaptive Management, below)) are adequate means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The proposed rule comment period provides the public an opportunity to submit recommendations, views, and/or concerns regarding this action and the proposed mitigation measures. While NMFS has determined preliminarily that the Navy's proposed mitigation measures would affect the least practicable adverse impact on the affected species or stocks and their habitat, NMFS will consider all public comments to help inform our final

decision. Consequently, the proposed mitigation measures may be refined, modified, removed, or added to prior to the issuance of the final rule based on public comments received, and where appropriate, further analysis of any additional mitigation measures.

Proposed Monitoring

Section 101(a)(5)(A) of the MMPA states that in order to issue an ITA for an activity, NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for LOAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

Integrated Comprehensive Monitoring Program (ICMP)

The Navy's ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort for each range complex based on a set of standardized objectives, and in acknowledgement of regional expertise and resource availability. The ICMP is designed to be a flexible, scalable, and adaptable through the adaptive management and strategic planning processes to periodically assess progress and reevaluate objectives. Although the ICMP does not specify actual monitoring field work or projects, it does establish top-level goals that have been developed in coordination with NMFS. As the ICMP is implemented, detailed and specific studies will be developed which support the Navy's top-level monitoring goals. In essence, the ICMP directs that monitoring activities relating to the effects of Navy training and testing activities on marine species should be designed to contribute towards one or more of the following top-level goals:

- An increase in our understanding of the likely occurrence of marine mammals and/or ESA-listed marine species in the vicinity of the action (*i.e.,* presence, abundance, distribution, and/or density of species);
- An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammals and/or ESA-listed species to any of the potential stressor(s) associated with the action (*e.g.,* tonal and impulsive sound), through better understanding of one or more of the following: (1) The action and the environment in which it occurs (*e.g.,* sound source characterization, propagation, and ambient noise levels); (2) the affected species (*e.g.,* life history or dive patterns); (3) the likely co-occurrence of marine mammals and/or ESA-listed marine species with the action (in whole or part) associated with specific adverse effects, and/or; (4) the likely biological or behavioral context of exposure to the stressor for the marine mammal and/or ESA-listed marine species (*e.g.,* age class of exposed animals or known pupping, calving or feeding areas);
- An increase in our understanding of how individual marine mammals or ESA-listed marine species respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level);
- An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: (1) The long-term fitness and survival of an individual; or (2) the population, species, or stock (*e.g.,* through effects on annual rates of recruitment or survival);
- An increase in our understanding of the effectiveness of mitigation and monitoring measures;
- A better understanding and record of the manner in which the authorized entity complies with the ITA and Incidental Take Statement;
- An increase in the probability of detecting marine mammals (through improved technology or methods), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals; and
- A reduction in the adverse impact of activities to the least practicable level, as defined in the MMPA.

Monitoring would address the ICMP top-level goals through a collection of specific regional and ocean basin studies based on scientific objectives. Quantitative metrics of monitoring effort (*e.g.,* 20 days of aerial surveys) would not be a specific requirement. The adaptive management process and reporting requirements would serve as the basis for evaluating performance and compliance, primarily considering the quality of the work and results produced, as well as peer review and publications, and public dissemination of information, reports, and data. Details of the ICMP are available online (*http://www.navymarinespeciesmonitoring.us/*).

Strategic Planning Process for Marine Species Monitoring

The Navy also developed the Strategic Planning Process for Marine Species Monitoring, which establishes the guidelines and processes necessary to develop, evaluate, and fund individual projects based on objective scientific study questions. The process uses an underlying framework designed around top-level goals, a conceptual framework incorporating a progression of knowledge, and in consultation with a Scientific Advisory Group and other regional experts. The Strategic Planning Process for Marine Species Monitoring would be used to set intermediate scientific objectives, identify potential species of interest at a regional scale, and evaluate and select specific monitoring projects to fund or continue supporting for a given fiscal year. This process would also address relative investments to different range complexes based on goals across all range complexes, and monitoring would leverage multiple techniques for data acquisition and analysis whenever possible. The Strategic Planning Process for Marine Species Monitoring is also available online (*http://www.navymarinespeciesmonitoring.us/*).

Past and Current Monitoring in the Study Area

NMFS has received multiple years' worth of annual exercise and monitoring reports addressing active sonar use and explosive detonations within the GOA TMAA and other Navy range complexes. The data and information contained in these reports have been considered in developing mitigation and monitoring measures for the proposed training activities within the Study Area. The Navy's annual exercise and monitoring reports may be viewed at: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm* and *http://www.navymarinespeciesmonitoring.us.* NMFS has reviewed these reports and summarized the results, as related to marine mammal monitoring, below.

1. The Navy has shown significant initiative in developing its marine species monitoring program and made considerable progress toward reaching goals and objectives of the ICMP.

2. Observation data from watchstanders aboard navy vessels is generally useful to indicate the presence or absence of marine mammals within the mitigation zones (and sometimes beyond) and to document the implementation of mitigation measures, but does not provide useful species-specific information or behavioral data.

3. Data gathered by experienced marine mammal observers can provide very valuable information at a level of detail not possible with watchstanders.

4. Though it is by no means conclusive, it is worth noting that no instances of obvious behavioral disturbance have been observed by Navy watchstanders or experienced marine mammal observers conducting visual monitoring.

5. Visual surveys generally provide suitable data for addressing questions of distribution and abundance of marine mammals, but are much less effective at providing information on movements and behavior, with a few notable exceptions where sightings are most frequent.

6. Passive acoustics and animal tagging have significant potential for applications addressing animal movements and behavioral response to Navy training activities, but require a longer time horizon and heavy investment in analysis to produce relevant results.

7. NMFS and the Navy should more carefully consider what and how information should be gathered by watchstanders during training exercises and monitoring events, as some reports contain different information, making cross-report comparisons difficult.

This section is a summary of Navy-funded compliance monitoring in the GOA TMAA since 2011. Additional Navy-funded monitoring outside of and in addition to the Navy's commitments to NMFS is provided later in this section.

Gulf of Alaska Study Area Monitoring, 2011–2015—During the LOA development process for the 2011 GOA FEIS/OEIS, the Navy and NMFS agreed that monitoring in the Gulf of Alaska should focus on augmenting existing baseline data, since regional data on species occurrence and density are extremely limited. There have been four reports to date covering work in the Gulf of Alaska (U.S. Department of the Navy, 2011c, 2011d, 2012, 2013f). Collecting baseline data was deemed a priority prior to focusing on exercise monitoring and behavioral response as is now being done in other Navy OPAREAs and ranges. There have been no previous dedicated monitoring efforts during Navy training activities in the GOA TMAA with the exception of deployed HARPs.

In July 2011, the Navy funded deployment of two long-term bottom-mounted passive acoustic monitoring buoys by Scripps Institute of Oceanography. These HARPs were deployed southeast of Kenai Peninsula in the GOA TMAA with one on the shelf approximately 50 nm from land (in 111 fathoms [203 m] depth) and on the shelf-break slope approximately 100 nm from land (in 492 fathoms [900 m] depth). Intended to be collected annually, results from the first deployment (July 2011–May 2012) included over 5,756 hours of passive acoustic data (Baumann-Pickering *et al.* 2012b). Identification of marine mammal sounds included four baleen whale species (blue whales, fin whales, gray whales, and humpback whales) and at least six species of odontocetes (killer whale, sperm whale, Stejneger's beaked whale, Baird's beaked whale, Cuvier's beaked whale, and an unidentified porpoise presumed to be Dall's porpoise; Baumann-Pickering *et al.,* 2012b). Researchers also noted the detection of anthropogenic sound from commercial shipping. There were no Navy activities or vessels in the area at any time during the recording period.

Analysis of the passive acoustic detections made from May 2012 to June 2013 were presented in Baumann-Pickering *et al.* (2013), Debich *et al.* (2013), Debich *et al.* (2014), and the Navy's 2012, 2013, and 2014 GOA TMAA annual monitoring report submitted to NMFS (U.S. Department of the Navy, 2012, 2013f, 2014d). Three baleen whale species were detected: Blue whales, fin whales, and humpback whales. No North Pacific right whale calls were detected at either site during this monitoring period. At least seven species of odontocetes were detected: Risso's dolphins, killer whales, sperm whales, Baird's beaked whales, Cuvier's beaked whales, Stejneger's beaked whales, and unidentified porpoises (likely Dall's porpoise). Focused analysis of beaked whale echolocation recordings were presented in Baumann-Pickering *et al.* (2013).

As also presented in Debich *et al.* (2013) and U.S. Department of the Navy (2013f), broadband ship noise was found to be more common at the slope and Pratt Seamount monitoring sites within the GOA TMAA than at the nearshore (on shelf) site. Sonar (a variety of frequencies, most likely fathometers and fish-finders), were more common on the shelf and slope sites. Very few explosions were recorded at any of the three sites throughout the monitoring period. Origin of the few explosions detected are unknown, but there was no Navy explosive use in the GOA TMAA during this period, so these explosive-like events may be related to fisheries activity, lightning strikes, or some other unidentified source. There were no detections of Navy mid-frequency sonar use in the recordings (Debich *et al.* 2013, 2014; U.S. Department of the Navy 2013f, 2014d). In September 2012, an additional HARP buoy was deployed at Pratt Seamount (near the east end of the GOA TMAA) and in June 2013 two additional buoys were deployed in the GOA TMAA: One at the shelf-break near the southwest corner of the GOA TMAA and one at Quinn Seamount (the approximate middle of the GOA TMAA's southeast boundary). This constitutes a total of five Navy-funded concurrent long-term passive acoustic monitoring packages present in the GOA TMAA through fall of 2014. Debich *et al.* (2013) reported the first detection of a North Pacific right whale at the Quinn Seamount site. Over two days between June and August 2013, the Quinn seamount HARP detected three hours of North Pacific right whale calls (Debich *et al.,* 2014, Širović *et al.,* in press). Given the recording device location near the southwest border of the GOA TMAA, inability of the device as configured to determine call directionality, and likely signal propagation of several 10s of miles, it remains uncertain if the detected calls orginated within or outside of the GOA TMAA. Previous related Navy funded monitoring at multiple sites within the Study Area reported no North Pacific right whale detections (Baumann-Pickering *et al.,* 2012b, Debich *et al.,* 2013). Additional monitoring conducted in the GOA TMAA through spring 2015 included the deployment of five HARPs to detect marine mammals and anthropogenic sounds (Rice *et al.,* 2015). Future monitoring will include varying numbers of HARPs or other passive acoustic technologies based on annual Adaptive Management discussions with NMFS (see U.S. Department of the Navy [2014d] for details in that regard).

In the Gulf of Alaska, the Navy has also funded two previous marine mammal surveys to gather occurrence and density data. Although there was no regulatory requirement for the Navy to undertake either survey, the Navy funded the data collection to first support analysis of potential effects for the 2011 GOA FEIS/OEIS and again recently to support the current SEIS/OEIS. The first Navy-funded survey (GOALS) was conducted by NMFS in April 2009 (see Rone *et al.,* 2009). Line-transect survey visual data was gathered to support distance sampling statistics and acoustic data were collected over a 10-day period both within and outside the GOA TMAA. This survey resulted in sightings of several species and allowed for the derivation of densities for fin and humpback whale that supplemented multiple previous survey efforts in the

vicinity (Rone *et al.,* 2009). In summer 2013, the Navy funded an additional visual line-transect survey in the offshore waters of the Gulf of Alaska (Rone *et al.,* 2014). The GOALS II survey was a 30-day visual line-transect survey supplemented by use of passive acoustics and was a follow-on effort to the previously Navy-funded GOALS survey in 2009. The primary objectives for the GOALS II survey were to acquire baseline data to increase understanding of the likely occurrence (*i.e.,* presence, abundance, distribution and/or density of species) of beaked whales and ESA-listed marine mammals in the Gulf of Alaska. Specific research objectives were:

- Assess the abundance, spatial distribution and/or density of marine mammals, with a focus on beaked whales and ESA-listed cetacean species through visual line-transect surveys and passive acoustics using a towed hydrophone array and sonobuoys
- Increase knowledge of species' vocal repertoire by linking visual sightings to vocally active cetaceans, in order to improve the effectiveness of passive acoustic monitoring
- Attempt to photo-identify and biopsy sample individual whales opportunistically for analysis of population structure, genetics and habitat use
- Attempt to locate whales for opportunistic satellite tagging using visual and passive acoustic methodology in order to provide information on both large- and fine-scale movements and habitat use of cetaceans

The Navy-funded GOALS II survey also sampled four distinct habitat areas (shelf, slope, offshore, and seamounts) which were partitioned into four strata. The survey design was intended to provide uniform coverage within the Gulf of Alaska. However, given the overall limited knowledge of beaked whales within the Gulf of Alaska, the survey was also designed to provide coverage of potential beaked whale habitat and resulted in 13 encounters with beaked whales numbering 67 individual animals (Rone *et al.,* 2014). The following additional details are summarized from the presentation in Rone *et al.* (2014). The visual survey consisted of 4,504 km (2,431 nm) of 'full-effort' and included 349 km (188 nm) of 'transit-effort.' There was an additional 375 km (202 nm) of 'fog-effort' (transect and transit). Based on total effort, there were 802 sightings (1,998 individuals) identified to species, with an additional 162 sightings (228 individuals) of unidentified cetaceans and pinnipeds. Acoustic surveying was conducted round-the-clock with a towed-hydrophone array for 6,304 km (3,997 nm) of line-transect effort totaling 426 hours of 'standard' monitoring, with an additional 374 km (202 nm) of ~30 hours of 'non-standard' and 'chase' effort. There were 379 acoustic detections and 267 localizations of 6 identified cetacean species. Additionally, 186 acoustic sonobuoys were deployed with 7 identified cetacean species detected. Two satellite transmitter tags were deployed; a tag on a blue whale (*B. musculus*) transmitted for 9 days and a tag on a Baird's beaked whale (*Berardius bairdii*) transmitted for 15 days. Based on photo-identification matches, the tagged blue whale had been previously identified off Baja California, Mexico, in 2005. Photographs of five cetacean species were collected for photo-identification purposes: fin, humpback, blue, killer (*Orcinus orca*) and Baird's beaked whales. The estimates of abundance and density for five species were obtained for the first time for the central Gulf of Alaska. Overall, the Navy funded GOALS II survey provided one of the most comprehensive datasets on marine mammal occurrence, abundance, and distribution within that rarely surveyed area (Rone *et al.,* 2014).

NMFS has acknowledged that the Navy's GOA TMAA monitoring will enhance understanding of marine mammal vocalizations and distributions within the offshore waters of the Gulf of Alaska. Additionally, NMFS pointed out that information gained from the investigations associated with the Navy's monitoring may be used in the adaptive management of monitoring measures in subsequent NMFS authorizations, if appropriate and in consultation with NMFS. The Navy is committed to structuring the Navy-sponsored research and monitoring program to address both NMFS' regulatory requirements as part of any MMPA authorizations while at the same time making significant contributions to the greater body of marine mammal science (see U.S. Department of the Navy, 2013f).

Pacific Northwest Cetacean Tagging—A Navy-funded effort in the Pacific Northwest is ongoing and involves attaching long-term satellite tracking tags to migrating gray whales off the coast of Oregon and northern California (U.S. Department of the Navy, 2013e). This study is being conducted by the University of Oregon and has also included tagging of other large whale species such as humpback whales, fin whales, and killer whales when encountered. This effort is not programmed, affiliated, or managed as part of the GOA TMAA monitoring, and is a separate regional project, but has provided information on marine mammals and their movements that has application to the Gulf of Alaska.

In one effort between May 2010 and May 2013, satellite tracking tags were placed on three gray whales, 11 fin whales, five humpback whales, and two killer whales off the Washington coast (Schorr *et al.,* 2013). One tag on an Eastern North Pacific Offshore stock killer whale, in a pod encountered off Washington at Grays Harbor Canyon, remained attached and continued to transmit for approximately 3 months. In this period, the animal transited a distance of approximately 4,700 nm, which included time spent in the nearshore margins of the TMAA in the Gulf of Alaska where it would be considered part of the Offshore stock (for stock designations, see Muto and Angliss, 2015). In a second effort between 2012 and 2013, tags were attached to 11 Pacific Coast Feeding Group gray whales near Crescent City, California; in general, the tag-reported positions indicated these whales were moving southward at this time of year (Mate, 2013). The Navy's 2013 annual monitoring report for the Northwest Training and Testing Range contains the details of the findings from both research efforts described above (U.S. Department of the Navy, 2013e).

Proposed Monitoring for the GOA TMAA Study Area

Based on NMFS-Navy meetings in June and October 2011, and the upcoming annual monitoring meeting scheduled for March 2016, future Navy compliance monitoring, including ongoing monitoring, will address ICMP top-level goals through a series of regional and ocean basin study questions with a prioritization and funding focus on species of interest as identified for each range complex. The ICMP will also address relative investments to different range complexes based on goals across all range complexes, and monitoring will leverage multiple techniques for data acquisition and analysis whenever possible.

Within the GOA TMAA Study Area, the Navy's monitoring for GOA TMAA under this LOA authorization and concurrently in other areas of the Pacific Ocean will therefore be structured to address region-specific species-specific study questions in consultation with NMFS.

The outcome of the March 2016 Navy-NMFS monitoring meeting, including any proposed monitoring during the period covered by this proposed rule

(2016–2021) will be discussed in the final rule. In addition, Navy monitoring projects proposed during the 2016–2021 GOA TMAA rulemaking period will be posted on the Navy's marine species monitoring Web site (*http://www.navymarinespeciesmonitoring.us/regions/pacific/current-projects/*).

Ongoing Navy Research

The U.S. Navy is one of the world's leading organizations in assessing the effects of human activities on the marine environment including marine mammals. From 2004 through 2013, the Navy has funded over $240M specifically for marine mammal research. Navy scientists work cooperatively with other government researchers and scientists, universities, industry, and non-governmental conservation organizations in collecting, evaluating, and modeling information on marine resources. They also develop approaches to ensure that these resources are minimally impacted by existing and future Navy operations. It is imperative that the Navy's R&D efforts related to marine mammals are conducted in an open, transparent manner with validated study needs and requirements. The goal of the Navy's R&D program is to enable collection and publication of scientifically valid research as well as development of techniques and tools for Navy, academic, and commercial use. Historically, R&D programs are funded and developed by the Navy's Chief of Naval Operations Energy and Environmental Readiness Division (OPNAV N45) and Office of Naval Research (ONR), Code 322 Marine Mammals and Biological Oceanography Program. The primary focus of these programs since the 1990s is on understanding the effects of sound on marine mammals, including physiological, behavioral, and ecological effects.

ONR's current Marine Mammals and Biology Program thrusts include, but are not limited to: (1) monitoring and detection research, (2) integrated ecosystem research including sensor and tag development, (3) effects of sound on marine life (such as hearing, behavioral response studies, physiology [diving and stress], and PCAD), and (4) models and databases for environmental compliance.

To manage some of the Navy's marine mammal research programmatic elements, OPNAV N45 developed in 2011 a new Living Marine Resources (LMR) Research and Development Program (*http://www.lmr.navy.mil/*). The goal of the LMR Research and Development Program is to identify and fill knowledge gaps and to demonstrate, validate, and integrate new processes and technologies to minimize potential effects to marine mammals and other marine resources. Key elements of the LMR program include:

- Providing science-based information to support Navy environmental effects assessments for research, development, acquisition, testing and evaluation as well as Fleet at-sea training, exercises, maintenance and support activities.
- Improving knowledge of the status and trends of marine species of concern and the ecosystems of which they are a part.
- Developing the scientific basis for the criteria and thresholds to measure the effects of Navy generated sound.
- Improving understanding of underwater sound and sound field characterization unique to assessing the biological consequences resulting from underwater sound (as opposed to tactical applications of underwater sound or propagation loss modeling for military communications or tactical applications).
- Developing technologies and methods to monitor and, where possible, mitigate biologically significant consequences to living marine resources resulting from naval activities, emphasizing those consequences that are most likely to be biologically significant.

Navy Research and Development

Navy Funded—Both the LMR and ONR Research and Development Programs periodically fund projects within the Study Area. Some data and results, when available from these R&D projects, are typically summarized in the Navy's annual range complex Monitoring Reports that are currently submitted to the NMFS each year. In addition, the Navy's Range Complex monitoring during training and testing activities is coordinated with the R&D monitoring in a given region to leverage research objectives, assets, and studies where possible under the ICMP.

The integration between the Navy's new LMR Research and Development Program and related range complex monitoring will continue and improve during this LOA application period with applicable results presented in GOA TMAA annual monitoring reports.

Other National Department of Defense Funded Initiatives—Strategic Environmental Research and Development Program (SERDP) and Environmental Security Technology Certification Program (ESTCP) are the DoD's environmental research programs, harnessing the latest science and technology to improve environmental performance, reduce costs, and enhance and sustain mission capabilities. The Programs respond to environmental technology requirements that are common to all of the military Services, complementing the Services' research programs. SERDP and ESTCP promote partnerships and collaboration among academia, industry, the military Services, and other Federal agencies. They are independent programs managed from a joint office to coordinate the full spectrum of efforts, from basic and applied research to field demonstration and validation.

Adaptive Management

The final regulations governing the take of marine mammals incidental to Navy training activities in the Study Area would contain an adaptive management component carried over from previous authorizations. Although better than 5 years ago, our understanding of the effects of Navy training and testing activities (*e.g.,* MFAS/HFAS, underwater detonations) on marine mammals is still relatively limited, and yet the science in this field is evolving fairly quickly. These circumstances make the inclusion of an adaptive management component both valuable and necessary within the context of 5-year regulations for activities that have been associated with marine mammal mortality in certain circumstances and locations.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the previous year to allow NMFS to consider whether any changes are appropriate. NMFS and the Navy would meet to discuss the monitoring reports, Navy R&D developments, and current science and whether mitigation or monitoring modifications are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring and exercises reports, as required by MMPA authorizations; (2) compiled results of Navy funded R&D

studies; (3) results from specific stranding investigations; (4) results from general marine mammal and sound research; and (5) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOA.

Proposed Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking''. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring. Some of the reporting requirements are still in development and the final rulemaking may contain additional details not contained here. Additionally, proposed reporting requirements may be modified, removed, or added based on information or comments received during the public comment period. Reports from individual monitoring events, results of analyses, publications, and periodic progress reports for specific monitoring projects would be posted to the Navy's Marine Species Monitoring web portal: *http://www.navymarinespeciesmonitoring.us*. Currently, there are several different reporting requirements pursuant to these proposed regulations:

General Notification of Injured or Dead Marine Mammals

Navy personnel would ensure that NMFS (the appropriate Regional Stranding Coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations. The Navy would provide NMFS with species identification or a description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photographs or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.

Vessel Strike

NMFS has developed the following language to address monitoring and reporting measures specific to vessel strike. Most of this language comes directly from the Stranding Response Plan for other Navy training and testing rulemakings. This section has also been included in the regulatory text at the end of this proposed rule. Vessel strike during Navy training activities in the Study Area is not anticipated; however, in the event that a Navy vessel strikes a whale, the Navy shall do the following:

Immediately report to NMFS (pursuant to the established Communication Protocol) the:

- Species identification (if known);
- Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);
- Whether the animal is alive or dead (or unknown); and
- The time of the strike.

As soon as feasible, the Navy shall report to or provide to NMFS, the:

- Size, length, and description (critical if species is not known) of animal;
- An estimate of the injury status (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);
- Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no longer sighted);
- Vessel class/type and operational status;
- Vessel length;
- Vessel speed and heading; and
- To the best extent possible, obtain a photo or video of the struck animal, if the animal is still in view.

Within 2 weeks of the strike, provide NMFS:

- A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (*e.g.,* the speed and changes in speed, the direction and changes in direction, other maneuvers, sonar use, etc., if not classified);
- A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

NMFS and the Navy will coordinate to determine the services the Navy may provide to assist NMFS with the investigation of the strike. The response and support activities to be provided by the Navy are dependent on resource availability, must be consistent with military security, and must be logistically feasible without compromising Navy personnel safety. Assistance requested and provided may vary based on distance of strike from shore, the nature of the vessel that hit the whale, available nearby Navy resources, operational and installation commitments, or other factors.

Annual GOA TMAA Monitoring Report

The Navy shall submit an annual report of the GOA TMAA monitoring describing the implementation and results from the previous calendar year. Data collection methods will be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, Navy Lookouts collecting marine mammal data pursuant to the GOA TMAA monitoring plan shall, at a minimum, provide the same marine mammal observation data required in § 218.155. The report shall be submitted either 90 days after the calendar year, or 90 days after the conclusion of the monitoring year to be determined by the Adaptive Management process. The GOA TMAA Monitoring Report may be provided to NMFS within a larger report that includes the required Monitoring Plan reports from multiple range complexes and study areas (the multi-Range Complex Annual Monitoring Report). Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the Integrated Comprehensive Monitoring Program. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring plan study questions.

Annual GOA TMAA Exercise Report

Each year, the Navy shall submit a preliminary report detailing the status of authorized sound sources within 21 days after the anniversary of the date of issuance of the LOA. Each year, the Navy shall submit a detailed report within 3 months after the anniversary of the date of issuance of the LOA. The annual report shall contain information on Major Training Exercises (MTEs), Sinking Exercise (SINKEX) events, and a summary of all sound sources used (total hours or quantity [per the LOA] of each bin of sonar or other non-impulsive source; total annual number of each type of explosive exercises; and total annual expended/detonated rounds [missiles, bombs, sonobuoys, etc.] for each explosive bin). The analysis in the detailed report will be

based on the accumulation of data from the current year's report and data collected from previous the report. Information included in the classified annual reports may be used to inform future adaptive management of activities within the GOA TMAA.

Sonar Exercise Notification

The Navy shall submit to NMFS (specific contact information to be provided in LOA) an electronic report within fifteen calendar days after the completion of any major training exercise indicating: Location of the exercise; beginning and end dates of the exercise; and type of exercise.

5-Year Close-Out Exercise Report

This report will be included as part of the 2021 annual exercise report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the SEIS and final rule determinations. The report will be submitted 3 months after the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

Estimated Take of Marine Mammals

In the Potential Effects section, NMFS' analysis identified the lethal responses, physical trauma, sensory impairment (PTS, TTS, and acoustic masking), physiological responses (particular stress responses), and behavioral responses that could potentially result from exposure to MFAS/HFAS or underwater explosive detonations. In this section, the potential effects to marine mammals from MFAS/HFAS and underwater detonation of explosives will be related to the MMPA regulatory definitions of Level A and Level B harassment and we will attempt to quantify the effects that might occur from the proposed training activities in the Study Area.

As mentioned previously, behavioral responses are context-dependent, complex, and influenced to varying degrees by a number of factors other than just received level. For example, an animal may respond differently to a sound emanating from a ship that is moving towards the animal than it would to an identical received level coming from a vessel that is moving away, or to a ship traveling at a different speed or at a different distance from the animal. At greater distances, the nature of vessel movements could also potentially not have any effect on the animal's response to the sound. In any case, a full description of the suite of factors that elicited a behavioral response would require a mention of the vicinity, speed and movement of the vessel, or other factors. So, while sound sources and the received levels are the primary focus of the analysis and those that are laid out quantitatively in the regulatory text, it is with the understanding that other factors related to the training sometimes contribute to the behavioral responses of marine mammals, although they cannot be quantified.

Definition of Harassment

As mentioned previously, with respect to military readiness activities, section 3(18)(B) of the MMPA defines ''harassment'' as: ''(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].'' It is important to note that, as Level B harassment is interpreted here and quantified by the behavioral thresholds described below, the fact that a single behavioral pattern (of unspecified duration) is abandoned or significantly altered and classified as a Level B take does not mean, necessarily, that the fitness of the harassed individual is affected either at all or significantly, or that, for example, a preferred habitat area is abandoned. Further analysis of context and duration of likely exposures and effects is necessary to determine the impacts of the estimated effects on individuals and how those may translate to population level impacts, and is included in the Analysis and Negligible Impact Determination.

Level B Harassment

Of the potential effects that were described earlier in this proposed rule, the following are the types of effects that fall into the Level B harassment category:

Behavioral Harassment—Behavioral disturbance that rises to the level described in the definition above, when resulting from exposures to non-impulsive or impulsive sound, is considered Level B harassment. Some of the lower level physiological stress responses discussed earlier would also likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. When Level B harassment is predicted based on estimated behavioral responses, those takes may have a stress-related physiological component as well. Except for some vocalization changes that may be compensating for auditory masking, all behavioral reactions are assumed to occur due to a preceding stress or cueing response; however, stress responses cannot be predicted directly due to a lack of scientific data. Responses can overlap; for example, an increased respiration rate is likely to be coupled to a flight response or other avoidance behavior. Factors to consider when trying to predict a stress response include the mammal's life history stage and whether they are naïve or experienced with the sound. Prior experience with a stressor may be of particular importance as repeated experience with a stressor may dull the stress response via acclimation (St. Aubin and Dierauf, 2001; Bejder *et al.,* 2009).

As the statutory definition is currently applied, a wide range of behavioral reactions may qualify as Level B harassment under the MMPA, including but not limited to avoidance of the sound source, temporary changes in vocalizations or dive patters, temporary avoidance of an area, or temporary disruption of feeding, migrating, or reproductive behaviors. The estimates calculated by the Navy using the acoustic thresholds do not differentiate between the different types of potential behavioral reactions. Nor do the estimates provide information regarding the potential fitness or other biological consequences of the reactions on the affected individuals. We therefore consider the available scientific evidence to determine the likely nature of the modeled behavioral responses and the potential fitness consequences for affected individuals.

Acoustic Masking and Communication Impairment—Acoustic masking and communication impairment are considered Level B harassment as they can disrupt natural behavioral patterns by interrupting or limiting the marine mammal's receipt or transmittal of important information or

environmental cues. As discussed in the Analysis and Negligible Impact Determination later in this proposed rule, masking effects from MFAS/HFAS are expected to be minimal. If masking or communication impairment were to occur briefly, it would be in the frequency range of MFAS, which overlaps with some marine mammal vocalizations; however, it would likely not mask the entirety of any particular vocalization, communication series, or other critical auditory cue, because the signal length, frequency, and duty cycle of the MFAS/HFAS signal does not perfectly mimic the characteristics of any marine mammal's vocalizations. The other sources used in Navy training, many of either higher frequencies (meaning that the sounds generated attenuate even closer to the source) or lower amounts of operation, are similarly not expected to result in masking or communication impairment.

Temporary Threshold Shift (TTS)—As discussed previously, TTS can affect how an animal behaves in response to the environment, including conspecifics, predators, and prey. The following physiological mechanisms are thought to play a role in inducing auditory fatigue: Effects to sensory hair cells in the inner ear that reduce their sensitivity, modification of the chemical environment within the sensory cells; residual muscular activity in the middle ear, displacement of certain inner ear membranes; increased blood flow; and post-stimulatory reduction in both efferent and sensory neural output. Ward (1997) suggested that when these effects result in TTS rather than PTS, they are within the normal bounds of physiological variability and tolerance and do not represent a physical injury. Additionally, Southall *et al.* (2007) indicate that although PTS is a tissue injury, TTS is not because the reduced hearing sensitivity following exposure to intense sound results primarily from fatigue, not loss, of cochlear hair cells and supporting structures and is reversible. Accordingly, NMFS classifies TTS (when resulting from exposure to sonar and other active acoustic sources and explosives and other impulsive sources) as Level B harassment, not Level A harassment (injury).

The sound characteristics that correlate with specific stress responses in marine mammals are poorly understood. Therefore, in practice, a stress response is assumed if a physiological reaction such as a hearing loss (threshold shift—*i.e.,* TTS or PTS) or trauma is predicted (or if a behavioral response is predicted, as discussed in the *Level B Harassment* section).

Only non-TTS behavioral reactions and TTS are anticipated with the GOA TMAA training activities, and these Level B behavioral harassment takes are enumerated in Tables 12 and 13 and in the Negligible Impact Determination later in this proposed rule.

Level A Harassment

Of the potential effects that were described earlier, following are the types of effects that can fall into the Level A harassment category (unless they further rise to the level of serious injury or mortality):

Permanent Threshold Shift (PTS)—PTS (resulting either from exposure to MFAS/HFAS or explosive detonations) is irreversible and considered an injury. PTS results from exposure to intense sounds that cause a permanent loss of inner or outer cochlear hair cells or exceed the elastic limits of certain tissues and membranes in the middle and inner ears and result in changes in the chemical composition of the inner ear fluids. As mentioned above for TTS, a stress response is assumed if a physiological reaction such as a hearing loss (PTS) or trauma is predicted.

As discussed in the Negligible Impact Determination later in this proposed rule, only a small number (5) of Level A takes resulting from mild levels of PTS are predicted, and no serious injury or mortality takes are predicted, with the Navy's training activities in the GOA TMAA.

Tissue Damage due to Acoustically Mediated Bubble Growth—A few theories suggest ways in which gas bubbles become enlarged through exposure to intense sounds (MFAS/HFAS) to the point where tissue damage results. In rectified diffusion, exposure to a sound field would cause bubbles to increase in size which could cause tissue damage that would be considered injurious. A short duration of sonar pings (such as that which an animal exposed to MFAS would be most likely to encounter) would not likely be long enough to drive bubble growth to any substantial size. Alternately, bubbles could be destabilized by high-level sound exposures such that bubble growth then occurs through static diffusion of gas out of the tissues. The degree of supersaturation and exposure levels observed to cause microbubble destabilization are unlikely to occur, either alone or in concert because of how close an animal would need to be to the sound source to be exposed to high enough levels, especially considering the likely avoidance of the sound source and the required mitigation. For the reasons above, Level A harassment in the form of tissue damage from acoustically mediated bubble growth is not predicted for training activities in the GOA TMAA.

Tissue Damage due to Behaviorally Mediated Bubble Growth—Several authors suggest mechanisms in which marine mammals could behaviorally respond to exposure to MFAS/HFAS by altering their dive patterns (unusually rapid ascent, unusually long series of surface dives, etc.) in a manner that might result in unusual bubble formation or growth ultimately resulting in tissue damage. In this scenario, the rate of ascent would need to be sufficiently rapid to compromise behavioral or physiological protections against nitrogen bubble formation.

There is considerable disagreement among scientists as to the likelihood of this phenomenon (Piantadosi and Thalmann, 2004; Evans and Miller, 2003). Although it has been argued that traumas from recent beaked whale strandings are consistent with gas emboli and bubble-induced tissue separations (Jepson *et al.,* 2003; Fernandez *et al.,* 2005; Fernández *et al.,* 2012), nitrogen bubble formation as the cause of the traumas has not been verified. If tissue damage does occur by this phenomenon, it would be considered an injury. Recent modeling by Kvadsheim *et al.* (2012) determined that while behavioral and physiological responses to sonar have the potential to result in bubble formation, the actual observed behavioral responses of cetaceans to sonar did not imply any significantly increased risk over what may otherwise occur normally in individual marine mammals. Level A harassment in the form of tissue damage from behaviorally mediated bubble growth is not anticipated for training activities in the GOA TMAA.

Physical Disruption of Tissues Resulting from Explosive Shock Wave—Physical damage of tissues resulting from a shock wave (from an explosive detonation) is classified as an injury. Blast effects are greatest at the gas-liquid interface (Landsberg, 2000) and gas-containing organs, particularly the lungs and gastrointestinal tract, are especially susceptible (Goertner, 1982; Hill 1978; Yelverton *et al.,* 1973). Nasal sacs, larynx, pharynx, trachea, and lungs may be damaged by compression/expansion caused by the oscillations of the blast gas bubble (Reidenberg and Laitman, 2003). Severe damage (from the shock wave) to the ears can include tympanic membrane rupture, fracture of the ossicles, damage to the cochlea, hemorrhage, and cerebrospinal fluid leakage into the middle ear. Explosions in the ocean or near the water surface can introduce loud, impulsive,

broadband sounds into the marine environment. These sounds are likely within the audible range of most marine mammals, but the duration of individual sounds is very short. The direct sound from explosions used during training activities last less than a second, and most events involve the use of only one or a few explosions. Furthermore, events are dispersed in time and throughout the GOA TMAA Study Area. These factors reduce the likelihood of these sources causing substantial physical disruption of tissues in marine mammals, especially when the avoidance and mitigation factors are taken into consideration. Consequently, no Level A harassment from explosive shock waves is anticipated from training activities in the GOA TMAA.

Vessel or Ordnance Strike—Vessel strike or ordnance strike associated with the specified activities would be considered Level A harassment, serious injury, or mortality. There are no records of any Navy vessel strikes to marine mammals during training activities in the GOA TMMA Study Area. There have been Navy strikes of large whales in areas outside the Study Area, such as Hawaii and Southern California. However, these areas differ significantly from the Study Area given that both Hawaii and Southern California have a much higher number of Navy vessel activities and much higher densities of large whales. The Navy's proposed actions would not result in any appreciable changes in locations or frequency of vessel activity, and there have been no whale strikes during any previous training activities in the Study Area. The manner in which the Navy has trained would remain consistent with the range of variability observed over the last decade so the Navy does not anticipate vessel strikes would occur within the Study Area during training events. As such, vessel or ordnance strike is not anticipated with the Navy activities in the Study Area and Level A harassment, serious injury, or mortality are not expected.

Take Thresholds

For the purposes of an MMPA authorization, three types of take are identified: Level B harassment; Level A harassment; and mortality (or serious injury leading to mortality). The categories of marine mammal responses (physiological and behavioral) that fall into the two harassment categories were described in the previous section.

Because the physiological and behavioral responses of the majority of the marine mammals exposed to non-impulse and impulse sounds cannot be easily detected or measured, and because NMFS must authorize take prior to the impacts to marine mammals, a method is needed to estimate the number of individuals that will be taken, pursuant to the MMPA, based on the proposed action. To this end, NMFS developed acoustic thresholds that estimate at what received level (when exposed to non-impulse or impulse sounds) Level B harassment and Level A harassment of marine mammals would occur. The acoustic thresholds for non-impulse and impulse sounds are discussed below.

Level B Harassment Threshold (TTS)—Behavioral disturbance, acoustic masking, and TTS are all considered Level B harassment. Marine mammals would usually be behaviorally disturbed at lower received levels than those at which they would likely sustain TTS, so the levels at which behavioral disturbance are likely to occur is considered the onset of Level B harassment. The behavioral responses of marine mammals to sound are variable, context specific, and, therefore, difficult to quantify (see Risk Function section, below).

TTS is a physiological effect that has been studied and quantified in laboratory conditions. Because data exist to support an estimate of the received levels at which marine mammals will incur TTS, NMFS uses an acoustic criteria to estimate the number of marine mammals that might sustain TTS. TTS is a subset of Level B harassment (along with sub-TTS behavioral harassment) and the Navy is not specifically required to estimate those numbers; however, the more specifically the affected marine mammal responses can be estimated, the better the analysis.

Level A Harassment Threshold (PTS)—For acoustic effects, because the tissues of the ear appear to be the most susceptible to the physiological effects of sound, and because threshold shifts tend to occur at lower exposures than other more serious auditory effects, NMFS has determined that PTS is the best indicator for the smallest degree of injury that can be measured. Therefore, the acoustic exposure associated with onset-PTS is used to define the lower limit of Level A harassment.

PTS data do not currently exist for marine mammals and are unlikely to be obtained due to ethical concerns. However, PTS levels for these animals may be estimated using TTS data from marine mammals and relationships between TTS and PTS that have been determined through study of terrestrial mammals.

We note here that behaviorally mediated injuries (such as those that have been hypothesized as the cause of some beaked whale strandings) could potentially occur in response to received levels lower than those believed to directly result in tissue damage. As mentioned previously, data to support a quantitative estimate of these potential effects (for which the exact mechanism is not known and in which factors other than received level may play a significant role) do not exist. However, based on the number of years (more than 60) and number of hours of MFAS per year that the U.S. (and other countries) has operated compared to the reported (and verified) cases of associated marine mammal strandings, NMFS believes that the probability of these types of injuries is very low. Tables 9 and 10 provide a summary of non-impulsive and impulsive thresholds to TTS and PTS for marine mammals. A detailed explanation of how these thresholds were derived is provided in the Criteria and Thresholds Technical Report (Finneran and Jenkins, 2012) and summarized in Chapter 6 of the LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*).

TABLE 9—ONSET TTS AND PTS THRESHOLDS FOR NON-IMPULSE SOUND

Group	Species	Onset TTS	Onset PTS
Low-Frequency Cetaceans	All mysticetes	178 dB re 1μPa2-sec(LF_{II})	198 dB re 1μPa2-sec(LF_{II}).
Mid-Frequency Cetaceans	Most delphinids, beaked whales, medium and large toothed whales.	178 dB re 1μPa2-sec(MF_{II})	198 dB re 1μPa2-sec(MF_{II}).
High-Frequency Cetaceans	Porpoises, *Kogia* spp.	152 dB re 1μPa2-sec(HF_{II})	172 dB re 1μPa2-secSEL (HF_{II}).
Phocidae In-water	Harbor, Hawaiian monk, elephant seals.	183 dB re 1μPa2-sec(P_{WI})	197 dB re 1μPa2-sec(P_{WI}).

TABLE 9—ONSET TTS AND PTS THRESHOLDS FOR NON-IMPULSE SOUND—Continued

Group	Species	Onset TTS	Onset PTS
Otariidae & Obodenidae In-water ..	Sea lions and fur seals	206 dB re 1μPa2-sec(O_{WI})	220 dB re 1μPa2-sec(O_{WI}).
Mustelidae In-water	Sea otters.		

LF_{II}, MF_{II}, HF_{II}: New compound Type II weighting functions; P_{WI}, O_{WI}: Original Type I (Southall *et al.,* 2007) for pinniped and mustelid in water.

Table 10. Impulsive sound explosive criteria and thresholds for predicting injury and mortality.

Group	Species	Onset TTS	Onset PTS	Onset Slight GI Tract Injury	Onset Slight Lung Injury	Onset Mortality
Low Frequency Cetaceans	All mysticetes	172 dB re 1 μPa^2-s SEL (Type II weighting) or 224 dB re 1 μPa Peak SPL (unweighted)	187 dB re 1 μPa^2-s SEL (Type II weighting) or 230 dB re 1 μPa Peak SPL (unweighted)	237 dB re 1 μPa (unweighted)	Note 1	Note 2
Mid-Frequency Cetaceans	Most delphinids, medium and large toothed whales	172 dB re 1 μPa^2-s SEL (Type II weighting) or 224 dB re 1 μPa Peak SPL (unweighted)	187 dB re 1 μPa^2-s SEL (Type II weighting) or 230 dB re 1 μPa Peak SPL (unweighted)			
High Frequency Cetaceans	Porpoises and *Kogia* spp.	146 dB re 1 μPa^2-s SEL (Type II weighting) or 195 dB re 1 μPa Peak SPL (unweighted)	161 dB re 1 μPa^2-s SEL (Type II weighting) or 201 dB re 1 μPa Peak SPL (unweighted)			
Phocidae	Northern elephant seal and harbor seal	177 dB re 1 μPa^2-s (Type I weighting) or 212 dB re 1 μPa Peak SPL (unweighted)	192 dB re 1 μPa^2-s (Type I weighting) or 218 dB re 1 μPa Peak SPL (unweighted)			
Otariidae	Steller and California Sea Lion, Guadalupe and Northern fur seal	200 dB re 1 μPa^2-s (Type I weighting) or 212 dB re 1 μPa Peak SPL (unweighted)	215 dB re 1 μPa^2-s (Type I weighting) or 218 dB re 1 μPa Peak SPL (unweighted)			
Mustelidae	Sea Otter					
Note 1 $= 39.1M^{1/3}\left(1+\frac{D_{Rm}}{10.081}\right)^{1/2} Pa-\text{sec}$			Note 2 $= 91.4M^{1/3}\left(1+\frac{D_{Rm}}{10.081}\right)^{1/2} Pa-\text{sec}$			

[1] Impulse calculated over a delivery time that is the lesser of the initial positive pressure duration or 20 percent of the natural period of the assumed-spherical lung adjusted for animal size and depth.
Notes: GI = gastrointestinal, M = mass of animals in kilograms, D_{Rm} = depth of receiver (animal) in meters, SEL = Sound Exposure Level, SPL = Sound Pressure Level (re 1 μPa), dB = decibels, re 1 μPa = referenced to one micropascal, dB re 1 μPa^2-s = decibels referenced to one micropascal squared second

Level B Harassment Risk Function (Behavioral Harassment)

As the statutory definition is currently applied, a wide range of behavioral reactions may qualify as Level B harassment under the MMPA, including but not limited to avoidance of the sound source, temporary changes in vocalizations or dive patters, temporary avoidance of an area, or temporary disruption of feeding, migrating, or reproductive behaviors. The estimates

calculated by the Navy using the acoustic thresholds do not differentiate between the different types of potential behavioral reactions. Nor do the estimates provide information regarding the potential fitness or other biological consequences of the reactions on the affected individuals. We therefore consider the available scientific evidence to determine the likely nature of the modeled behavioral responses and the potential fitness consequences for affected individuals.

Behavioral Response Criteria for Non-Impulsive Sound from Sonar and other Active Sources—In 2006, NMFS issued the first MMPA authorization to allow the take of marine mammals incidental to MFAS (to the Navy for RIMPAC). For that authorization, NMFS used 173 dB SEL as the criterion for the onset of behavioral harassment (Level B harassment). This type of single number criterion is referred to as a step function, in which (in this example) all animals estimated to be exposed to received levels above 173 db SEL would be predicted to be taken by Level B Harassment and all animals exposed to less than 173 dB SEL would not be taken by Level B harassment. As mentioned previously, marine mammal behavioral responses to sound are highly variable and context specific (affected by differences in acoustic conditions; differences between species and populations; differences in gender, age, reproductive status, or social behavior; or the prior experience of the individuals), which means that there is support for alternate approaches for estimating behavioral harassment.

Unlike step functions, acoustic risk continuum functions (which are also called ''exposure-response functions'' or ''dose-response functions'' in other risk assessment contexts) allow for probability of a response that NMFS would classify as harassment to occur over a range of possible received levels (instead of one number) and assume that the probability of a response depends first on the ''dose'' (in this case, the received level of sound) and that the probability of a response increases as the ''dose'' increases. In January 2009, NMFS issued three final rules governing the incidental take of marine mammals (within Navy's Hawaii Range, Southern California Training and Testing Range, and Atlantic Fleet Active Sonar Training complexes) that used a risk continuum to estimate the percent of marine mammals exposed to various levels of MFAS that would respond in a manner NMFS considers harassment.

The Navy and NMFS have previously used acoustic risk functions to estimate the probable responses of marine mammals to acoustic exposures for other training and research programs. Examples of previous application include the Navy FEISs on the Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar (U.S. Department of the Navy, 2001c); the North Pacific Acoustic Laboratory experiments conducted off the Island of Kauai (Office of Naval Research, 2001), and the Supplemental EIS for SURTASS LFA sonar (U.S. Department of the Navy, 2007d). As discussed earlier, factors other than received level (such as distance from or bearing to the sound source, context of animal at time of exposure) can affect the way that marine mammals respond; however, data to support a quantitative analysis of those (and other factors) do not currently exist. It is also worth specifically noting that while context is very important in marine mammal response, given otherwise equivalent context, the severity of a marine mammal behavioral response is also expected to increase with received level (Houser and Moore, 2014). NMFS will continue to modify these criteria as new data become available and can be appropriately and effectively incorporated.

The particular acoustic risk functions developed by NMFS and the Navy (see Figures 1 and 2 of the LOA application) estimate the probability of behavioral responses to MFAS/HFAS (interpreted as the percentage of the exposed population) that NMFS would classify as harassment for the purposes of the MMPA given exposure to specific received levels of MFAS/HFAS. The mathematical function (below) underlying this curve is a cumulative probability distribution adapted from a solution in Feller (1968) and was also used in predicting risk for the Navy's SURTASS LFA MMPA authorization as well.

$$R = \frac{1 - \left(\frac{L-B}{K}\right)^{-A}}{1 - \left(\frac{L-B}{K}\right)^{-2A}}$$

Where:
R = Risk (0—1.0)
L = Received level (dB re: 1 μPa)
B = Basement received level = 120 dB re: 1 μPa
K = Received level increment above B where 50-percent risk = 45 dB re: 1 μPa
A = Risk transition sharpness parameter = 10 (odontocetes and pinnipeds) or 8 (mysticetes)

Detailed information on the above equation and its parameters is available in the LOA application and previous Navy documents listed above.

The harbor porpoise and beaked whales have unique criteria based on specific data that show these animals to be especially sensitive to sound. Harbor porpoise and beaked whale non-impulsive behavioral criteria are used unweighted—without weighting the received level before comparing it to the threshold (see Finneran and Jenkins, 2012).

It has been speculated for some time that beaked whales might have unusual sensitivities to sonar sound due to their likelihood of stranding in conjunction with mid-frequency sonar use, even in areas where other species were more abundant (D'Amico *et al.,* 2009), but there were not sufficient data to support a separate treatment for beaked whales until recently. With the recent publication of results from Blainville's beaked whale monitoring and experimental exposure studies on the instrumented AUTEC range in the Bahamas (McCarthy *et al.* 2011; Tyack *et al.* 2011), there are now statistically strong data suggesting that beaked whales tend to avoid actual naval mid-frequency sonar in real anti-submarine training scenarios as well as playbacks of killer whale vocalizations, and other anthropogenic sounds. Tyack *et al.* (2011) report that, in reaction to sonar playbacks, most beaked whales stopped echolocating, made long slow ascent, and moved away from the sound. During an exercise using mid-frequency sonar, beaked whales avoided the sonar acoustic footprint at a distance where the received level was ''around 140 dB'' (SPL) and once the exercise ended, beaked whales re-inhabited the center of exercise area within 2–3 days (Tyack *et al.,* 2011). The Navy has therefore adopted an unweighted 140 dB re 1 μPa SPL threshold for significant behavioral effects for all beaked whales (family: Ziphiidae).

Since the development of the criterion, analysis of the data the 2010 and 2011 field seasons of the southern California Behavioral Responses Study have been published. The study, DeRuiter *et al.* (2013b), provides similar evidence of Cuvier's beaked whale sensitivities to sound based on two controlled exposures. Two whales, one in each season, were tagged and exposed to simulated mid-frequency active sonar at distances of 3.4–9.5 km. The 2011 whale was also incidentally exposed to mid-frequency active sonar from a distant naval exercise (approximately 118 km away). Received levels from the mid-frequency active sonar signals during the controlled and incidental exposures were calculated as

84–144 and 78–106 dB re 1 μPa rms, respectively. Both whales showed responses to the controlled exposures, ranging from initial orientation changes to avoidance responses characterized by energetic fluking and swimming away from the source. However, the authors did not detect similar responses to incidental exposure to distant naval sonar exercises at comparable received levels, indicating that context of the exposures (*e.g.,* source proximity, controlled source ramp-up) may have been a significant factor. Because the sample size was limited (controlled exposures during a single dive in both 2010 and 2011) and baseline behavioral data was obtained from different stocks and geographic areas (*i.e.,* Hawaii and Mediterranean Sea), and the responses exhibited to controlled exposures were not exhibited by an animal exposed to some of the same received levels of real sonar exercises, the Navy relied on the studies at the AUTEC that analyzed beaked whale responses to actual naval exercises using mid-frequency active sonar to evaluate potential behavioral responses by beaked whales to proposed training and testing activities using sonar and other active acoustic sources.

The information currently available regarding harbor porpoises suggests a very low threshold level of response for both captive and wild animals. Threshold levels at which both captive (Kastelein *et al.,* 2000; Kastelein *et al.,* 2005; Kastelein *et al.,* 2006; Kastelein *et al.,* 2008) and wild harbor porpoises (Johnston, 2002) responded to sound (*e.g.,* acoustic harassment devices, acoustic deterrent devices, or other non-impulsive sound sources) are very low (*e.g.,* approximately 120 dB re 1 μPa). Therefore, a SPL of 120 dB re 1 μPa is used in this analysis as a threshold for predicting behavioral responses in harbor porpoises instead of the risk functions used for other species (*i.e.,* we assume for the purpose of estimating take that all harbor porpoises exposed to 120 dB or higher MFAS/HFAS will be taken by Level B behavioral harassment).

Behavioral Response Criteria for Impulsive Sound from Explosions — If more than one explosive event occurs within any given 24-hour period within a training or testing event, behavioral criteria are applied to predict the number of animals that may be taken by Level B harassment. For multiple explosive events the behavioral threshold used in this analysis is 5 dB less than the TTS onset threshold (in sound exposure level). This value is derived from observed onsets of behavioral response by test subjects (bottlenose dolphins) during non-impulse TTS testing (Schlundt *et al.,* 2000). Some multiple explosive events, such as certain naval gunnery exercises, may be treated as a single impulsive event because a few explosions occur closely spaced within a very short period of time (a few seconds). For single impulses at received sound levels below hearing loss thresholds, the most likely behavioral response is a brief alerting or orienting response. Since no further sounds follow the initial brief impulses, Level B take in the form of behavioral harassment beyond that associated with potential TTS would not be expected to occur. This reasoning was applied to previous shock trials (63 FR 230; 66 FR 87; 73 FR 143) and is extended to these Phase 2 criteria. Behavioral thresholds for impulsive sources are summarized in Table 11 and further detailed in the LOA application.

Since impulse events can be quite short, it may be possible to accumulate multiple received impulses at sound pressure levels considerably above the energy-based criterion and still not be considered a behavioral take. The Navy treats all individual received impulses as if they were one second long for the purposes of calculating cumulative sound exposure level for multiple impulse events. For example, five air gun impulses, each 0.1 second long, received at a Type II weighted sound pressure level of 167 dB SPL would equal a 164 dB sound exposure level, and would not be predicted as leading to a significant behavioral response (take) in MF or HF cetaceans. However, if the five 0.1 second pulses are treated as a 5 second exposure, it would yield an adjusted SEL of approximately 169 dB, exceeding the behavioral threshold of 167 dB SEL. For impulses associated with explosions that have durations of a few microseconds, this assumption greatly overestimates effects based on sound exposure level metrics such as TTS and PTS and behavioral responses. Appropriate weighting values will be applied to the received impulse in one-third octave bands and the energy summed to produce a total weighted sound exposure level value. For impulsive behavioral criteria, the Navy's weighting functions (detailed in Chapter 6 of the LOA application) are applied to the received sound level before being compared to the threshold.

TABLE 11—BEHAVIORAL THRESHOLDS FOR IMPULSIVE SOUND

Hearing group	Impulsive behavioral threshold for > 2 pulses/ 24 hours	Onset TTS
Low-Frequency Cetaceans	167 dB SEL (LF_{II})	172 dB SEL (MF_{II}) or 224 dB Peak SPL.
Mid-Frequency Cetaceans	167 dB SEL (MF_{II}).	
High-Frequency Cetaceans	141 dB SEL (HF_{II})	146 dB SEL (HF_{II}) or 195 dB Peak SPL.
Phocid Seals (in water)	172 dB SEL (P_{WI})	177 dB SEL (P_{WI}) or 212 dB Peak SPL.
Otariidae & Mustelidae (in water)	195 dB SEL (O_{WI})	200 dB SEL (O_{WI}) or 212 dB Peak SPL.

Notes: (1) LF_{II}, MF_{II}, HF_{II} are New compound Type II weighting functions; P_{WI}, O_{WI} = Original Type I (Southall *et al.,* 2007) for pinniped and mustelid in water (see Finneran and Jenkins 2012). (2) SEL = re 1 $\mu Pa^2 - s$; SPL = re 1 μPa, SEL = Sound Exposure Level, dB = decibel, SPL = Sound Pressure Level.

Marine Mammal Density Estimates

A quantitative impact analysis requires an estimate of the number of animals that might be affected by anthropogenic activities. A key element of this estimation is knowledge of the abundance and concentration of the species in specific areas where those activities will occur. The most appropriate unit of metric for this type of analysis is animal density, or the number of animals present per unit area. Marine species density estimation requires a significant amount of effort to both collect and analyze data to produce a reasonable estimate. Unlike surveys for terrestrial wildlife, many marine species spend much of their time submerged, and are not easily observed. In order to collect enough sighting data to make reasonable density estimates, multiple observations are required, often in areas that are not easily accessible (*e.g.,* far offshore). Ideally, marine species sighting data would be collected for the specific area and time period (*e.g.,* season) of interest and density estimates derived accordingly. However, in many places, poor weather conditions and high sea states prohibit

the completion of comprehensive visual surveys.

For most cetacean species, abundance is estimated using line-transect surveys or mark-recapture studies (*e.g.,* Barlow, 2010, Barlow and Forney, 2007, Calambokidis *et al.,* 2008). The result provides one single density estimate value for each species across broad geographic areas, such as waters within the U.S. EEZ off California, Oregon, and Washington. This is the general approach applied in estimating cetacean abundance in the NMFS Stock Assessment Reports. Although the single value provides a good average estimate of abundance (total number of individuals) for a specified area, it does not provide information on the species distribution or concentrations within that area, and it does not estimate density for other timeframes or seasons that were not surveyed. More recently, habitat modeling has been used to estimate cetacean densities (Barlow *et al.,* 2009; Becker *et al.,* 2010, 2012a, b, c; Ferguson *et al.,* 2006a; Forney *et al.,* 2012; Redfern *et al.,* 2006). These models estimate cetacean density as a continuous function of habitat variables (*e.g.,* sea surface temperature, seafloor depth, etc.) and thus allow predictions of cetacean densities on finer spatial scales than traditional line-transect or mark-recapture analyses. Within the geographic area that was modeled, densities can be predicted wherever these habitat variables can be measured or estimated.

Uncertainty in published density estimates is typically large because of the low number of sightings available for their derivation. Uncertainty is typically expressed by the coefficient of variation (CV) of the estimate, which is derived using standard statistical methods and describes the amount of variation with respect to the population mean. It is expressed as a fraction or sometimes a percentage and can range upward from zero, indicating no uncertainty, to high values. For example, a CV of 0.85 would indicate high uncertainty in the population estimate. When the CV exceeds 1.0, the estimate is very uncertain. The uncertainty associated with movements of animals into or out of an area (due to factors such as availability of prey or changing oceanographic conditions) is much larger than is indicated by the CV.

The methods used to estimate pinniped at-sea densities are typically different than those used for cetaceans. This is discussed in more detail in the Navy Marine Species Density Database Technical Report (U.S. Department of the Navy, 2014). Pinniped abundance is generally estimated via shore counts of animals at known rookeries and haulout sites. Translating these numbers to in-water densities is difficult given the variability in foraging ranges, migration, and haulout behavior between species and within each species, and is driven by factors such as age class, sex class, seasonal variation, etc. Details of the density derivation for each species of pinniped in the Study Area are provided in the U.S. Department of the Navy (2014). In summary, the methods used to derive pinniped densities involved a series of species-specific data reviews to compile the most accurate and up-to-date information available. The total abundance divided by the area of the region was the resultant density estimate for each species in a given location.

There is no single source of density data for every area, marine mammal species, and season because of the fiscal costs, resources, and effort involved to provide enough survey coverage to sufficiently estimate density. NMFS Southwest Fisheries Science Center conducts standard U.S. West Coast surveys every 5–6 years and cannot logistically support more frequent studies. The U.S. Navy has funded two previous marine mammal surveys in the GOA TMAA (Rone *et al.,* 2009, 2014) in the summer time-period when Navy training activities are most likely to occur. The density data used to quantitatively estimate impacts to marine mammals from Navy training in the GOA TMAA are based on the best available science and were agreed upon with NMFS as a cooperating agency for the SEIS/OEIS. As the federal regulator for the MMPA, the NMFS role included having staff biologists review and comment on the analysis and the SEIS/OEIS. The review also included coordination with NMFS regional scientists from the Southwest Fisheries Science Center and Alaska Fisheries Science Center on the latest emergent data presented in their Pacific Stock Assessment Reports.

In May 2015, the Marine Mammal Commission also reviewed the Marine Species Density Database Technical Report (U.S. Department of the Navy, 2014) and pointed out some textual errors that the Navy subsequently corrected, but otherwise did not identify any changes in the data used for acoustic effects modeling.

A certain number of sightings are required to generate the quality of data necessary to produce either traditional line-transect density estimates or spatial habitat modeled density values. The at-sea identification of some species of specific MMPA designated stocks is not always possible from available field data, nor would additional data collection likely address the identification issue based on low animal occurrence (*e.g.,* Western North Pacific gray whale), cryptic behaviors (*e.g.,* beaked whales), and appearance similarities between stocks (*e.g.,* Steller sea lions). In the absence of species-specific population survey data for these species, density estimates are derived from different methods and data sources, based on NMFS recommendations. The different methods for each of these species are described in Section 3.8.3.1.6.1 (Marine Species Density Data) of the DSEIS/OEIS and the Marine Species Density Database Technical Report (U.S. Department of the Navy, 2014). NMFS and Navy have determined that these alternative density estimates are sufficient for determining the impacts of Navy training on these marine mammals under all applicable statutes, and therefore are the best available science.

Therefore, to characterize marine mammal density for areas of concern, including the GOA TMAA Study Area, the Navy compiled data from multiple sources. Each data source may use different methods to estimate density and uncertainty (*e.g.,* variance) associated with the estimates.

The Navy thus developed a protocol to select the best available data sources based on species, area, and time (season). The Navy then used this protocol to identify the best density data from available sources, including habitat-based density models, line-transect analyses, and peer-reviewed published studies. These data were incorporated into a Geographic Information System database that includes seasonal (summer/fall and winter/spring) density values for every marine mammal species present within the Study Area. Detailed information on the Navy's selection protocol, datasets, and specific density values are provided in the Navy Marine Species Density Database Technical Report (U.S. Department of the Navy, 2014).

Quantitative Modeling To Estimate Take for Impulsive and Non-Impulsive Sound

The Navy performed a quantitative analysis to estimate the number of marine mammals that could be affected by acoustic sources or explosives used during Navy training activities. Inputs to the quantitative analysis include marine mammal density estimates; marine mammal depth occurrence distributions; oceanographic and environmental data; marine mammal hearing data; and criteria and thresholds for levels of potential effects. The quantitative analysis consists of

computer modeled estimates and a post-model analysis to determine the number of potential mortalities and harassments. The model calculates sound energy propagation from sonar, other active acoustic sources, and explosives during naval activities; the sound or impulse received by animat (virtual representation of an animal) dosimeters representing marine mammals distributed in the area around the modeled activity; and whether the sound or impulse received by a marine mammal exceeds the thresholds for effects. The model estimates are then further analyzed to consider animal avoidance and implementation of mitigation measures, resulting in final estimates of potential effects due to Navy training.

Various computer models and mathematical equations can be used to predict how energy spreads from a sound source (*e.g.,* sonar or underwater detonation) to a receiver (*e.g.,* dolphin or sea turtle). Basic underwater sound models calculate the overlap of energy and marine life using assumptions that account for the many, variable, and often unknown factors that can influence the result. Assumptions in previous and current Navy models have intentionally erred on the side of overestimation when there are unknowns or when the addition of other variables was not likely to substantively change the final analysis. For example, because the ocean environment is extremely dynamic and information is often limited to a synthesis of data gathered over wide areas and requiring many years of research, known information tends to be an average of a seasonal or annual variation. El Niño Southern Oscillation events of the ocean-atmosphere system are an example of dynamic change where unusually warm or cold ocean temperatures are likely to redistribute marine life and alter the propagation of underwater sound energy. Previous Navy modeling therefore made some assumptions indicative of a maximum theoretical propagation for sound energy (such as a perfectly reflective ocean surface and a flat seafloor).

More complex computer models build upon basic modeling by factoring in additional variables in an effort to be more accurate by accounting for such things as variable bathymetry and an animal's likely presence at various depths.

The Navy has developed new software tools, up to date marine mammal density data, and other oceanographic data for the quantification of estimated acoustic impacts to marine mammal impacts from Navy activities. This new approach is the resulting evolution of the basic model previously used by the Navy and reflects a more complex modeling approach as described below. The new model, NAEMO, is the standard model now used by the navy to estimate the potential acoustic effects of Navy training and testing activities on marine mammals. Although this more complex computer modeling approach accounts for various environmental factors affecting acoustic propagation, the current software tools do not consider the likelihood that a marine mammal would attempt to avoid repeated exposures to a sound or avoid an area of intense activity where a training or testing event may be focused. Additionally, the software tools do not consider the implementation of mitigation (*e.g.,* stopping sonar transmissions when a marine mammal is within a certain distance of a ship or mitigation zone clearance prior to detonations). In both of these situations, naval activities are modeled as though an activity would occur regardless of proximity to marine mammals and without any horizontal movement by the animal away from the sound source or human activities. Therefore, the final step of the quantitative analysis of acoustic effects is to consider the implementation of mitigation and the possibility that marine mammals would avoid continued or repeated sound exposures. This final, post-analysis step in the modeling process is meant to better quantify the predicted effects by accounting for likely animal avoidance behavior and implementation of standard Navy mitigations.

The incorporation of mitigation factors for the reduction of predicted effects used a conservative approach (erring on the side of overestimating the number of effects) since reductions as a result of implemented mitigation were only applied to those events having a very high likelihood of detecting marine mammals.

The steps of the quantitative analysis of acoustic effects, the values and assumptions that went into the Navy's model, and the resulting ranges to effects are detailed in Chapter 6 (Section 6.5) of the LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental/*). Details of the model's processes and the description and derivation of the inputs are presented in the Navy's Determination of Acoustic Effects technical Report (Marine Species Modeling Team, 2014). The post-model analysis, which considers the potential for avoidance and highly effective mitigation during the use of sonar and other active acoustic sources and explosives, is described in Section 6.5 of the LOA application. A detailed explanation of the post-model acoustic effect analysis quantification process is also provided in the technical report Post-Model Quantitative Analysis of Animal Avoidance Behavior and Mitigation Effectiveness for the Gulf of Alaska Training (U.S. Department of the Navy, 2014c; also available at: *http://goaeis.com/Documents/SupplementalEISOEISDocumentsandReferences/SupportingTechnicalDocuments.aspx*).

Take Request

The GOA DSEIS/OEIS considered all training activities proposed to occur in the Study Area that have the potential to result in the MMPA defined take of marine mammals. The stressors associated with these activities included the following:

- Acoustic (sonar and other active non-impulse sources, explosives, swimmer defense airguns, weapons firing, launch and impact noise, vessel noise, aircraft noise);
- Energy (electromagnetic devices);
- Physical disturbance or strikes (vessels, in-water devices, military expended materials, seafloor devices);
- Entanglement (fiber optic cables, guidance wires, parachutes);
- Ingestion (munitions, military expended materials other than munitions); and
- Secondary stressors (sediments and water quality).

The Navy determined, and NMFS agrees, that two stressors could potentially result in the incidental taking of marine mammals from training activities within the Study Area: (1) Non-impulsive stressors (sonar and other active acoustic sources) and (2) impulsive stressors (explosives). Non-impulsive and impulsive stressors have the potential to result in incidental takes of marine mammals by harassment, injury, or mortality.

Training Activities

A detailed analysis of effects due to marine mammal exposures to impulsive and non-impulsive sources in the Study Area is presented in Chapter 6 of the LOA application. Based on the model and post-model analysis described in Chapter 6 of the LOA application, Table 12 summarizes the Navy's final take request for training activities for a year (up to 2 exercises occurring over a 7-month period [April–October]) and the summation over a 5-year period (up to 2 exercises occurring over a 7-month period [April–October] for a total of 10 exercises).

TABLE 12—SUMMARY OF ANNUAL AND 5-YEAR TAKE REQUESTS FOR GOA TMAA TRAINING ACTIVITIES

MMPA Category	Source	Training activities	
		Annual authorization sought	5-Year authorization sought
Mortality	Explosives	0	0.
Level A	Sonar and other active acoustic sources; explosives.	5 (Dall's porpoise only as shown in Table 13).	25 (Dall's porpoise only as shown in Table 13).
Level B	Sonar and other active acoustic sources; explosives.	36,522 (Species specific data shown in Table 13).	182,610 (Species specific data shown in Table 13).

Impulsive and Non-Impulsive Sources

Table 13 provides details on the Navy's final take request for training activities by species from the acoustic effects modeling estimates. Derivations of the numbers presented in Table 13 are described in more detail within Chapter 6 of the LOA application. Level A effects are only predicted to occur for Dall's porpoises. There are no mortalities predicted for any of the proposed training activities.

TABLE 13—SPECIES-SPECIFIC TAKE REQUESTS FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TRAINING ACTIVITIES

Species	Stock	Annual		5-Year	
		Level B	Level A	Level B	Level A
North Pacific right whale	Eastern North Pacific	7	0	35	0
Humpback whale	Central North Pacific	129	0	645	0
	Western North Pacific	10	0	50	0
Blue whale	Eastern North Pacific	95	0	475	0
	Central North Pacific	0	0	0	0
Fin whale	Northeast Pacific	2,582	0	12,910	0
Sei whale	Eastern North Pacific	13	0	65	0
Minke whale	Alaska	87	0	435	0
Gray whale	Eastern North Pacific	0	0	0	0
	Western North Pacific	0	0	0	0
Sperm whale	North Pacific	197	0	985	0
Killer whale	Alaska Resident	564	0	2,820	0
	Eastern North Pacific Offshore	53	0	265	0
	AT1 Transient	1	0	5	0
	GOA, Aleutian Island, and Bearing Sea Transient.	144	0	720	0
Pacific white-sided dolphin	North Pacific	1,963	0	9,815	0
Harbor porpoise	Gulf of Alaska	5,484	0	27,420	0
	Southeast Alaska	1,926	0	9,630	0
Dall's porpoise	Alaska	16,244	5	81,220	25
Cuvier's beaked whale	Alaska	2,544	0	12,720	0
Baird's beaked whale	Alaska	401	0	2,005	0
Stejneger's beaked whale	Alaska	1,153	0	5,765	0
Steller sea lion	Eastern U.S.	671	0	3,355	0
	Western U.S.	572	0	2,860	0
California sea lion	U.S.	5	0	25	0
Northern fur seal	Eastern Pacific-Alaska	1,428	0	7,140	0
Northern elephant seal	California Breeding	245	0	1,225	0
Harbor seal	Aleutian Islands	0	0	0	0
	Pribilof Islands	0	0	0	0
	Bristol Bay	0	0	0	0
	North Kodiak	1	0	5	0
	South Kodiak	1	0	5	0
	Prince William Sound	2	0	10	0
	Cook Inlet/Shelikof	0	0	0	0
	Glacier Bay/Icy Strait	0	0	0	0
	Lynn Canal/Stephens	0	0	0	0
Harbor seal	Sitka/Chatham	0	0	0	0
	Dixon/Cape Decision	0	0	0	0
	Clarence Strait	0	0	0	0
Ribbon seal	Alaska	0	0	0	0
Totals		36,522	5	182,610	25

Marine Mammal Habitat

The Navy's proposed training activities could potentially affect marine mammal habitat through the introduction of sound into the water column, impacts to the prey species of marine mammals, bottom disturbance, or changes in water quality. Each of these components was considered in the

GOA DSEIS/OEIS and was determined by the Navy to have no effect on marine mammal habitat. Based on the information below and the supporting information included in the GOA DSEIS/OEIS, NMFS has preliminarily determined that the proposed training activities would not have adverse or long-term impacts on marine mammal habitat.

Expected Effects on Habitat

Unless the sound source or explosive detonation is stationary and/or continuous over a long duration in one area, the effects of the introduction of sound into the environment are generally considered to have a less severe impact on marine mammal habitat than the physical alteration of the habitat. Acoustic exposures are not expected to result in long-term physical alteration of the water column or bottom topography, as the occurrences are of limited duration and are intermittent in time. Surface vessels associated with the activities are present in limited duration and are intermittent as they move relatively rapidly through any given area. Most of the high-explosive military expended materials would detonate at or near the water surface. Only bottom-laid explosives are likely to affect bottom substrate; habitat used for underwater detonations and seafloor device placement would primarily be soft-bottom sediment. Once on the seafloor, military expended material would likely be colonized by benthic organisms because the materials would serve as anchor points in the shifting bottom substrates, similar to a reef. The surface area of bottom substrate affected would make up a very small percentage of the total training area available in the Study Area.

Effects on Marine Mammal Prey

Invertebrates—Marine invertebrate distribution in the Study Area is influenced by habitat, ocean currents, and water quality factors such as temperature, salinity, and nutrient content (Levinton 2009). The distribution of invertebrates is also influenced by their distance from the equator (latitude); in general, the number of marine invertebrate species increases toward the equator (Macpherson 2002). The higher number of species (diversity) and abundance of marine invertebrates in coastal habitats, compared with the open ocean, is a result of more nutrient availability from terrestrial environments and the variety of habitats and substrates found in coastal waters (Levinton 2009).

The GOA is one of the world's most productive ocean regions and the habitats associated with these cold and turbulent waters contain identifiable collections of macrohabitats that sustain a multitude of invertebrate species. Invertebrates in the GOA provide valuable links in the food chain and perform ecosystem functions such as nutrient processing. For humans, invertebrates contribute to economic, cultural, and recreational activities in the GOA.

All marine invertebrate taxonomic groups are represented in the Study Area. Major invertebrate phyla and the general zones they inhabit in the Study Area are described in Chapter 3 of the 2011 GOA FEIS/OEIS.

Very little is known about sound detection and use of sound by aquatic invertebrates (Budelmann 2010; Montgomery *et al.,* 2006; Popper *et al.,* 2001). Organisms may detect sound by sensing either the particle motion or pressure component of sound, or both. Aquatic invertebrates probably do not detect pressure since many are generally the same density as water and few, if any, have air cavities that would function like the fish swim bladder in responding to pressure (Budelmann, 2010; Popper *et al.,* 2001). Many marine invertebrates, however, have ciliated ''hair'' cells that may be sensitive to water movements, such as those caused by currents or water particle motion very close to a sound source (Budelmann, 2010; Mackie and Singla, 2003). These cilia may allow invertebrates to sense nearby prey or predators or help with local navigation. Marine invertebrates may produce and use sound in territorial behavior, to deter predators, to find a mate, and to pursue courtship (Popper *et al.,* 2001).

Both behavioral and auditory brainstem response studies suggest that crustaceans may sense sounds up to three kilohertz (kHz), but best sensitivity is likely below 200 Hz (Lovell *et al.,* 2005; Lovell *et al.,* 2006; Goodall *et al.,* 1990). Most cephalopods (*e.g.,* octopus and squid) likely sense low-frequency sound below 1,000 Hz, with best sensitivities at lower frequencies (Budelmann, 2010; Mooney *et al.,* 2010; Packard *et al.,* 1990). A few cephalopods may sense higher frequencies up to 1,500 Hz (Hu *et al.,* 2009). Squid did not respond to toothed whale ultrasonic echolocation clicks at sound pressure levels ranging from 199 to 226 dB re 1 µPa peak-to-peak, likely because these clicks were outside of squid hearing range (Wilson *et al.,* 2007). However, squid exhibited alarm responses when exposed to broadband sound from an approaching seismic airgun with received levels exceeding 145 to 150 dB re 1 µPa root mean square (McCauley *et al.,* 2000b).

Little information is available on the potential impacts on marine invertebrates of exposure to sonar, explosions, and other sound-producing activities. It is expected that most marine invertebrates would not sense mid- or high-frequency sounds, distant sounds, or aircraft noise transmitted through the air-water interface. Most marine invertebrates would not be close enough to intense sound sources, such as some sonars, to potentially experience impacts to sensory structures. Any marine invertebrate capable of sensing sound may alter its behavior if exposed to non-impulsive sound, although it is unknown if responses to non-impulsive sounds occur. Continuous noise, such as from vessels, may contribute to masking of relevant environmental sounds, such as reef noise. Because the distance over which most marine invertebrates are expected to detect any sounds is limited and vessels would be in transit, any sound exposures with the potential to cause masking or behavioral responses would be brief and long-term impacts are not expected. Although non-impulsive underwater sounds produced during training activities may briefly impact individuals, intermittent exposures to non-impulsive sounds are not expected to impact survival, growth, recruitment, or reproduction of widespread marine invertebrate populations.

Detonations associated with the Navy's GOA TMAA activities would occur well offshore (the middle of the GOA TMAA is 140 nm offshore; except for a point near Cape Cleare on Montague Island [12 nm away], the nearest shoreline [Kenai Peninsula] is 24 nm north of the GOA TMAA northern boundary). As water depth increases away from shore, benthic invertebrates would be less likely to be impacted by detonations at or near the surface. In addition, detonations near the surface would release a portion of their explosive energy into the air, reducing the explosive impacts in the water. Some marine invertebrates may be sensitive to the low-frequency component of impulsive sound, and they may exhibit startle reactions or temporary changes in swim speed in response to an impulsive exposure. Because exposures are brief, limited in number, and spread over a large area, no long-term impacts due to startle reactions or short-term behavioral changes are expected. Although individual marine invertebrates may be injured or killed during an explosion or pile driving, no long-term impacts on

the survival, growth, recruitment, or reproduction of marine invertebrate populations are expected.

Fish—Fish are not distributed uniformly throughout the Study Area, but are closely associated with a variety of habitats. Some species range across thousands of square miles while others have small home ranges and restricted distributions (Helfman *et al.,* 2009). The movements of some open-ocean species may never overlap with coastal fishes that spend their lives within several hundred feet (a few hundred meters) of the shore. Even within a single fish species, the distribution and specific habitats in which individuals occur may be influenced by its developmental stage, size, sex, reproductive condition, and other factors.

The distribution and abundance of fishes depends greatly on the physical and biological factors of the marine ecosystem, such as salinity, temperature, dissolved oxygen, population dynamics, predator and prey interaction oscillations, seasonal movements, reproduction and life cycles, and recruitment success (Helfman *et al.,* 1997). A single factor is rarely responsible for the distribution of fish species; more often, a combination of factors is accountable. For example, open ocean species optimize their growth, reproduction, and survival by tracking gradients of temperature, oxygen, or salinity (Helfman *et al.,* 1997). Another major component in understanding species distribution is the location of highly productive regions, such as frontal zones. These areas concentrate various prey species and their predators, such as tuna, and provide visual cues for the location of target species for commercial fisheries (NMFS, 2001).

At least 383 species belonging to 84 families of marine and anadromous fishes have been reported from the predominant ecosystems found in the GOA TMAA. Detailed information on taxa presence, distribution, and characteristics are provided in Chapter 3 of the 2011 GOA FEIS/OEIS.

All fish have two sensory systems to detect sound in the water: The inner ear, which functions very much like the inner ear in other vertebrates, and the lateral line, which consists of a series of receptors along the fish's body (Popper, 2008). The inner ear generally detects relatively higher-frequency sounds, while the lateral line detects water motion at low frequencies (below a few hundred Hz) (Hastings and Popper, 2005a). Although hearing capability data only exist for fewer than 100 of the 32,000 fish species, current data suggest that most species of fish detect sounds from 50 to 1,000 Hz, with few fish hearing sounds above 4 kHz (Popper, 2008). It is believed that most fish have their best hearing sensitivity from 100 to 400 Hz (Popper, 2003b). Additionally, some clupeids (shad in the subfamily Alosinae) possess ultrasonic hearing (*i.e.,* able to detect sounds above 100,000 Hz) (Astrup, 1999). Permanent hearing loss, or permanent threshold shift has not been documented in fish. The sensory hair cells of the inner ear in fish can regenerate after they are damaged, unlike in mammals where sensory hair cells loss is permanent (Lombarte *et al.,* 1993; Smith *et al.,* 2006). As a consequence, any hearing loss in fish may be as temporary as the timeframe required to repair or replace the sensory cells that were damaged or destroyed (*e.g.,* Smith *et al.,* 2006).

Potential direct injuries from non-impulsive sound sources, such as sonar, are unlikely because of the relatively lower peak pressures and slower rise times than potentially injurious sources such as explosives. Non-impulsive sources also lack the strong shock waves associated with an explosion. Therefore, direct injury is not likely to occur from exposure to non-impulsive sources such as sonar, vessel noise, or subsonic aircraft noise. Only a few fish species are able to detect high-frequency sonar and could have behavioral reactions or experience auditory masking during these activities. These effects are expected to be transient and long-term consequences for the population are not expected. MFAS is unlikely to impact fish species because most species are unable to detect sounds in this frequency range and vessels operating MFAS would be transiting an area (not stationary). While a large number of fish species may be able to detect low-frequency sonar and other active acoustic sources, low-frequency active usage is rare and mostly conducted in deeper waters. Overall effects to fish from non-impulsive sound sources would be localized and infrequent.

Physical effects from pressure waves generated by underwater sounds (*e.g.* underwater explosions) could potentially affect fish within proximity of training activities. In particular, the rapid oscillation between high- and low-pressure peaks has the potential to burst the swim bladders and other gas-containing organs of fish (Keevin and Hemen, 1997). Sublethal effects, such as changes in behavior of fish, have been observed in several occasions as a result of noise produced by explosives (National Research Council of the National Academies, 2003; Wright, 1982). If an individual fish were repeatedly exposed to sounds from underwater explosions that caused alterations in natural behavioral patterns or physiological stress, these impacts could lead to long-term consequences for the individual such as reduced survival, growth, or reproductive capacity. However, the time scale of individual explosions is very limited, and training exercises involving explosions are dispersed in space and time. Consequently, repeated exposure of individual fish to sounds from underwater explosions is not likely and most acoustic effects are expected to be short-term and localized. Long-term consequences for populations would not be expected.

Marine Mammal Avoidance

Marine mammals may be temporarily displaced from areas where Navy training is occurring, but the area should be utilized again after the activities have ceased. Avoidance of an area can help the animal avoid further acoustic effects by avoiding or reducing further exposure. The intermittent or short duration of many activities should prevent animals from being exposed to stressors on a continuous basis (for the GOA TMAA, training activities will not occur continuously throughout the year, but rather, for a maximum of 21 days either once or twice annually). In areas of repeated and frequent acoustic disturbance, some animals may habituate or learn to tolerate the new baseline or fluctuations in noise level. While some animals may not return to an area, or may begin using an area differently due to training activities, most animals are expected to return to their usual locations and behavior.

Other Expected Effects

Other sources that may affect marine mammal habitat were considered in the GOA DSEIS/OEIS and potentially include the introduction of fuel, debris, ordnance, and chemical residues into the water column. The majority of high-order explosions would occur at or above the surface of the ocean, and would have no impacts on sediments and minimal impacts on water quality. While disturbance or strike from an item falling through the water column is possible, it is unlikely because (1) objects sink slowly, (2) most projectiles are fired at targets (and hit those targets), and (3) animals are generally widely dispersed throughout the water column and over the Study Area. Chemical, physical, or biological changes in sediment or water quality would not be detectable. In the event of an ordnance failure, the energetic materials it contained would remain mostly intact. The explosive materials

in failed ordnance items and metal components from training would leach slowly and would quickly disperse in the water column. Chemicals from other explosives would not be introduced into the water column in large amounts and all torpedoes would be recovered following training activities, reducing the potential for chemical concentrations to reach levels that can affect sediment quality, water quality, or benthic habitats.

Preliminary Analysis and Negligible Impact Determination

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination, as the severity of harassment may vary greatly depending on the context and duration of the behavioral response, many of which would not be expected to have deleterious impacts on the fitness of any individuals. In determining whether the expected takes will have a negligible impact, in addition to considering estimates of the number of marine mammals that might be ''taken,'' NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature (*e.g.,* severity) of estimated Level A harassment takes, the number of estimated mortalities, and the status of the species. As a reminder, the GOA TMAA training activities will not occur continuously throughout the year, but rather, for a maximum of 21 days either once or twice annually).

The Navy's specified activities have been described based on best estimates of the maximum amount of sonar and other acoustic source use or detonations that the Navy would conduct. There may be some flexibility in that the exact number of hours, items, or detonations may vary from year to year, but take totals are not authorized to exceed the 5-year totals indicated in Tables 12–13. We base our analysis and NID on the maximum number of takes authorized, although, as stated before, the number of takes are only a part of the analysis, which includes extensive qualitative consideration of other contextual factors that influence the degree of impact of the takes on the effected individuals. To avoid repetition, we provide some general analysis immediately below that applies to all the species listed in Tables 13, given that some of the anticipated effects (or lack thereof) of the Navy's training activities on marine mammals are expected to be relatively similar in nature. However, below that, we break our analysis into species, or groups of species where relevant similarities exist, to provide more specific information related to the anticipated effects on individuals or where there is information about the status or structure of any species that would lead to a differing assessment of the effects on the population.

The Navy's take request is based on its model and post-model analysis. In the discussions below, the ''acoustic analysis'' refers to the Navy's modeling results and post-model analysis. The model calculates sound energy propagation from sonar, other active acoustic sources, and explosives during naval activities; the sound or impulse received by animat dosimeters representing marine mammals distributed in the area around the modeled activity; and whether the sound or impulse received by a marine mammal exceeds the thresholds for effects. The model estimates are then further analyzed to consider animal avoidance and implementation of highly effective mitigation measures to prevent Level A harassment, resulting in final estimates of effects due to Navy training and testing. NMFS provided input to the Navy on this process and the Navy's qualitative analysis is described in detail in Chapter 6 of its LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental/militry.htm*).

Generally speaking, and especially with other factors being equal, the Navy and NMFS anticipate more severe effects from takes resulting from exposure to higher received levels (though this is in no way a strictly linear relationship throughout species, individuals, or circumstances) and less severe effects from takes resulting from exposure to lower received levels. The requested number of Level B takes does not equate to the number of individual animals the Navy expects to harass (which is lower), but rather to the instances of take (*i.e.,* exposures above the Level B harassment threshold) that would occur. Additionally, these instances may represent either a very brief exposure (seconds) or, in some cases, longer durations of exposure within a day. Depending on the location, duration, and frequency of activities, along with the distribution and movement of marine mammals, individual animals may be exposed to impulse or non-impulse sounds at or above the Level B harassment threshold on multiple days. However, the Navy is currently unable to estimate the number of individuals that may be taken during training and testing activities. The model results estimate the total number of takes that may occur to a smaller number of individuals. While the model shows that an increased number of exposures may take place due to an increase in events/activities and ordnance, the types and severity of individual responses to training and testing activities are not expected to change.

Behavioral Harassment

As discussed previously in this proposed rule, marine mammals can respond to LF/MFAS/HFAS in many different ways, a subset of which qualifies as behavioral harassment. As described in the proposed rule, the Navy uses the behavioral response function to quantify the number of behavioral responses that would qualify as Level B behavioral harassment under the MMPA. As the statutory definition is currently applied, a wide range of behavioral reactions may qualify as Level B harassment under the MMPA, including but not limited to avoidance of the sound source, temporary changes in vocalizations or dive patterns, temporary avoidance of an area, or temporary disruption of feeding, migrating, or reproductive behaviors.

Some of the lower level physiological stress responses discussed earlier would also likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. Level B takes, then, may have a stress-related physiological component as well; however, we would not expect the Navy's generally short-term, intermittent, and (in the case of sonar) transitory activities to create conditions of long-term, continuous noise leading to long-term physiological stress responses in marine mammals.

The estimates calculated using the behavioral response function do not differentiate between the different types of potential reactions. Nor do the estimates provide information regarding the potential fitness or other biological consequences of the reactions on the affected individuals. We therefore consider the available scientific evidence to determine the likely nature of the modeled behavioral responses and the potential fitness consequences for affected individuals.

For LF/MFAS/HFAS use in the GOA TMAA, the Navy provided information (Table 14) estimating the percentage of behavioral harassment that would occur within the 6–dB bins (without considering mitigation or avoidance). As mentioned above, an animal's exposure to a higher received level is more likely to result in a behavioral response that is more likely to adversely affect the health of the animal. As illustrated below, the majority (including about 72 percent for the most powerful ASW hull-mounted sonar, which is responsible for a large portion of the sonar takes) of calculated takes from MFAS result from exposures less than 156 dB. Less than 1 percent of the takes are expected to result from exposures above 174 dB. Specifically, given a range of behavioral responses that may be classified as Level B harassment, to the degree that higher received levels are expected to result in more severe behavioral responses, only a small percentage of the anticipated Level B harassment from Navy activities might necessarily be expected to potentially result in more severe responses, especially when the distance from the source at which the levels below are received is considered (see Table 14). Marine mammals are able to discern the distance of a given sound source, and given other equal factors (including received level), they have been reported to respond more to sounds that are closer (DeRuiter *et al.,* 2013). Further, the estimated number of responses do not reflect either the duration or context of those anticipated responses, some of which will be of very short duration, and other factors should be considered when predicting how the estimated takes may affect individual fitness. A recent study by Moore and Barlow (2013) emphasizes the importance of context (*e.g.,* behavioral state of the animals, distance from the sound source, etc.) in evaluating behavioral responses of marine mammals to acoustic sources.

TABLE 14—NON-IMPULSIVE RANGES IN 6-dB BINS AND PERCENTAGE OF BEHAVIORAL HARASSMENTS

Received level	Sonar bin MF1 (e.g., SQS–53; ASW hull mounted sonar)		Sonar bin MF4 (e.g., AQS–22; ASW dipping sonar)		Sonar Bin MF5 (e.g., SSQ–62; ASW sonobuoy)	
	Distance at which levels occur within radius of source (m)	Percentage of behavioral harassments occurring at given levels	Distance at which levels occur within radius of source (m)	Percentage of behavioral harassments occurring at given levels	Distance at which levels occur within radius of source (m)	Percentage of behavioral harassments occurring at given levels
Low Frequency Cetaceans						
120 ≤ SPL <126	178,750–156,450	0.00	100,000–92,200	0.00	22,800–15,650	0.00
126 ≤ SPL <132	156,450–147,500	0.00	92,200–55,050	0.11	15,650–11,850	0.05
132 ≤ SPL <138	147,500–103,700	0.21	55,050–46,550	1.08	11,850–6,950	2.84
138 ≤ SPL <144	103,700–97,950	0.33	46,550–15,150	35.69	6,950–3,600	16.04
144 ≤ SPL <150	97,950–55,050	13.73	15,150–5,900	26.40	3,600–1,700	33.63
150 ≤ SPL <156	55,050–49,900	5.28	5,900–2,700	17.43	1,700–250	44.12
156 ≤ SPL <162	49,900–10,700	72.62	2,700–1,500	9.99	250–100	2.56
162 ≤ SPL <168	10,700–4,200	6.13	1,500–200	9.07	100–<50	0.76
168 ≤ SPL <174	4,200–1,850	1.32	200–100	0.18	<50	0.00
174 ≤ SPL <180	1,850–850	0.30	100–<50	0.05	<50	0.00
180 ≤ SPL <186	850–400	0.07	<50	0.00	<50	0.00
186 ≤ SPL <192	400–200	0.01	<50	0.00	<50	0.00
192 ≤ SPL <198	200–100	0.00	<50	0.00	<50	0.00
Mid Frequency Cetaceans						
120 ≤ SPL <126	179,400–156,450	0.00	100,000–92,200	0.00	23,413–16,125	0.00
126 ≤ SPL <132	156,450–147,500	0.00	92,200–55,050	0.11	16,125–11,500	0.06
132 ≤ SPL <138	147,500–103,750	0.21	55,050–46,550	1.08	11,500–6,738	2.56
138 ≤ SPL <144	103,750–97,950	0.33	46,550–15,150	35.69	6,738–3,825	13.35
144 ≤ SPL <150	97,950–55,900	13.36	15,150–5,900	26.40	3,825–1,713	37.37
150 ≤ SPL <156	55,900–49,900	6.12	5,900–2,700	17.43	1,713–250	42.85
156 ≤ SPL <162	49,900–11,450	71.18	2,700–1,500	9.99	250–150	1.87
162 ≤ SPL <168	11,450–4,350	7.01	1,500–200	9.07	150–<50	1.93
168 ≤ SPL <174	4,350–1,850	1.42	200–100	0.18	<50	0.00
174 ≤ SPL <180	1,850–850	0.29	100–<50	0.05	<50	0.00
180 ≤ SPL <186	850–400	0.07	<50	0.00	<50	0.00
186 ≤ SPL <192	400–200	0.01	<50	0.00	<50	0.00
192 ≤ SPL <198	200–100	0.00	<50	0.00	<50	0.00

Notes: (1) ASW = anti-submarine warfare, m = meters, SPL = sound pressure level; (2) Odontocete behavioral response function is also used for high-frequency cetaceans, phocid seals, otariid seals and sea lions, and sea otters.

Although the Navy has been monitoring to discern the effects of LF/MFAS/HFAS on marine mammals since 2006, and research on the effects of MFAS is advancing, our understanding of exactly how marine mammals in the Study Area will respond to LF/MFAS/HFAS is still improving. The Navy has submitted more than 80 reports, including Major Exercise Reports, Annual Exercise Reports, and Monitoring Reports, documenting hundreds of thousands of marine mammals across Navy range complexes, and there are only two instances of overt behavioral disturbances that have been observed. One cannot conclude from these results that marine mammals were not harassed from MFAS/HFAS, as a portion of animals within the area of concern were not seen (especially those more cryptic, deep-diving species, such as beaked whales or *Kogia* spp.), the full series of behaviors that would more accurately show an important change is not typically seen (*i.e.,* only the surface behaviors are observed), and some of the non-biologist watchstanders might not be well-qualified to characterize behaviors. However, one can say that the animals that were observed did not respond in any of the obviously more severe ways, such as panic, aggression, or anti-predator response.

Diel Cycle

As noted previously, many animals perform vital functions, such as feeding, resting, traveling, and socializing on a diel cycle (24-hour cycle). Behavioral reactions to noise exposure (when taking place in a biologically important context, such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multiple-day substantive behavioral reactions and multiple-day anthropogenic activities. For example, just because an at-sea exercise lasts for multiple days does not necessarily mean that individual animals are either exposed to those exercises for multiple days or, further, exposed in a manner resulting in a sustained multiple day substantive behavioral response. Large multi-day Navy exercises, such as those proposed in the GOA TMAA, typically include vessels that are continuously moving at speeds typically 10–15 knots, or higher, and likely cover large areas that are relatively far from shore, in addition to the fact that marine mammals are moving as well, which would make it unlikely that the same animal could remain in the immediate vicinity of the ship for the entire duration of the exercise. Additionally, the Navy does not necessarily operate active sonar the entire time during an exercise. While it is certainly possible that these sorts of exercises could overlap with individual marine mammals multiple days in a row at levels above those anticipated to result in a take, because of the factors mentioned above, it is considered unlikely for the majority of takes. It does not mean that a behavioral response is necessarily sustained for multiple days, but instead necessitates the consideration of likely duration and context to assess any effects on the individual's fitness.

Durations for non-impulsive activities utilizing tactical sonar sources vary and are fully described in Appendix A of the GOA DSEIS/OEIS. ASW training exercises using MFAS/HFAS proposed for the GOA TMAA generally last for 2–16 hours, and may have intervals of non-activity in between. Because of the need to train in a large variety of situations (in the case of the GOA TMAA, complex bathymetric and oceanographic conditions include a continental shelf, submarine canyons, seamounts, and fresh water infusions from multiple sources), the Navy does not typically conduct successive ASW exercises in the same locations. Given the average length of ASW exercises (times of continuous sonar use) and typical vessel speed, combined with the fact that the majority of the cetaceans in the GOA TMAA Study Area would not likely remain in an area for successive days, it is unlikely that an animal would be exposed to MFAS/HFAS at levels likely to result in a substantive response that would then be carried on for more than one day or on successive days.

With the exception of SINKEXs, the planned explosive exercises for the GOA TMAA are of a short duration (1–6 hours). Although explosive exercises may sometimes be conducted in the same general areas repeatedly, because of their short duration and the fact that they are in the open ocean and animals can easily move away, it is similarly unlikely that animals would be exposed for long, continuous amounts of time. Although SINKEXs may last for up to 48 hrs, only two are planned annually for the GOA TMAA training activities, they are stationary and conducted in deep, open water (where fewer marine mammals would typically be expected to be randomly encountered), and they have a rigorous monitoring and shutdown procedures, all of which make it unlikely that individuals would be exposed to the exercise for extended periods or on consecutive days.

TTS

As mentioned previously, TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths, all of which determine the severity of the impacts on the affected individual, which can range from minor to more severe. The TTS sustained by an animal is primarily classified by three characteristics:

1. Frequency—Available data (of mid-frequency hearing specialists exposed to mid- or high-frequency sounds; Southall *et al.,* 2007) suggest that most TTS occurs in the frequency range of the source up to one octave higher than the source (with the maximum TTS at ½ octave above). The more powerful MF sources used have center frequencies between 3.5 and 8 kHz and the other unidentified MF sources are, by definition, less than 10 kHz, which suggests that TTS induced by any of these MF sources would be in a frequency band somewhere between approximately 2 and 20 kHz. There are fewer hours of HF source use and the sounds would attenuate more quickly, plus they have lower source levels, but if an animal were to incur TTS from these sources, it would cover a higher frequency range (sources are between 20 and 100 kHz, which means that TTS could range up to 200 kHz; however, HF systems are typically used less frequently and for shorter time periods than surface ship and aircraft MF systems, so TTS from these sources is even less likely). TTS from explosives would be broadband. Vocalization data for each species, which would inform how TTS might specifically interfere with communications with conspecifics, was provided in the LOA application.

2. Degree of the shift (*i.e.,* by how many dB the sensitivity of the hearing is reduced)—Generally, both the degree of TTS and the duration of TTS will be greater if the marine mammal is exposed to a higher level of energy (which would occur when the peak dB level is higher or the duration is longer). The threshold for the onset of TTS was discussed previously in this proposed rule. An animal would have to approach closer to the source or remain in the vicinity of the sound source appreciably longer to increase the received SEL, which would be difficult considering the Lookouts and the nominal speed of an active sonar vessel (10–15 knots). In the TTS studies (see *Threshold Shift* section), some using exposures of almost an hour in duration or up to 217 SEL, most of the TTS induced was 15 dB or less, though Finneran *et al.* (2007) induced 43 dB of TTS with a 64-second exposure to a 20 kHz source. However, MFAS emits a ping typically every 50 seconds, and incurring those levels of TTS is highly unlikely.

3. Duration of TTS (recovery time)—In the TTS laboratory studies (see *Threshold Shift* section), some using exposures of almost an hour in duration or up to 217 SEL, almost all individuals recovered within 1 day (or less, often in minutes), although in one study (Finneran *et al.,* 2007), recovery took 4 days.

Based on the range of degree and duration of TTS reportedly induced by exposures to non-pulse sounds of energy higher than that to which free-swimming marine mammals in the field are likely to be exposed during MFAS/HFAS training exercises in the GOA TMAA, it is unlikely that marine mammals would ever sustain a TTS from MFAS that alters their sensitivity by more than 20 dB for more than a few days (and any incident of TTS would likely be far less severe due to the short duration of the majority of the exercises and the speed of a typical vessel). Also, for the same reasons discussed in the Diel Cycle section, and because of the

short distance within which animals would need to approach the sound source, it is unlikely that animals would be exposed to the levels necessary to induce TTS in subsequent time periods such that their recovery is impeded. Additionally, though the frequency range of TTS that marine mammals might sustain would overlap with some of the frequency ranges of their vocalization types, the frequency range of TTS from MFAS (the source from which TTS would most likely be sustained because the higher source level and slower attenuation make it more likely that an animal would be exposed to a higher received level) would not usually span the entire frequency range of one vocalization type, much less span all types of vocalizations or other critical auditory cues. If impaired, marine mammals would typically be aware of their impairment and are sometimes able to implement behaviors to compensate (see Acoustic Masking or Communication Impairment section), though these compensations may incur energetic costs.

Acoustic Masking or Communication Impairment

Masking only occurs during the time of the signal (and potential secondary arrivals of indirect rays), versus TTS, which continues beyond the duration of the signal. Standard MFAS typically pings every 50 seconds for hull-mounted sources. For the sources for which we know the pulse length, most are significantly shorter than hull-mounted active sonar, on the order of several microseconds to tens of microseconds. For hull-mounted active sonar, though some of the vocalizations that marine mammals make are less than one second long, there is only a 1 in 50 chance that they would occur exactly when the ping was received, and when vocalizations are longer than one second, only parts of them are masked. Alternately, when the pulses are only several microseconds long, the majority of most animals' vocalizations would not be masked. Masking effects from MFAS/HFAS are expected to be minimal. If masking or communication impairment were to occur briefly, it would be in the frequency range of MFAS, which overlaps with some marine mammal vocalizations; however, it would likely not mask the entirety of any particular vocalization, communication series, or other critical auditory cue, because the signal length, frequency, and duty cycle of the MFAS/HFAS signal does not perfectly mimic the characteristics of any marine mammal's vocalizations. The other sources used in Navy training and testing, many of either higher frequencies (meaning that the sounds generated attenuate even closer to the source) or lower amounts of operation, are similarly not expected to result in masking.

PTS, Injury, or Mortality

NMFS believes that many marine mammals would deliberately avoid exposing themselves to the received levels of active sonar necessary to induce injury by moving away from or at least modifying their path to avoid a close approach. Additionally, in the unlikely event that an animal approaches the sonar vessel at a close distance, NMFS believes that the mitigation measures (*i.e.,* shutdown/powerdown zones for MFAS/HFAS) would typically ensure that animals would not be exposed to injurious levels of sound. As discussed previously, the Navy utilizes both aerial (when available) and passive acoustic monitoring (during all ASW exercises) in addition to watchstanders on vessels to detect marine mammals for mitigation implementation.

If a marine mammal is able to approach a surface vessel within the distance necessary to incur PTS, the likely speed of the vessel (nominal 10–15 knots) would make it very difficult for the animal to remain in range long enough to accumulate enough energy to result in more than a mild case of PTS. As mentioned previously and in relation to TTS, the likely consequences to the health of an individual that incurs PTS can range from mild to more serious dependent upon the degree of PTS and the frequency band it is in, and many animals are able to compensate for the shift, although it may include energetic costs. Only 5 Level A (PTS) takes per year are predicted from GOA training activities, and these are all Dall's porpoise—not large whale species or beaked whales. We also assume that the acoustic exposures sufficient to trigger onset PTS (or TTS) would be accompanied by physiological stress responses, although the sound characteristics that correlate with specific stress responses in marine mammals are poorly understood. As discussed above for Behavioral Harassment, we would not expect the Navy's generally short-term, intermittent, and (in the case of sonar) transitory activities to create conditions of long-term, continuous noise leading to long-term physiological stress responses in marine mammals. No other injurious takes or mortality are predicted. As discussed previously, marine mammals (especially beaked whales) could potentially respond to MFAS at a received level lower than the injury threshold in a manner that indirectly results in the animals stranding. The exact mechanism of this potential response, behavioral or physiological, is not known. When naval exercises have been associated with strandings in the past, it has typically been when three or more vessels are operating simultaneously, in the presence of a strong surface duct, and in areas of constricted channels, semi-enclosed areas, and/or steep bathymetry. While these features certainly do not define the only factors that can contribute to a stranding, and while they need not all be present in their aggregate to increase the likelihood of a stranding, it is worth noting that they are not all present in the GOA TMAA, which only has a strong surface duct present during the winter, and does not have bathymetry or constricted channels of the type that have been present in the sonar associated strandings. When this is combined with consideration of the number of hours of active sonar training that will be conducted and the total duration of all training exercises (a maximum of 21 days once or twice a year), we believe that the probability is small that this will occur. Lastly, an active sonar shutdown protocol for strandings involving live animals milling in the water minimizes the chances that these types of events turn into mortalities.

As stated previously, there have been no recorded Navy vessel strikes of any marine mammals during training in the GOA Study Area to date, nor were takes by injury or mortality resulting from vessel strike predicted in the Navy's analysis.

Group and Species-Specific Analysis

Predicted effects on marine mammals from exposures to sonar and other active acoustic sources and explosions during annual training activities are shown in Table 13. The vast majority of predicted exposures (greater than 99 percent) are expected to be Level B harassment (non-injurious TTS and behavioral reactions) from sonar and other active acoustic sources at relatively low received levels (Table 14). The acoustic analysis predicts the majority of marine mammal species in the Study Area would not be exposed to explosive (impulsive) sources associated with training activities. Only Dall's porpoise is predicted to have Level B (TTS) exposures resulting from explosives, and only a limited number (5) of Dall's porpoise are expected to have injurious take (PTS) resulting from sonar and other active acoustic sources and

explosions. There are no lethal takes predicted for any marine mammal species for the GOA activities.

The analysis below may in some cases (*e.g.,* mysticetes, porpoises, pinnipeds) address species collectively if they occupy the same functional hearing group (*i.e.,* low-, mid-, and high-frequency cetaceans and pinnipeds in water), have similar hearing capabilities, and/or are known to generally behaviorally respond similarly to acoustic stressors. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they will either be described within the section or the species will be included as a separate sub-section.

Mysticetes—The Navy's acoustic analysis predicts that 2,923 instances of Level B harassmant of mysticete whales may occur in the Study Area each year from sonar and other active acoustic sources during training activities. Annual species-specific take estimates are as follows: 7 North Pacific right whales (Eastern North Pacific stock), 139 humpback whales (Central North Pacific and Western North Pacific stocks), 95 blue whales (Eastern North Pacific stock), 2,582 fin whales (Northeast Pacific stock), 13 sei whales (Eastern North Pacific stock), and 87 minke whales (Alaska stock). Of these species, humpback, blue, fin, sei, and North Pacific right whales are listed as endangered under the ESA and depleted under the MMPA. NMFS is currently engaged in an internal Section 7 consultation under the ESA and the outcome of that consultation will further inform our final decision. Based on the distribution information presented in the LOA application, it is highly unlikely that gray whales would be encountered in the Study Area during events involving use of sonar and other active acoustic sources. The acoustic analysis did not predict any takes of gray whales and NMFS is not authorizing any takes of this species.

Generally, these represent a limited number of takes relative to population estimates for most mysticete stocks in the Study Area (Table 6). When the numbers of behavioral takes are compared to the estimated stock abundance and if one assumes that each take happens to a separate animal, less than approximately 20 percent of each of these stocks (with the exception of the Northeast Pacific stock of fin whale and the Alaska stock of minke whale for which there currently are no reliable population estimates because only portions of the stocks' range have been surveyed [Muto and Angliss, 2015]) would be behaviorally harassed during the course of a year. Because the estimates given above represent the total number of exposures and not necessarily the number of individuals exposed, it is more likely that fewer individuals would be taken, but a subset would be taken more than one time per year. In the ocean, the use of sonar and other active acoustic sources is transient and is unlikely to repeatedly expose the same population of animals over a short period.

Level B harassment takes are anticipated to be in the form of TTS and behavioral reactions and no injurious takes of North Pacific right, humpback, blue, fin, minke, or sei whales from sonar and other active acoustic stressors or explosives are expected. The majority of acoustic effects to mysticetes from sonar and other active sound sources during training activities would be primarily from anti-submarine warfare events involving surface ships and hull mounted sonar. Research and observations show that if mysticetes are exposed to sonar or other active acoustic sources they may react in a number of ways depending on the characteristics of the sound source, their experience with the sound source, and whether they are migrating or on seasonal grounds (*i.e.,* breeding or feeding). Reactions may include alerting, breaking off feeding dives and surfacing, diving or swimming away, or no response at all (Richardson, 1995; Nowacek, 2007; Southall *et al.,* 2007; Finneran and Jenkins, 2012). Richardson *et al.* (1995) noted that avoidance (temporary displacement of an individual from an area) reactions are the most obvious manifestations of disturbance in marine mammals. Avoidance is qualitatively different from the startle or flight response, but also differs in the magnitude of the response (*i.e.,* directed movement, rate of travel, etc.). Oftentimes avoidance is temporary, and animals return to the area once the noise has ceased. Additionally, migrating animals may ignore a sound source, or divert around the source if it is in their path.

Specific to U.S. Navy systems using low frequency sound, studies were undertaken in 1997–98 pursuant to the Navy's Low Frequency Sound Scientific Research Program. These studies found only short-term responses to low frequency sound by mysticetes (fin, blue, and humpback whales) including changes in vocal activity and avoidance of the source vessel (Clark, 2001; Miller *et al.,* 2000; Croll *et al.,* 2001; Fristrup *et al.,* 2003; Nowacek *et al.,* 2007). Baleen whales exposed to moderate low-frequency signals demonstrated no variation in foraging activity (Croll *et al.,* 2001). Low-frequency signals of the Acoustic Thermometry of Ocean Climate sound source were not found to affect dive times of humpback whales in Hawaiian waters (Frankel and Clark, 2000).

Specific to mid-frequency sound, studies by Melcón *et al.* (2012) in the Southern California Bight found that the likelihood of blue whale low-frequency calling (usually associated with feeding behavior) decreased with an increased level of MFAS, beginning at a SPL of approximately 110–120 dB re 1 µPa. However, it is not known whether the lower rates of calling actually indicated a reduction in feeding behavior or social contact since the study used data from remotely deployed, passive acoustic monitoring buoys. Results from the 2010–2011 field season of an ongoing behavioral response study in Southern California waters indicated that in some cases and at low received levels, tagged blue whales responded to MFAS but that those responses were mild and there was a quick return to their baseline activity (Southall *et al.,* 2011; Southall *et al.,* 2012b). Blue whales responded to a mid-frequency sound source, with a source level between 160 and 210 dB re 1 µPa at 1 m and a received sound level up to 160 dB re 1 µPa, by exhibiting generalized avoidance responses and changes to dive behavior during the exposure experiments (CEE) (Goldbogen *et al.,* 2013). However, reactions were not consistent across individuals based on received sound levels alone, and likely were the result of a complex interaction between sound exposure factors such as proximity to sound source and sound type (MFAS simulation vs. pseudo-random noise), environmental conditions, and behavioral state. Surface feeding whales did not show a change in behavior during CEEs, but deep feeding and non-feeding whales showed temporary reactions that quickly abated after sound exposure. Distances of the sound source from the whales during CEEs were sometimes less than a mile. Blue whales have been documented exhibiting a range of foraging strategies for maximizing feeding dependent on the density of their prey at a given location (Goldbogen *et al.,* 2015), so it may be that a temporary behavioral reaction or avoidance of a location where feeding was occurring is not meaningful to the life history of an animal. The preliminary findings from Goldbogen *et al.* (2013) and Melcón *et al.* (2012) are generally consistent with

the Navy's criteria and thresholds for predicting behavioral effects to mysticetes from sonar and other active acoustic sources used in the quantitative acoustic effects analysis for GOA. The Navy's behavioral response function predicts the probability of a behavioral response that rises to a Level B take for individuals exposed to a received SPL of 120 dB re 1 µPa or greater, with an increasing probability of reaction with increased received level as demonstrated in Melcón *et al.* (2012).

High-frequency systems are notably outside of mysticetes' ideal hearing and vocalization range and it is unlikely that they would cause a significant behavioral reaction.

Most Level B harassments to mysticetes from sonar in the Study Area would result from received levels less than 156 dB SPL. Therefore, the majority of Level B takes are expected to be in the form of milder responses (*i.e.,* lower-level exposures that still rise to the level of take, but would likely be less severe in the range of responses that qualify as take) of a generally short duration. As mentioned earlier in this section, we anticipate more severe effects from takes when animals are exposed to higher received levels. Most low-frequency (mysticetes) cetaceans observed in studies usually avoided sound sources at levels of less than or equal to 160 dB re 1µPa. Occasional milder behavioral reactions are unlikely to cause long-term consequences for individual animals or populations. Even if sound exposure were to be concentrated in a relatively small geographic area over a long period of time (*e.g.,* days or weeks during major training exercises), we would expect that some individual whales would avoid areas where exposures to acoustic stressors are at higher levels. For example, Goldbogen *et al.* (2013) indicated some horizontal displacement of deep foraging blue whales in response to simulated MFA sonar. Given these animal's mobility and large ranges, we would expect these individuals to temporarily select alternative foraging sites nearby until the exposure levels in their initially selected foraging area have decreased. Therefore, even temporary displacement from initially selected foraging habitat is not expected to impact the fitness of any individual animals because we would expect equivalent foraging to be available in close proximity. Because we do not expect any fitness consequences from any individual animals, we do not expect any population level effects from these behavioral responses.

As explained above, recovery from a threshold shift (TTS) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Finneran and Schlundt, 2010; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b). However, large threshold shifts are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may not interfere with an animal's hearing of biologically relevant sounds. Furthermore, the implementation of mitigation and the sightability of mysticetes (due to their large size) reduces the potential for a significant behavioral reaction or a threshold shift to occur.

Overall, the number of predicted behavioral reactions is low and occasional behavioral reactions are unlikely to cause long-term consequences for individual animals or populations. This assessment of long-term consequences is based in part on findings from ocean areas where the Navy has been intensively training and testing with sonar and other active acoustic sources for decades. While there are many factors such as the end of large-scale commercial whaling complicating any analysis, there is no data suggesting any long-term consequences to mysticetes from exposure to sonar and other active acoustic sources. On the contrary, there are findings suggesting mysticete populations are increasing in the two primary locations (Southern California and Hawaii) where the Navy's most intensively used range complexes are located. These findings include: (1) Calambokidis *et al.* (2009b) indicating a significant upward trend in abundance of for blue whales in Southern California; (2) the recovery of gray whales that migrate through the Navy's SOCAL Range Complex twice a year; (3) work by Moore and Barlow (2011) indicating evidence of increasing fin whale abundance in the California Current area, which includes the SOCAL Range Complex; (4) the range expansion and increasing presence of Bryde's whales south of Point Conception in Southern California (Kerosky *et al.* 2012); and (5) the ocean area contained within the Hawaii Range Complex continuing to function as a critical breeding, calving, and nursing area to the point at which the overall humpback whale population in the North Pacific is now greater than some prior estimates of pre-whaling abundance (Barlow *et al.,* 2011). The implementation of mitigation and the sightability of mysticetes (due to their large size) reduces the potential for a significant behavioral reaction or a threshold shift to occur. Furthermore, there is no designated critical habitat for mysticetes in the Study Area. As discussed in the *Consideration of Time/Area Limitations* section of this rule, review of the NMFS-identified feeding and migration areas showed there is only minimal (<1 percent) spatial overlap with the GOA TMAA and the North Pacific right whale feeding area southeast of Kodiak Island and minimal (<1 percent) spatial overlap with a small portion of the gray whale migration area offshore of Kenai Peninsula (Ferguson *et al.,* 2015b). Those areas of overlap at the corners of the GOA TMAA are very unlikely to have any Navy training activity. Further, the grey whale migration area is only applicable in the early spring and late fall, while training activities are proposed for May to October (with June/July the main months of training, historically). Therefore, it is very unlikely there would be an effect to feeding or migrating activities if right whales or gray whales were present. Additionally, appropriate mitigation measures (as detailed in the Mitigation section above) would be implemented for any detected marine mammals and thus further reducing the potential for the feeding or migration activities to be affected. The Navy proposes to monitor use of active sonar within the North Pacific right whale feeding area and gray whale migration areas, to the extent that active sonar training does occur in these areas, and to report that use to NMFS in classified annual reports (see Proposed Reporting) to inform future adaptive management of activities within the GOA TMAA.

Consequently, the GOA TMAA activities are not expected to adversely impact rates of recruitment or survival of mysticete whales.

Sperm Whales—The Navy's acoustic analysis indicates that 197 instances of Level B harassment of sperm whales (North Pacific stock; currently there are no reliable abundance estimates for this stock [Muto and Angliss, 2015]) may occur in the Study Area each year from sonar or other active acoustic stressors during training activities. Sperm whales are listed as endangered under the ESA

and depleted under the MMPA. NMFS is currently engaged in an internal Section 7 consultation under the ESA and the outcome of that consultation will further inform our final decision. These Level B takes are anticipated to be in the form of TTS and behavioral reactions and no injurious takes of sperm whales from sonar and other active acoustic stressors or explosives are requested or proposed for authorization. Sperm whales have shown resilience to acoustic and human disturbance, although they may react to sound sources and activities within a few kilometers. Sperm whales that are exposed to activities that involve the use of sonar and other active acoustic sources may alert, ignore the stimulus, avoid the area by swimming away or diving, or display aggressive behavior (Richardson, 1995; Nowacek, 2007; Southall *et al.,* 2007; Finneran and Jenkins, 2012). Some (but not all) sperm whale vocalizations might overlap with the MFAS/HFAS TTS frequency range, which could temporarily decrease an animal's sensitivity to the calls of conspecifics or returning echolocation signals. However, as noted previously, NMFS does not anticipate TTS of a long duration or severe degree to occur as a result of exposure to MFAS/HFAS. Recovery from a threshold shift (TTS) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b; Finneran and Schlundt, 2010). Large threshold shifts are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may not interfere with an animal's hearing of biologically relevant sounds. No sperm whales are predicted to be exposed to MFAS/HFAS sound levels associated with PTS or injury.

The majority of Level B takes are expected to be in the form of mild responses (low-level exposures) and of a generally short duration. Relative to the population size, this activity is anticipated to result only in a limited number of Level B harassment takes. Because the estimates given above represent the total number of exposures and not necessarily the number of individuals exposed, it is more likely that fewer individuals would be taken, but a subset would be taken more than one time per year. In the ocean, the use of sonar and other active acoustic sources is transient and is unlikely to repeatedly expose the same population of animals over a short period. Overall, the number of predicted behavioral reactions are unlikely to cause long-term consequences for individual animals or populations. The GOA activities are not expected to occur in an area/time of specific importance for reproductive, feeding, or other known critical behaviors for sperm whales, and there is no designated critical habitat in the Study Area. Consequently, the activities are not expected to adversely impact annual rates of recruitment or survival of sperm whales.

Dolphins and Small Whales—The Navy's acoustic analysis predicts the following instances of Level B harassment of delphinids (dolphins and small whales) each year from sonar and other active acoustic sources associated with training activities in the Study Area: 762 killer whales (Alaska Resident; Eastern North Pacific Offshore; AT1 Transient; and GOA, Aleutian Island, and Bearing Sea Transient stocks) and 1,963 Pacific white-sided dolphins (North Pacific stock). These represent a limited number of takes relative to population estimates for delphinid stocks in the Study Area (Table 6). When the numbers of behavioral takes are compared to the estimated stock abundance and if one assumes that each take happens to a separate animal, less than 25 percent of each of the killer whale stocks and less than 8 percent of the North Pacific stock of Pacific white-sided dolphin would be behaviorally harassed during the course of a year. More likely, slightly fewer individuals would be harassed, but a subset would be harassed more than one time during the course of the year.

All of these takes are anticipated to be in the form of behavioral harassment (TTS and behavioral reaction) and no injurious takes of delphinids from sonar and other active acoustic stressors or explosives are requested or proposed for authorization. Further, the majority of takes are anticipated to be by behavioral harassment in the form of mild responses. Research and observations show that if delphinids are exposed to sonar or other active acoustic sources they may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the acoustic exposure. Delphinids may not react at all until the sound source is approaching within a few hundred meters to within a few kilometers depending on the environmental conditions and species. Delphinids that are exposed to activities that involve the use of sonar and other active acoustic sources may alert, ignore the stimulus, change their behaviors or vocalizations, avoid the sound source by swimming away or diving, or be attracted to the sound source (Richardson, 1995; Nowacek, 2007; Southall *et al.,* 2007; Finneran and Jenkins, 2012). Research has demonstrated that Alaska Resident killer whales may routinely move over long large distances (Andrews and Matkin, 2014; Fearnbach *et al.,* 2013). In a similar documented long-distance movement, an Eastern North Pacific Offshore stock killer whale tagged off San Clemente Island, California, moved (over a period of 147 days) to waters off northern Mexico, then north to Cook Inlet, Alaska, and finally (when the tag ceased transmitting) to coastal waters off Southeast Alaska (Falcone and Schorr, 2014). Given these findings, temporary displacement due to avoidance of training activities are therefore unlikely to have biological significance to individual animals.

Delphinid species generally travel in large pods and should be visible from a distance in order to implement mitigation measures and reduce potential impacts. Many of the recorded delphinid vocalizations overlap with the MFAS/HFAS TTS frequency range (2–20 kHz); however, as noted above, NMFS does not anticipate TTS of a serious degree or extended duration to occur as a result of exposure to MFAS/HFAS. Recovery from a threshold shift (TTS) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Finneran and Schlundt, 2010; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b). However, large threshold shifts are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may

not interfere with an animal's hearing of biologically relevant sounds. Their size and detectability makes it unlikely that these animals would be exposed to the higher energy or pressure expected to result in more severe effects.

The predicted effects to delphinids are unlikely to cause long-term consequences for individual animals or populations. The GOA TMAA activities are not expected to occur in an area/time of specific importance for reproductive, feeding, or other known critical behaviors for delphinids. Stocks of delphinid species found in the Study Area are not depleted under the MMPA, nor are they listed under the ESA. Consequently, the activities are not expected to adversely impact rates of recruitment or survival of delphinid species.

Porpoises—The Navy's acoustic analysis predicts that 16,244 instances of Level B harassment (TTS and behavioral) of Dall's porpoise (Alaska stock) and 7,410 instances of Level B harassment of harbor porpoise (GOA and Southeast Alaska stocks) may occur each year from sonar and other active acoustic sources and explosives associated with training and testing activities in the Study Area. These represent a limited number of takes relative to population estimates for porpoise stocks in the Study Area (Table 6). When the numbers of takes for Dall's and harbor porpoise are compared to their respective estimated stock abundances and if one assumes that each take happens to a separate animal, less than 20 percent of the Alaska stock of Dall's porpoise, and less than 18 percent of the GOA and Southeast Alaska stocks of harbor porpoise would be harassed (behaviorally) during the course of a year. Because the estimates given above represent the total number of exposures and not necessarily the number of individuals exposed, it is more likely that fewer individuals would be taken, but a subset would be taken more than one time per year.

Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic (Richardson, 1995; Nowacek, 2007; Southall *et al.,* 2007). Acoustic analysis (factoring in the post-model correction for avoidance and mitigation) also predicted that 5 Dall's porpoises might be exposed to sound levels from sonar and other active acoustic stressors and explosives likely to result in PTS or injury (Level A harassment).

The number of Dall's and harbor porpoise behaviorally harassed by exposure to MFAS/HFAS in the Study Area is generally higher than the other species. This is due to the low Level B harassment threshold (we assume for the purpose of estimating take that all harbor porpoises exposed to 120 dB or higher MFAS/HFAS will be taken by Level B behavioral harassment), which essentially makes the ensonified area of effects significantly larger than for the other species. However, the fact that the threshold is a step function and not a curve (and assuming uniform density) means that the vast majority of the takes occur in the very lowest levels that exceed the threshold (it is estimated that approximately 80 percent of the takes are from exposures to 120 dB–126 dB), which means that anticipated behavioral effects are not expected to be severe (*e.g.,* temporary avoidance). As mentioned above, an animal's exposure to a higher received level is more likely to result in a behavioral response that is more likely to adversely affect the health of an animal. Animals that do not exhibit a significant behavioral reaction would likely recover from any incurred costs, which reduces the likelihood of long-term consequences, such as reduced fitness, for the individual or population.

Animals that experience hearing loss (TTS or PTS) may have reduced ability to detect relevant sounds such as predators, prey, or social vocalizations. Some porpoise vocalizations might overlap with the MFAS/HFAS TTS frequency range (2–20 kHz). Recovery from a threshold shift (TTS; partial hearing loss) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b; Finneran and Schlundt, 2010). More severe shifts may not fully recover and thus would be considered PTS. However, large degrees of PTS are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may not interfere with an animal hearing biologically relevant sounds. The likely consequences to the health of an individual that incurs PTS can range from mild to more serious, depending upon the degree of PTS and the frequency band it is in, and many animals are able to compensate for the shift, although it may include energetic costs. Furthermore, likely avoidance of intense activity and sound coupled with mitigation measures would further reduce the potential for severe PTS exposures to occur. If a marine mammal is able to approach a surface vessel within the distance necessary to incur PTS, the likely speed of the vessel (nominal 10–15 knots) would make it very difficult for the animal to remain in range long enough to accumulate enough energy to result in more than a mild case of PTS.

Harbor porpoises have been observed to be especially sensitive to human activity (Tyack *et al.,* 2011; Pirotta *et al.,* 2012). The information currently available regarding harbor porpoises suggests a very low threshold level of response for both captive (Kastelein *et al.,* 2000; Kastelein *et al.,* 2005) and wild (Johnston, 2002) animals. Southall *et al.* (2007) concluded that harbor porpoises are likely sensitive to a wide range of anthropogenic sounds at low received levels (~ 90 to 120 dB). Research and observations of harbor porpoises for other locations show that this small species is wary of human activity and will display profound avoidance behavior for anthropogenic sound sources in many situations at levels down to 120 dB re 1 µPa (Southall, 2007). Harbor porpoises routinely avoid and swim away from large motorized vessels (Barlow *et al.,* 1988; Evans *et al.,* 1994; Palka and Hammond, 2001; Polacheck and Thorpe, 1990). The vaquita, which is closely related to the harbor porpoise in the Study Area, appears to avoid large vessels at about 2,995 ft. (913 m) (Jaramillo-Legorreta *et al.,* 1999). The assumption is that the harbor porpoise would respond similarly to large Navy vessels, possibly prior to commencement of sonar or explosive activity (*i.e.,* pre-activity avoidance). Harbor porpoises may startle and temporarily leave the immediate area of the training or testing until after the event ends.

ASW training exercises using MFAS/HFAS generally last for 2–16 hours, and may have intervals of non-activity in between. In addition, the Navy does not typically conduct ASW exercises in the same locations. Given the average length of ASW exercises (times of continuous sonar use) and typical vessel speed, combined with the fact that the majority of porpoises in the Study Area would not likely remain in an area for successive days, it is unlikely that an animal would be exposed to MFAS/HFAS at levels likely to result in a substantive response (*e.g.,* interruption

of feeding) that would then be carried on for more than one day or on successive days. Thompson *et al.* (2013) showed that seismic surveys conducted over a 10-day period in the North Sea did not result in the broad-scale displacement of harbor porpoises away from preferred habitat. The harbor porpoises were observed to leave the area at the onset of survey, but returned within a few hours, and the overall response of the porpoises decreased over the 10-day period.

Considering the information above, the predicted effects to Dall's and harbor porpoise are unlikely to cause long-term consequences for individual animals or the population. The GOA activities are not expected to occur in an area/time of specific importance for reproductive, feeding, or other known critical behaviors for Dall's and harbor porpoise. Stocks of Dall's and harbor porpoise are not listed as depleted under the MMPA. Consequently, the activities are not expected to adversely impact annual rates of recruitment or survival of porpoises.

Beaked Whales—Acoustic analysis predicts that 401 Baird's beaked whales (Alaska stock), 2,544 Cuvier's beaked whales (Alaska stock), and 1,153 Stejneger's beaked whales (Alaska stock) will be taken annually by Level B harassment from exposure to sonar and other active acoustic stressors. These takes are anticipated to be in the form of behavioral harassment (mainly behavioral reaction and some TTS) and no injurious takes of beaked whales from sonar and other active acoustic stressors or explosives are requested or proposed. Relative to population size, training activities are anticipated to result only in a limited number of takes. Because the estimates given above represent the total number of exposures and not necessarily the number of individuals exposed, it is more likely that fewer individuals would be taken, but a subset would be taken more than one time per year. There are currently no reliable abundance estimates for Alaska stocks of Baird's, Cuvier's, and Stejner's beaked whales (Muto and Angliss, 2015).

As is the case with harbor porpoises, beaked whales have been shown to be particularly sensitive to sound and therefore have been assigned a lower harassment threshold based on observations of wild animals by McCarthy *et al.* (2011) and Tyack *et al.* (2011). The fact that the Level B harassment threshold is a step function (The Navy has adopted an unweighted 140 dB re 1 µPa SPL threshold for significant behavioral effects for all beaked whales) and not a curve (and assuming uniform density) means that the vast majority of the takes occur in the very lowest levels that exceed the threshold (it is estimated that approximately 80 percent of the takes are from exposures to 140 dB to 146 dB), which means that the anticipated effects for the majority of exposures are not expected to be severe (As mentioned above, an animal's exposure to a higher received level is more likely to result in a behavioral response that is more likely to adversely affect the health of an animal). Further, Moretti *et al.* (2014) recently derived an empirical risk function for Blainville's beaked whale that predicts there is a 0.5 probability of disturbance at a received level of 150 dB (CI: 144–155), suggesting that in some cases the current Navy step function may over-estimate the effects of an activity using sonar on beaked whales. Irrespective of the Moretti *et al.* (2014) risk function, NMFS' analysis assumes that all of the beaked whale Level B takes that are proposed for authorization will occur, and we base our negligible impact determination, in part, on the fact that these exposures would mainly occur at the very lowest end of the 140-dB behavioral harassment threshold where behavioral effects are expected to be much less severe and generally temporary in nature.

Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic (Richardson, 1995; Nowacek, 2007; Southall *et al.,* 2007; Finneran and Jenkins, 2012). Research has also shown that beaked whales are especially sensitive to the presence of human activity (Tyack *et al.,* 2011; Pirotta *et al.,* 2012). Beaked whales have been documented to exhibit avoidance of human activity or respond to vessel presence (Pirotta *et al.,* 2012). Beaked whales were observed to react negatively to survey vessels or low altitude aircraft by quick diving and other avoidance maneuvers, and none were observed to approach vessels (Wursig *et al.,* 1998). Some beaked whale vocalizations may overlap with the MFAS/HFAS TTS frequency range (2–20 kHz); however, as noted above, NMFS does not anticipate TTS of a serious degree or extended duration to occur as a result of exposure to MFA/HFAS. Recovery from a threshold shift (TTS) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b; Finneran and Schlundt, 2010). Large threshold shifts are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may not interfere with an animal's hearing of biologically relevant sounds.

It has been speculated for some time that beaked whales might have unusual sensitivities to sonar sound due to their likelihood of stranding in conjunction with MFAS use. Research and observations show that if beaked whales are exposed to sonar or other active acoustic sources they may startle, break off feeding dives, and avoid the area of the sound source to levels of 157 dB re 1 µPa, or below (McCarthy *et al.,* 2011). Acoustic monitoring during actual sonar exercises revealed some beaked whales continuing to forage at levels up to 157 dB re 1 µPa (Tyack *et al.* 2011). Stimpert *et al.* (2014) tagged a Baird's beaked whale, which was subsequently exposed to simulated MFAS. Changes in the animal's dive behavior and locomotion were observed when received level reached 127 dB re 1µPa. However, Manzano-Roth *et al.* (2013) found that for beaked whale dives that continued to occur during MFAS activity, differences from normal dive profiles and click rates were not detected with estimated received levels up to 137 dB re 1 µPa while the animals were at depth during their dives. And in research done at the Navy's fixed tracking range in the Bahamas, animals were observed to leave the immediate area of the anti-submarine warfare training exercise (avoiding the sonar acoustic footprint at a distance where the received level was ''around 140 dB'' SPL, according to Tyack *et al.* [2011]) but return within a few days after the event ended (Claridge and Durban, 2009; Moretti *et al.,* 2009, 2010; Tyack *et al.,* 2010, 2011; McCarthy *et al.,* 2011). Tyack *et al.* (2011) report that, in reaction to sonar playbacks, most beaked whales stopped echolocating, made long slow ascent to the surface, and moved away from the sound. A similar behavioral response study conducted in Southern California waters during the 2010–2011 field season found that Cuvier's beaked whales exposed to MFAS displayed behavior ranging from initial orientation changes

to avoidance responses characterized by energetic fluking and swimming away from the source (DeRuiter *et al.,* 2013b). However, the authors did not detect similar responses to incidental exposure to distant naval sonar exercises at comparable received levels, indicating that context of the exposures (*e.g.,* source proximity, controlled source ramp-up) may have been a significant factor. The study itself found the results inconclusive and meriting further investigation. Cuvier's beaked whale responses suggested particular sensitivity to sound exposure as consistent with results for Blainville's beaked whale.

Populations of beaked whales and other odontocetes on the Bahamas and other Navy fixed ranges that have been operating for decades, appear to be stable. Behavioral reactions (avoidance of the area of Navy activity) seem likely in most cases if beaked whales are exposed to anti-submarine sonar within a few tens of kilometers, especially for prolonged periods (a few hours or more) since this is one of the most sensitive marine mammal groups to anthropogenic sound of any species or group studied to date and research indicates beaked whales will leave an area where anthropogenic sound is present (Tyack *et al.,* 2011; De Ruiter *et al.,* 2013; Manzano-Roth *et al.,* 2013; Moretti *et al.,* 2014). Research involving tagged Cuvier's beaked whales in the SOCAL Range Complex reported on by Falcone and Schorr (2012, 2014) indicates year-round prolonged use of the Navy's training and testing area by these beaked whales and has documented movements in excess of hundreds of kilometers by some of those animals. Given that some of these animals may routinely move hundreds of kilometers as part of their normal pattern, leaving an area where sonar or other anthropogenic sound is present may have little, if any, cost to such an animal. Photo identification studies in the SOCAL Range Complex, a Navy range that is utilized for training and testing more frequently than the GOA TMAA Study Area, have identified approximately 100 individual Cuvier's beaked whale individuals with 40 percent having been seen in one or more prior years, with re-sightings up to 7 years apart (Falcone and Schorr, 2014). These results indicate long-term residency by individuals in an intensively used Navy training and testing area, which may also suggest a lack of long-term consequences as a result of exposure to Navy training and testing activities. Finally, results from passive acoustic monitoring estimated regional Cuvier's beaked whale densities were higher than indicated by the NMFS's broad scale visual surveys for the U.S. west coast (Hildebrand and McDonald, 2009).

Based on the findings above, it is clear that the Navy's long-term ongoing use of sonar and other active acoustic sources has not precluded beaked whales from also continuing to inhabit those areas. In summary, based on the best available science, the Navy and NMFS believe that beaked whales that exhibit a significant TTS or behavioral reaction due to sonar and other active acoustic testing activities would generally not have long-term consequences for individuals or populations. Claridge (2013) speculated that sonar use in a Bahamas range could have ''a possible population-level effect'' on beaked whales based on lower abundance in comparison to control sites. In summary, Claridge suggested that lower reproductive rates observed at the Navy's Atlantic Undersea Test and Evaluation Center (AUTEC), when compared to a control site, were due to stressors associated with frequent and repeated use of Navy sonar. It is also important to note that there were some relevant shortcomings of this study. For example, all of the re-sighted whales during the 5-year study at both sites were female, which Claridge acknowledged can lead to a negative bias in the abundance estimation. There was also a reduced effort and shorter overall study period at the AUTEC site that failed to capture some of the emigration/immigration trends identified at the control site. Furthermore, Claridge assumed that the two sites were identical and therefore should have equal potential abundances; when in reality, there were notable physical differences. The author also acknowledged that ''information currently available cannot provide a quantitative answer to whether frequent sonar use at [the Bahamas range] is causing stress to resident beaked whales,'' and cautioned that the outcome of ongoing studies ''is a critical component to understanding if there are population-level effects.'' Moore and Barlow (2013) have noted a decline in beaked whale populations in a broad area of the Pacific Ocean area out to 300 nm from the coast and extending from the Canadian-U.S. border to the tip of Baja Mexico. There are scientific caveats and limitations to the data used for that analysis, as well as oceanographic and species assemblage changes on the U.S. Pacific coast not thoroughly addressed. Although Moore and Barlow (2013) have noted a decline in the overall beaked whale population along the Pacific coast, in the small fraction of that area where the Navy has been training and testing with sonar and other systems for decades (the Navy's SOCAL Range Complex), higher densities and long-term residency by individual Cuvier's beaked whales suggest that the decline noted elsewhere is not apparent where Navy sonar use is most intense. Navy sonar training and testing is not conducted along a large part of the U.S. west coast from which Moore and Barlow (2013) drew their survey data. In Southern California, based on a series of surveys from 2006 to 2008 and a high number encounter rate, Falcone *et al.* (2009) suggested the ocean basin west of San Clemente Island may be an important region for Cuvier's beaked whales given the number of animals encountered there. Follow-up research (Falcone and Schorr, 2012, 2014) in this same location suggests that Cuvier's beaked whales may have population sub-units with higher than expected residency, particularly in the Navy's instrumented Southern California Anti-Submarine Warfare Range. Encounters with multiple groups of Cuvier's and Baird's beaked whales indicated not only that they were prevalent on the range where Navy routinely trains and tests, but also that they were potentially present in much higher densities than had been reported for anywhere along the U.S. west coast (Falcone *et al.,* 2009, Falcone and Schorr, 2012). This finding is also consistent with concurrent results from passive acoustic monitoring that estimated regional Cuvier's beaked whale densities were higher where Navy trains in the SOCAL training and testing area than indicated by NMFS's broad scale visual surveys for the U.S. west coast (Hildebrand and McDonald, 2009).

NMFS also considered New *et al.* (2013) and their mathematical model simulating a functional link between foraging energetics and requirements for survival and reproduction for 21 species of beaked whales. However, NMFS concluded that New *et al.* (2013) model lacks critical data and accurate inputs necessary to form valid conclusions specifically about impacts of anthropogenic sound from Navy activities on beaked whale populations. The study itself notes the need for ''future research,'' identifies ''key data needs'' relating to input parameters that ''particularly affected'' the model results, and states only that the use of the model ''in combination with more detailed research'' *could* help predict the effects of management actions on beaked whale species. In short,

information is not currently available to specifically support the use of this model in a project-specific evaluation of the effects of Navy activities on the impacted beaked whale species in GOA.

No beaked whales are predicted in the acoustic analysis to be exposed to sound levels associated with PTS, other injury, or mortality. After decades of the Navy conducting similar activities in the GOA Study Area without incident, NMFS does not expect strandings, injury, or mortality of beaked whales to occur as a result of training activities. Stranding events coincident with Navy MFAS use in which exposure to sonar is believed to have been a contributing factor were detailed in the Stranding and Mortality section of this proposed rule. However, for some of these stranding events, a causal relationship between sonar exposure and the stranding could not be clearly established (Cox *et al.,* 2006). In other instances, sonar was considered only one of several factors that, in their aggregate, may have contributed to the stranding event (Freitas, 2004; Cox *et al.,* 2006). Because of the association between tactical MFAS use and a small number of marine mammal strandings, the Navy and NMFS have been considering and addressing the potential for strandings in association with Navy activities for years. In addition to a suite of mitigation measures intended to more broadly minimize impacts to marine mammals, the reporting requirements set forth in this rule ensure that NMFS is notified immediately (or as soon as clearance procedures allow) if a stranded marine mammal is found during or shortly after, and in the vicinity of, any Navy training exercise utilizing MFAS, HFAS, or underwater explosive detonations (see General Notification of Injured or Dead Marine Mammals and the Stranding Response Plan in the regulatory text below). Additionally, through the MMPA process (which allows for adaptive management), NMFS and the Navy will determine the appropriate way to proceed in the event that a causal relationship were to be found between Navy activities and a future stranding.

The GOA training activities are not expected to occur in an area/time of specific importance for reproductive, feeding, or other known critical behaviors for beaked whales. None of the Pacific stocks for beaked whales species found in the Study Area are depleted under the MMPA. The degree of predicted Level B harassment is expected to be mild, and no beaked whales are predicted in the acoustic analysis to be exposed to sound levels associated with PTS, other injury, or mortality. Consequently, the activities are not expected to adversely impact annual rates of recruitment or survival of beaked whales.

Pinnipeds—The Navy's acoustic analysis predicts that the following numbers of Level B harassment (TTS and behavioral reaction) may occur annually from sonar and other active acoustic stressors associated with training activities: 1,243 Steller sea lions (Eastern U.S. and Western U.S. stocks); 5 California sea lions (U.S. stock); 1,428 northern fur seals (Eastern Pacific stock); 245 northern elephant seals (California Breeding stock); and 4 harbor seals (North Kodiak, South Kodiak, and Prince William Sound stocks). These represent a limited number of takes relative to population estimates for pinniped stocks in the Study Area (Table 6). When the numbers of behavioral takes are compared to the estimated stock abundances, less than 2 percent of each of these stocks would be behaviorally harassed during the course of a year. These estimates represents the total number of exposures and not necessarily the number of individuals exposed, as a single individual may be exposed multiple times over the course of a year. Based on the distribution information presented in the LOA application, it is highly unlikely that ribbon seals would be encountered in the Study Area during events involving use of sonar and other active acoustic sources or explosives. The acoustic analysis did not predict any takes of ribbon seals and NMFS is not authorizing any takes of this species.

Research has demonstrated that for pinnipeds, as for other mammals, recovery from a threshold shift (TTS) can take a few minutes to a few days, depending on the exposure duration, sound exposure level, and the magnitude of the initial shift, with larger threshold shifts and longer exposure durations requiring longer recovery times (Finneran *et al.,* 2005; Finneran and Schlundt, 2010; Mooney *et al.,* 2009a; Mooney *et al.,* 2009b). However, large threshold shifts are not anticipated for these activities because of the unlikelihood that animals will remain within the ensonified area (due to the short duration of the majority of exercises, the speed of the vessels, and the short distance within which the animal would need to approach the sound source) at high levels for the duration necessary to induce larger threshold shifts. Threshold shifts do not necessarily affect all hearing frequencies equally, so threshold shifts may not necessarily interfere with an animal's ability to hear biologically relevant sounds.

Research and observations show that pinnipeds in the water may be tolerant of anthropogenic noise and activity (a review of behavioral reactions by pinnipeds to impulsive and non-impulsive noise can be found in Richardson *et al.,* 1995 and Southall *et al.,* 2007). Available data, though limited, suggest that exposures between approximately 90 and 140 dB SPL do not appear to induce strong behavioral responses in pinnipeds exposed to nonpulse sounds in water (Jacobs and Terhune, 2002; Costa *et al.,* 2003; Kastelein *et al.,* 2006c). Based on the limited data on pinnipeds in the water exposed to multiple pulses (small explosives, impact pile driving, and seismic sources), exposures in the approximately 150 to 180 dB SPL range generally have limited potential to induce avoidance behavior in pinnipeds (Harris *et al.,* 2001; Blackwell *et al.,* 2004; Miller *et al.,* 2004). If pinnipeds are exposed to sonar or other active acoustic sources they may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the acoustic exposure. Pinnipeds may not react at all until the sound source is approaching within a few hundred meters and then may alert, ignore the stimulus, change their behaviors, or avoid the immediate area by swimming away or diving. Houser *et al.* (2013) performed a controlled exposure study involving California sea lions exposed to a simulated MFAS signal. The purpose of this Navy-sponsored study was to determine the probability and magnitude of behavioral responses by California sea lions exposed to differing intensities of simulated MFAS signals. Behavioral reactions included increased respiration rates, prolonged submergence, and refusal to participate, among others. Younger animals were more likely to respond than older animals, while some sea lions did not respond consistently at any level. Houser *et al.*'s findings are consistent with current scientific studies and criteria development concerning marine mammal reactions to MFAS. Effects on pinnipeds in the Study Area that are taken by Level B harassment, on the basis of reports in the literature as well as Navy monitoring from past activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring). Most likely, individuals will simply move away from the sound source and be temporarily displaced from those areas, or not respond at all. In areas of

repeated and frequent acoustic disturbance, some animals may habituate or learn to tolerate the new baseline or fluctuations in noise level. Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). While some animals may not return to an area, or may begin using an area differently due to training and testing activities, most animals are expected to return to their usual locations and behavior. Given their documented tolerance of anthropogenic sound (Richardson *et al.,* 1995 and Southall *et al.,* 2007), repeated exposures of individuals (*e.g.,* harbor seals) to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. As stated above, pinnipeds may habituate to or become tolerant of repeated exposures over time, learning to ignore a stimulus that in the past has not accompanied any overt threat.

Thus, even repeated Level B harassment of some small subset of an overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and would not result in any adverse impact to the stock as a whole. Evidence from areas where the Navy extensively trains and tests provides some indication of the possible consequences resulting from those proposed activities. In the confined waters of Washington State's Hood Canal where the Navy has been training and intensively testing for decades and harbor seals are present year-round, the population level has remained stable suggesting the area's carrying capacity likely has been reached (Jeffries *et al.,* 2003; Gaydos *et al.,* 2013). Within Puget Sound there are several locations where pinnipeds use Navy structures (*e.g.,* submarines, security barriers) for haulouts. Given that animals continue to choose these areas for their resting behavior, it would appear there are no long-term effects or consequences to those animals as a result of ongoing and routine Navy activities.

Generally speaking, most pinniped stocks in the Study Area are thought to be stable or increasing (Carretta *et al.,* 2014, 2015). Abundance estimates for pinniped stocks in the Study Area are shown in Table 6. Relative to population size, training activities are anticipated to result only in a limited number of takes. No areas of specific importance for reproduction or feeding for pinnipeds have been identified in the Study Area. Consequently, the activities are not expected to adversely impact rates of recruitment or survival of pinniped species.

Western U.S. stocks of Steller sea lions are listed as endangered under the ESA; however, there is no designated critical habitat Steller sea lions in the Study Area. As a conservative measure, the GOA TMAA boundary zone was specifically drawn to exclude any nearby critical habitat and associated terrestrial, air, or aquatic zones. NMFS is currently engaged in an internal Section 7 consultation under the ESA and the outcome of that consultation will further inform our final determination.

Long-Term Consequences

The best assessment of long-term consequences from training activities will be to monitor the populations over time within a given Navy range complex. A U.S. workshop on Marine Mammals and Sound (Fitch *et al.,* 2011) indicated a critical need for baseline biological data on marine mammal abundance, distribution, habitat, and behavior over sufficient time and space to evaluate impacts from human-generated activities on long-term population survival. The Navy has developed monitoring plans for protected marine mammals occurring on Navy ranges with the goal of assessing the impacts of training and testing activities on marine species and the effectiveness of the Navy's current mitigation practices. Continued monitoring efforts over time will be necessary to completely evaluate the long-term consequences of exposure to noise sources.

Since 2006 across all Navy range complexes (in the Atlantic, Gulf of Mexico, and the Pacific), there have been more than 80 reports, including Major Exercise Reports, Annual Exercise Reports, and Monitoring Reports. For the Pacific since 2011, there have been 29 monitoring and exercise reports submitted to NMFS to further research goals aimed at understanding the Navy's impact on the environment as it carries out its mission to train and test.

In addition to this multi-year record of reports from across the Navy, there have also been ongoing Behavioral Response Study research efforts (in Southern California and the Bahamas) specifically focused on determining the potential effects from Navy mid-frequency sonar (Southall *et al.,* 2011, 2012; McCarthy *et al.,* 2011; Tyack *et al.,* 2011; DeRuiter *et al.,* 2013b; Goldbogen *et al.,* 2013; Moretti *et al.,* 2014). This multi-year compendium of monitoring, observation, study, and broad scientific research is informative with regard to assessing the effects of Navy training and testing in general. Given that this record involves many of the same Navy training activities being considered for the Study Area and because it includes all the marine mammal taxonomic families and many of the same species, this compendium of Navy reporting is directly applicable to assessing locations such as the GOA TMAA.

In the Hawaii and Southern California Navy training and testing ranges from 2009 to 2012, Navy-funded marine mammal monitoring research completed over 5,000 hours of visual survey effort covering over 65,000 nautical miles, sighted over 256,000 individual marine mammals, took over 45,600 digital photos and 36 hours of digital video, attached 70 satellite tracking tags to individual marine mammals, and collected over 40,000 hours of passive acoustic recordings. In Hawaii alone between 2006 and 2012, there were 21 scientific marine mammal surveys conducted before, during, or after major exercises. This monitoring effort is consistent with other research from these areas in that there have been no direct evidence demonstration that routine Navy training and testing has negatively impacted marine mammal populations inhabiting these Navy ranges. Continued monitoring efforts over time will be necessary to completely evaluate the long-term consequences of exposure to noise sources. Other research findings related to the general topic of long-term impacts are discussed above in the Species-Specific Analysis.

Based on monitoring conducted before, during, and after Navy training and testing events since 2006, the NMFS' assessment is that it is unlikely there will be impacts having any long-term consequences to populations of marine mammals as a result of the proposed continuation of training and testing in the ocean areas historically used by the Navy including the Study Area. This assessment of likelihood is based on four indicators from areas in the Pacific where Navy training and testing has been ongoing for decades: (1) Evidence suggesting or documenting increases in the numbers of marine mammals present (Calambokidis and Barlow, 2004; Falcone *et al.,* 2009; Hildebrand and McDonald, 2009; Falcone and Shorr, 2012; Calambokidis *et al.,* 2009a; Berman-Kowalewski *et al.,* 2010; Moore and Barlow, 2011; Barlow *et al.,* 2011; Kerosky *et al,.* 2012; Smultea *et al.,* 2013; Širović *et al.,* 2015), (2) examples of documented presence and site fidelity of species and long-term residence by individual animals of some species (Hooker *et al.,*

2002; McSweeney *et al.,* 2007; McSweeney *et al.,* 2010; Martin and Kok, 2011; Baumann-Pickering *et al.,* 2012; Falcone and Schorr, 2014), (3) use of training and testing areas for breeding and nursing activities (Littnan, 2010), and (4) 6 years of comprehensive monitoring data indicating a lack of any observable effects to marine mammal populations as a result of Navy training and testing activities.

To summarize, while the evidence covers most marine mammal taxonomic suborders, it is limited to a few species and only suggestive of the general viability of those species in intensively used Navy training and testing areas (Barlow *et al.,* 2011; Calambokidis *et al.,* 2009b; Falcone *et al.,* 2009; Littnan, 2011; Martin and Kok, 2011; McCarthy *et al.,* 2011; McSweeney *et al.,* 2007; McSweeney *et al.,* 2009; Moore and Barlow, 2011; Tyack *et al.,* 2011; Southall *et al.,* 2012a; Melcon, 2012; Goldbogen, 2013; Baird *et al.,* 2013). However, there is no direct evidence that routine Navy training and testing spanning decades has negatively impacted marine mammal populations at any Navy Range Complex. Although there have been a few strandings associated with use of sonar in other locations (see U.S. Department of the Navy, 2013b), Ketten (2012) has recently summarized, ''to date, there has been no demonstrable evidence of acute, traumatic, disruptive, or profound auditory damage in any marine mammal as the result of anthropogenic noise exposures, including sonar.'' Therefore, based on the best available science (Barlow *et al.,* 2011; Carretta *et al.,* 2011; Falcone *et al.,* 2009; Falcone and Schorr, 2012, 2014; Jeffries *et al.,* 2003; Littnan, 2011; Martin and Kok, 2011; McCarthy *et al.,* 2011; McSweeney *et al.,* 2007; McSweeney *et al.,* 2009; Moore and Barlow, 2011; Tyack *et al.,* 2011; Southall *et al.,* 2012, 2013, 2014; Manzano-Roth *et al.,* 2013; DeRuiter *et al.,* 2013b; Goldbogen *et al.,* 2013; Moretti *et al.,* 2014; Smultea and Jefferson, 2014; Širović *et al.* 2015), including data developed in the series of 80+ reports submitted to NMFS, we believe that long-term consequences for individuals or populations are unlikely to result from Navy training activities in the Study Area.

Preliminary Determination

Training activities proposed in the GOA TMAA Study Area would result in mainly Level B and some Level A takes, as summarized in Tables 12 and 13. Based on best available science, NMFS concludes that exposures to marine mammal species and stocks due to GOA TMAA activities would result in individuals experiencing primarily short-term (temporary and short in duration) and relatively infrequent effects of the type or severity not expected to be additive. In addition, only a generally small portion of the stocks and species is likely to be exposed.

Marine mammal takes from Navy activities are not expected to impact annual rates of recruitment or survival and will therefore not result in population-level impacts for the following reasons:

- Most acoustic exposures (greater than 99 percent) would be within the non-injurious TTS or behavioral effects zones (Level B harassment consisting of generally temporary modifications in behavior) and none of the estimated exposures would result in mortality.
- As mentioned earlier, an animal's exposure to a higher received level is more likely to result in a behavioral response that is more likely to adversely affect the health of the animal. For low frequency cetaceans (mysticetes) in the Study Area, most Level B exposures will occur at received levels less than 156 dB. The majority of estimated odontocete takes from MFAS/HFAS (at least for hull-mounted sonar, which is responsible for most of the sonar-related takes) also result from exposures to received levels less than 156 dB. Therefore, the majority of Level B takes are expected to be in the form of milder responses (*i.e.,* lower-level exposures that still rise to the level of a take, but would likely be in the less severe range of responses that qualify as a take), and are not expected to have deleterious impacts on the fitness of any individuals. Marine mammal densities inputted into the acoustic effects model are also conservative, particularly when considering species for which data in portions of the Study Area is limited, and when considering the seasonal migrations that extend throughout the Study Area.
- Acoustic disturbances caused by Navy sonar and explosives are short-term, intermittent, and (in the case of sonar) transitory. Even when an animal's exposure to active sonar may be more than one time, the intermittent nature of the sonar signal, the signal's low duty cycle (MFAS has a typical ping of every 50 seconds), and the fact that both the vessel and animal are moving, provide a very small chance that exposure to active sonar for individual animals and stocks would be repeated over extended periods of time. Consequently, we would not expect the Navy's activities to create conditions of long-term, continuous underwater noise leading to habitat abandonment or long-term hormonal or physiological stress responses in marine mammals.
- Range complexes where intensive training and testing have been occurring for decades have populations of multiple species with strong site fidelity (including highly sensitive resident beaked whales at some locations) and increases in the number of some species. Populations of beaked whales and other odontocetes in the Bahamas, and in other Navy fixed ranges that have been operating for tens of years, appear to be stable.
- Navy monitoring of Navy-wide activities since 2006 has documented hundreds of thousands of marine mammals on the range complexes and there are only two instances of overt behavioral change that have been observed.
- Navy monitoring of Navy-wide activities since 2006 has documented no demonstrable instances of injury to marine mammals as a result of non-impulsive acoustic sources.
- In at least three decades of similar Navy activities, only one instance of injury to marine mammals (March 25, 2011; three long-beaked common dolphin off Southern California) has occurred as a known result of training or testing using an impulsive source (underwater explosion). Of note, the time-delay firing underwater explosive training activity implicated in the March 4 incident is not proposed for the training activities in the GOA Study Area.
- The protective measures described in the Proposed Mitigation section above are designed to reduce vessel strike potential and avoid sound exposures that may cause serious injury, and to result in the least practicable adverse effect on marine mammal species or stocks.

Based on this analysis of the likely effects of the specified activity on marine mammals and their habitat, which includes consideration of the materials provided in the Navy's LOA application and GOA DSEIS/OEIS, and dependent upon the implementation of the mitigation and monitoring measures, NMFS finds that the total marine mammal take from the Navy's training and testing activities in the GOA Study Area will have a negligible impact on the affected marine mammal species or stocks. NMFS proposes to issue regulations for these activities in order to prescribe the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and to set forth requirements pertaining to the monitoring and reporting of that taking.

Subsistence Harvest of Marine Mammals

There are no relevant subsistence uses of marine mammals implicated by this action. None of the proposed training activities in the Study Area occur where traditional Arctic subsistence hunting exists. Therefore, NMFS has preliminarily determined that the total taking affecting species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

ESA

There are eight marine mammal species under NMFS jurisdiction that are listed as endangered or threatened under the ESA with confirmed or possible occurrence in the Study Area: Blue whale, fin whale, humpback whale, sei whale, sperm whale, gray whale (Western North Pacific stock), North Pacific right whale, and Steller sea lion (Western U.S. stock). The Navy will consult with NMFS pursuant to section 7 of the ESA, and NMFS will also consult internally on the issuance of a LOA under section 101(a)(5)(A) of the MMPA for GOA TMAA activities. Consultation will be concluded prior to a determination on the issuance of the final rule and a LOA.

NEPA

NMFS is a cooperating agency on the Navy's GOA DSEIS/OEIS, which was prepared and released to the public August 23, 2014. Upon completion, the GOA Final SEIS/OEIS will be made available for public review and posted on NMFS' Web site: *http://www.nmfs.noaa.gov/pr/permits/incidental/military.htm*. NMFS intends to adopt the GOA Final SEIS/OEIS, if adequate and appropriate. Currently, we believe that the adoption of the GOA Final SEIS/OEIS will allow NMFS to meet its responsibilities under NEPA for the issuance of regulations and LOA for GOA TMAA. If the GOA SEIS/OEIS is deemed inadequate by NMFS, NMFS would supplement the existing analysis to ensure that we comply with NEPA prior to issuing the final rule and LOA.

Classification

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has 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 RFA requires federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking. However, a federal agency may certify, pursuant to 5 U.S.C. 605 (b), that the action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that would be affected by this rulemaking, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Any requirements imposed by an LOA issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, would be applicable only to the Navy. NMFS does not expect the issuance of these regulations or the associated LOA to result in any impacts to small entities pursuant to the RFA. Because this action, if adopted, would directly affect the Navy and not a small entity, NMFS concludes the action would not result in a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: February 17, 2016.

Samuel D. Rauch III,

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

For reasons set forth in the preamble, 50 CFR part 218 is proposed to be amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

Subpart N—[Removed and Reserved]

■ 3. Remove and reserve subpart N, consisting of §§ 218.120 through 218.129.

■ 4. Subpart P is added to part 218 to read as follows:

Subpart P—Taking and Importing Marine Mammals; U.S. Navy's Gulf of Alaska Temporary Maritime Activities Area (GOA TMAA) Study Area

Sec.

Subpart P—Taking and Importing Marine Mammals; U.S. Navy's Gulf of Alaska Temporary Maritime Activities Area (GOA TMAA) Study Area

§ 218.150 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the GOA TMAA Study Area, which is bounded by a hexagon with the following six corners: 57°30′° N. lat., 141°30′° W. long.; 59°36′° N. lat., 148°10′° W. long.; 58°57′° N. lat., 150°04′° W. long.; 58°20′° N. lat., 151°00′° W. long.; 57°16′° N. lat., 151°00′° W. long.; and 55°30′° N. lat., 142°00′° W. long.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) Sonar and other Active Sources Used During Training:

(i) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 541 hours per year.

(B) MF3—an average of 48 hours per year.

(C) MF4—an average of 53 hours per year.

(D) MF5—an average of 25 items per year.

(E) MF6—an average of 21 items per year.

(F) MF11—an average of 78 hours per year.

(ii) High-frequency (HF) Source Classes:

(A) HF1—an average of 24 hours per year.

(B) HF6—an average of 80 items per year.

(iii) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW2—an average of 80 hours per year.

(B) ASW3—an average of 546 hours per year.

(C) ASW4—an average 4 items per year.

(iv) Torpedoes (TORP):

(A) TORP2—an average of 5 items per year.

(B) [Reserved]

(2) Impulsive Source Detonations During Training:

(i) Explosive Classes:

(A) E5 (>5 to 10 pound [lb] net explosive weight (NEW))—an average of 112 detonations per year.

(B) E6 (>10 to 20 lb NEW)—an average of 2 detonations per year.

(C) E7 (>20 to 60 lb NEW)—an average of 4 detonations per year.

(D) E8 (>60 to 100 lb NEW)—an average of 6 detonations per year.

(E) E9 (>100 to 250 lb NEW)—an average of 142 detonations per year.

(F) E10 (>250 to 500 lb NEW)—an average of 32 detonations per year.

(G) E11 (>500 to 650 lb NEW)—an average of 2 detonations per year.

(H) E12 (>650 to 1,000 lb NEW)—an average of 4 detonations per year.

(ii) [Reserved]

§ 218.151 Effective dates.

Regulations in this subpart are effective May 4, 2016, through May 3, 2021.

§ 218.152 Permissible methods of taking.

(a) Under letter of authorization (LOA) issued pursuant to §§ 216.106 and 218.157 of this chapter, the holder of the LOA may incidentally, but not intentionally, take marine mammals within the area described in § 218.150, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the LOA.

(b) The activities identified in § 218.150(c) must be conducted in a manner that minimizes, to the greatest extent practicable, any adverse impacts on marine mammals and their habitat.

(c) The incidental take of marine mammals under the activities identified in § 218.150(c) is limited to the following species, by the identified method of take and the indicated number of times:

(1) Level B Harassment for all Training Activities:

(i) Mysticetes:

(A) Blue whale (*Balaenoptera musculus*), Eastern North Pacific—475 (an average of 95 per year).

(B) Fin whale (*Balaenoptera physalus*), Northeast Pacific—12,910 (an average of 2,582 per year).

(C) Humpback whale (*Megaptera novaeangliae*), Central North Pacific—645 (an average of 129 per year).

(D) Humpback whale (*Megaptera novaeangliae*), Western North Pacific—50 (an average of 10 per year).

(E) Minke whale (*Balaenoptera acutorostrata*), Alaska—435 (an average of 87 per year).

(F) North Pacific right whale (*Eubalaena japonica*), Eastern North Pacific—35 (an average of 7 per year).

(G) Sei whale (*Balaenoptera borealis*), Eastern North Pacific—65 (an average of 13 per year).

(ii) Odontocetes:

(A) Baird's beaked whale (*Berardius bairdii*), Alaska—2,005 (an average of 401 per year).

(B) Cuvier's beaked whale (*Ziphius cavirostris*), Alaska—12,720 (an average of 2,544 per year).

(C) Dall's porpoise (*Phocoenoidea dalli*), Alaska—81,220 (an average of 16,244 per year).

(D) Harbor porpoise (*Phocoena phocoena*), GOA—27,420 (an average of 5,484 per year).

(E) Harbor porpoise (*Phocoena phocoena*), Southeast Alaska—9,630 (an average of 1,926 per year).

(F) Killer whale (*Orcinus orca*), Alaska Resident—2,820 (an average of 564 per year).

(G) Killer whale (*Orcinus orca*), Eastern North Pacific Offshore—265 (an average of 53 per year).

(H) Killer whale (*Orcinus orca*), AT1 Transient—5 (an average of 1 per year).

(I) Killer whale (*Orcinus orca*), GOA, Aleutian Island, and Bearing Sea Transient—720 (an average of 144 per year).

(J) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), North Pacific—9,815 (an average of 1,963 per year).

(K) Stejneger's beaked whale (*Mesoplodon stejnegeri*), Alaska—5,765 (an average of 1,153 per year).

(L) Sperm whale (*Physeter macrocephalus*), North Pacific—985 (an average of 197 per year).

(iii) Pinnipeds:

(A) California sea lion (*Zalophus californianus*), U.S.—25 (an average of 5 per year).

(B) Steller sea lion (*Eumetopias jubatus*), Eastern U.S.—3,355 (an average of 671 per year).

(C) Steller sea lion (*Eumetopias jubatus*), Western U.S.—2,860 (an average of 572 per year).

(D) Harbor seal (*Phoca vitulina*), North Kodiak—5 (an average of 1 per year).

(E) Harbor seal (*Phoca vitulina*), South Kodiak—5 (an average of 1 per year).

(F) Harbor seal (*Phoca vitulina*), Prince William Sound—10 (an average of 2 per year).

(G) Northern elephant seal (*Mirounga angustirostris*), California Breeding—1,225 (an average of 245 per year).

(H) Northern fur seal (*Callorhinus ursinus*), Eastern Pacific—7,140 (an average of 1,428 per year).

(2) Level A Harassment for all Training Activities:

(i) Odontocetes:

(A) Dall's porpoise (*Phocoenoidea dalli*), Alaska—25 (an average of 5 per year).

(B) [Reserved]

(ii) [Reserved]

§ 218.153 Prohibitions.

Notwithstanding takings contemplated in § 218.152 and authorized by an LOA issued under §§ 216.106 and 218.157 of this chapter, no person in connection with the activities described in § 218.150 may:

(a) Take any marine mammal not specified in § 218.152(c);

(b) Take any marine mammal specified in § 218.152(c) other than by incidental take as specified in § 218.152(c);

(c) Take a marine mammal specified in § 218.152(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 and 218.157 of this chapter.

§ 218.154 Mitigation.

(a) When conducting training activities, as identified in § 218.150, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.157 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) *Lookouts.*The Navy shall have two types of lookouts for the purposes of conducting visual observations: Those positioned on ships; and those positioned ashore, in aircraft, or on boats. The following are protective measures concerning the use of lookouts.

(i) Lookouts positioned on surface ships shall be dedicated solely to diligent observation of the air and surface of the water. Their observation objectives shall include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Due to manning and space restrictions on aircraft, small boats, and some Navy ships, lookouts for these platforms may be supplemented by the aircraft crew or pilot, boat crew, range site personnel, or shore-side personnel. Lookouts positioned in minimally

manned platforms may be responsible for tasks in addition to observing the air or surface of the water (*e.g.,* navigation of a helicopter or small boat). However, all lookouts shall, considering personnel safety, practicality of implementation, and impact on the effectiveness of the activity, comply with the observation objectives described above for lookouts positioned on ships.

(iii) All personnel standing watch on the bridge, Commanding Officers, Executive Officers, maritime patrol aircraft aircrews, anti-submarine warfare helicopter crews, civilian equivalents, and lookouts shall successfully complete the United States Navy Marine Species Awareness Training prior to standing watch or serving as a lookout.

(iv) Lookout measures for non-impulsive sound:

(A) With the exception of vessels less than 65 ft (20 m) in length, ships using hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare activities at sea shall have two Lookouts at the forward position of the vessel.

(B) While using hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare activities at sea, vessels less than 65 ft (20 m) in length shall have one lookout at the forward position of the vessel due to space and manning restrictions.

(C) During non-hull mounted mid-frequency active sonar training activities, Navy aircraft participating in exercises at sea shall conduct and maintain, when operationally feasible and safe, surveillance for marine species of concern as long as it does not violate safety constraints or interfere with the accomplishment of primary operational duties. Helicopters shall observe/survey the vicinity of an anti-submarine warfare training event for 10 minutes before the first deployment of active (dipping) sonar in the water.

(D) Ships or aircraft conducting non-hull-mounted mid-frequency active sonar, such as helicopter dipping sonar systems, shall maintain one lookout.

(E) Ships conducting high-frequency active sonar shall maintain one lookout.

(v) Lookout measures for explosives and impulsive sound:

(A) Aircraft conducting explosive signal underwater sound buoy activities using >0.5–2.5 lb. NEW shall have one lookout.

(B) Surface vessels or aircraft conducting small-, medium-, or large-caliber gunnery exercises against a surface target shall have one lookout. From the intended firing position, trained lookouts shall survey the mitigation zone for marine mammals prior to commencement and during the exercise as long as practicable. Towing vessels, if applicable, shall also maintain one lookout. If a marine mammal is sighted in the vicinity of the exercise, the tow vessel shall immediately notify the firing vessel in order to secure gunnery firing until the area is clear.

(C) Aircraft conducting explosive bombing exercises shall have one lookout and any surface vessels involved shall have trained Lookouts. If surface vessels are involved, lookouts shall survey for floating kelp and marine mammals. Aircraft shall visually survey the target and buffer zone for marine mammals prior to and during the exercise. The survey of the impact area shall be made by flying at 1,500 ft. (460 m) or lower, if safe to do so, and at the slowest safe speed. Release of ordnance through cloud cover is prohibited: Aircraft must be able to actually see ordnance impact areas. Survey aircraft should employ most effective search tactics and capabilities.

(D) When aircraft are conducting missile exercises against a surface target, the Navy shall have one Lookout positioned in an aircraft. Aircraft shall visually survey the target area for marine mammals. Visual inspection of the target area shall be made by flying at 1,500 ft. (457 m) or lower, if safe to do so, and at slowest safe speed. Firing or range clearance aircraft must be able to actually see ordnance impact areas.

(E) Ships conducting explosive and non-explosive gunnery exercises shall have one Lookout on the ship. This may be the same lookout described in paragraph (B) above for surface vessels conducting small-, medium-, or large-caliber gunnery exercises when that activity is conducted from a ship against a surface target.

(F) During sinking exercises, two Lookouts shall be used. One lookout shall be positioned in an aircraft and one lookout shall be positioned on a vessel.

(vi) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships shall have at least one lookout.

(B) [Reserved]

(vii) Lookout measures for non-explosive practice munitions:

(A) Gunnery exercises using non-explosive practice munitions (*e.g.,* small-, medium-, and large-caliber) using a surface target shall have one lookout.

(B) During non-explosive bombing exercises one lookout shall be positioned in an aircraft and trained lookouts shall be positioned in any surface vessels involved.

(C) When aircraft are conducting non-explosive missile exercises (including exercises using rockets) against a surface target, the Navy shall have one lookout positioned in an aircraft.

(2) Mitigation Zones—The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones shall be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals or sea turtles within a mitigation zone shall be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulsive sound:

(A) The Navy shall ensure that hull-mounted mid-frequency active sonar transmission levels are limited to at least 6 dB below normal operating levels if any detected marine mammals or sea turtles are within 1,000 yd. (914 m) of the sonar dome (the bow).

(B) The Navy shall ensure that hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating level if any detected marine mammals or sea turtles are within 500 yd. (457 m) of the sonar dome.

(C) The Navy shall ensure that hull-mounted mid-frequency active sonar transmissions are ceased if any detected cetaceans or sea turtles are within 200 yd. (183 m) and pinnipeds are within 100 yd. (90 m) of the sonar dome. Transmissions shall not resume until the marine mammal has been observed exiting the mitigation zone, is thought to have exited the mitigation zone based on its course and speed, has not been detected for 30 minutes, the vessel has transited more than 2,000 yd. beyond the location of the last detection, or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the ship bow.

(D) The Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission levels are ceased if any detected cetaceans are within 200 yd. (180 m) and pinnipeds are within 100 yd. (90 m) of the source. Transmissions shall not resume until the marine mammal has been observed exiting the mitigation zone, is thought to have exited the mitigation zone based on its course and speed, the mitigation zone has been

clear from any additional sightings for a period of 10 minutes for an aircraft-deployed source, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a vessel-deployed source, the vessel or aircraft has repositioned itself more than 400 yd. (370 m) away from the location of the last sighting, or the vessel concludes that dolphins are deliberately closing in to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(iv) Mitigation zones for explosive and impulsive sound:

(A) A mitigation zone with a radius of 350 yd. (320 m) shall be established for explosive signal underwater sonobuoys using >0.5 to 2.5 lb NEW. Explosive signal underwater sonobuoys shall not be deployed if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone (around the intended deployment location). Explosive signal underwater sonobuoy deployment shall cease if a marine mammal is sighted within the mitigation zone. Detonations shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes. Passive acoustic monitoring shall also be conducted with Navy assets, such as sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to Lookouts posted in aircraft in order to increase vigilance of their visual surveillance.

(B) A mitigation zone with a radius of 200 yd. (180 m) shall be established for small- and medium-caliber gunnery exercises with a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing ship, or the intended target location has been repositioned more than 400 yd. (370 m) away from the location of the last sighting.

(C) A mitigation zone with a radius of 600 yd. (549 m) shall be established for large-caliber gunnery exercises with a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes.

(D) A mitigation zone with a radius of 900 yd. (823 m) shall be established for missile exercises with up to 250 lb NEW and a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(E) A mitigation zone with a radius of 2,000 yd. (1.8 km) shall be established for missile exercises with 251 to 500 lb NEW using a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(F) A mitigation zone with a radius of 2,500 yd. (2.3 km) around the intended impact location for explosive bombs and 1000 yd. (920 m) for non-explosive bombs shall be established for bombing exercises. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Bombing shall cease if a marine mammal is sighted within the mitigation zone. Bombing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

(G) A mitigation zone with a radius of 2.5 nautical miles shall be established for sinking exercises. Sinking exercises shall include aerial observation beginning 90 minutes before the first firing, visual observations from vessels throughout the duration of the exercise, and both aerial and vessel observation immediately after any planned or unplanned breaks in weapons firing of longer than 2 hours. Prior to conducting the exercise, the Navy shall review remotely sensed sea surface temperature and sea surface height maps to aid in deciding where to release the target ship hulk. The Navy shall also monitor using passive acoustics during the exercise. Passive acoustic monitoring would be conducted with Navy assets, such as passive ships sonar systems or sonobuoys, already participating in the activity. These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections would be reported to lookouts posted in aircraft and on vessels in order to increase vigilance of their visual surveillance. Lookouts shall also increase observation vigilance before the use of torpedoes or unguided ordnance with a NEW of 500 lb. or greater, or if the Beaufort sea state is a 4 or above. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. The exercise shall cease if a marine mammal, sea turtle, or aggregation of jellyfish is sighted within the mitigation zone. The exercise shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source, or the mitigation zone has been clear from any additional sightings for a period of 30 minutes. Upon sinking the vessel, the Navy shall conduct post-exercise visual surveillance of the mitigation zone for 2

hours (or until sunset, whichever comes first).

(H) A mitigation zone of 70 yd. (46 m) shall be established for all explosive large-caliber gunnery exercises conducted from a ship. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, the mitigation zone has been clear from any additional sightings for a period of 30 minutes, or the vessel has repositioned itself more than 140 yd. (128 m) away from the location of the last sighting.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd. (460 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement during training activities, providing it is safe to do so.

(B) A mitigation zone of 250 yd. (229 m) shall be established for all towed in-water devices, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd. (180 m) shall be established for small, medium, and large caliber gunnery exercises using a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, the mitigation zone has been clear from any additional sightings for a period of 10 minutes for a firing aircraft, the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a firing ship, or the intended target location has been repositioned more than 400 yd. (370 m) away from the location of the last sighting.

(B) A mitigation zone of 1,000 yd. (920 m) shall be established for bombing exercises. Bombing shall cease if a marine mammal is sighted within the mitigation zone. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Bombing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes.

(C) A mitigation zone of 900 yd. (823 m) shall be established for missile exercises (including rockets) using a surface target. The exercise shall not commence if concentrations of floating vegetation (kelp paddies) are observed in the mitigation zone. Firing shall cease if a marine mammal is sighted within the mitigation zone. Firing shall recommence if any one of the following conditions is met: The animal is observed exiting the mitigation zone, the animal is thought to have exited the mitigation zone based on its course and speed, or the mitigation zone has been clear from any additional sightings for a period of 10 minutes or 30 minutes (depending on aircraft type).

(3) *Stranding response plan.* (i) The Navy shall abide by the letter of the ''Stranding Response Plan for Major Navy Training Exercises in the GOA TMAA Study Area,'' to include the following measures:

(A) *Shutdown procedures.* When an Uncommon Stranding Event (USE) occurs during a Major Training Exercise (MTE) in the Study Area, the Navy shall implement the procedures described below:

(*1*) The Navy shall implement a shutdown when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the GOA TMAA Study Area Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and the Navy shall maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(*2*) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(*3*) If the Navy finds an injured or dead animal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s), including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behavior (if alive), and photo or video (if available). Based on the information provided, NFMS shall determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(*4*) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy shall further coordinate to determine what measures are necessary to improve the probability that the animals will return to open water and implement those measures as appropriate.

(B) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the GOA TMAA Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (148–km), 72–hour period prior to the event shall be provided as soon as it becomes available. The Navy shall provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(ii) [Reserved]

(b) [Reserved]

§ 218.155 Requirements for monitoring and reporting.

(a) The Holder of the Authorization must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activity identified in § 218.150 is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in § 218.152(c).

(b) The Holder of the LOA must conduct all monitoring and required reporting under the LOA, including abiding by the GOA TMAA monitoring plan.

(c) *General notification of injured or dead marine mammals.* Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as operational security considerations allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, a Navy training activity utilizing mid- or high-frequency active sonar, or underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). In the event that an injured, stranded, or dead marine mammal is found by the Navy that is not in the vicinity of, or during or shortly after, MFAS, HFAS, or underwater explosive detonations, the Navy shall report the same information as listed above as soon as operationally feasible and clearance procedures allow.

(d) *General notification of ship strike.* In the event of a ship strike by any Navy vessel, at any time or place, the Navy shall do the following:

(1) Immediately report to NMFS the species identification (if known), location (lat/long) of the animal (or the strike if the animal has disappeared), and whether the animal is alive or dead (or unknown), and the time of the strike.

(2) Report to NMFS as soon as operationally feasible the size and length of animal, an estimate of the injury status (ex., dead, injured but alive, injured and moving, unknown, etc.), vessel class/type and operational status.

(3) Report to NMFS the vessel length, speed, and heading as soon as feasible.

(4) Provide NMFS a photo or video, if equipment is available.

(5) Within 2 weeks of the strike, provide NMFS with a detailed description of the specific actions of the vessel in the 30–minute timeframe immediately preceding the strike, during the event, and immediately after the strike (*e.g.,* the speed and changes in speed, the direction and changes in direction, other maneuvers, sonar use, etc., if not classified); a narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(e) *Communication plan.* The Navy and NMFS shall develop a communication plan that will include all of the communication protocols (phone trees, etc.) and associated contact information required for NMFS and the Navy to carry out the necessary expeditious communication required in the event of a stranding or ship strike, including information described in the proposed notification measures above.

(f) *Annual GOA TMAA monitoring report.* The Navy shall submit an annual report of the GOA TMAA monitoring describing the implementation and results from the previous calendar year. Data collection methods shall be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the GOA TMAA monitoring plan shall, at a minimum, provide the same marine mammal observation data required in § 218.155. The report shall be submitted either 90 days after the calendar year, or 90 days after the conclusion of the monitoring year to be determined by the Adaptive Management process. The GOA TMAA Monitoring Report may be provided to NMFS within a larger report that includes the required Monitoring Plan reports from multiple range complexes and study areas (the multi-Range Complex Annual Monitoring Report). Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the Integrated Comprehensive Monitoring Program. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring plan study questions.

(g) *Annual GOA TMAA exercise reports.* Each year, the Navy shall submit a preliminary report detailing the status of authorized sound sources within 21 days after the anniversary of the date of issuance of the LOA. Each year, the Navy shall submit a detailed report within 3 months after the anniversary of the date of issuance of the LOA. The annual report shall contain information on Major Training Exercises (MTEs), Sinking Exercise (SINKEX) events, and a summary of all sound sources used, as described in paragraph (g)(3) of this section. The analysis in the detailed report shall be based on the accumulation of data from the current year's report and data collected from previous the report. The detailed reports shall contain information identified in paragraphs (g)(1) through (4) of this section.

(1) MFAS/HFAS Major Training Exercises—This section shall contain the following information for Major Training Exercises conducted in the GOA TMAA:

(i) Exercise Information (for each MTE):

(A) Exercise designator.

(B) Date that exercise began and ended.

(C) Location.

(D) Number and types of active sources used in the exercise.

(E) Number and types of passive acoustic sources used in exercise.

(F) Number and types of vessels, aircraft, etc., participating in exercise.

(G) Total hours of observation by lookouts.

(H) Total hours of all active sonar source operation.

(I) Total hours of each active sonar source bin.

(J) Wave height (high, low, and average during exercise).

(ii) Individual marine mammal sighting information for each sighting in each exercise when mitigation occurred:

(A) Date/Time/Location of sighting.

(B) Species (if not possible, indication of whale/dolphin/pinniped).

(C) Number of individuals.

(D) Initial Detection Sensor.

(E) Indication of specific type of platform observation made from (including, for example, what type of surface vessel or testing platform).

(F) Length of time observers maintained visual contact with marine mammal.

(G) Sea state.

(H) Visibility.

(I) Sound source in use at the time of sighting.

(J) Indication of whether animal is <200 yd, 200 to 500 yd, 500 to 1,000 yd, 1,000 to 2,000 yd, or >2,000 yd from sonar source.

(K) *Mitigation implementation.* Whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was.

(L) If source in use is hull-mounted, true bearing of animal from ship, true direction of ship's travel, and estimation of animal's motion relative to ship (opening, closing, parallel).

(M) *Observed behavior.* Lookouts shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.) and if any calves present.

(iii) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level

to which marine mammals may be exposed. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(2) *SINKEXs.* This section shall include the following information for each SINKEX completed that year:

(i) Exercise information (gathered for each SINKEX):

(A) Location.

(B) Date and time exercise began and ended.

(C) Total hours of observation by lookouts before, during, and after exercise.

(D) Total number and types of explosive source bins detonated.

(E) Number and types of passive acoustic sources used in exercise.

(F) Total hours of passive acoustic search time.

(G) Number and types of vessels, aircraft, etc., participating in exercise.

(H) Wave height in feet (high, low, and average during exercise).

(I) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.

(ii) Individual marine mammal observation (by Navy lookouts) information (gathered for each marine mammal sighting) for each sighting in each exercise that required mitigation to be implemented:

(A) Date/Time/Location of sighting.

(B) Species (if not possible, indicate whale, dolphin, or pinniped).

(C) Number of individuals.

(D) Initial detection sensor.

(E) Length of time observers maintained visual contact with marine mammal.

(F) Sea state.

(G) Visibility.

(H) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after.

(I) Distance of marine mammal from actual detonations (or target spot if not yet detonated).

(J) *Observed behavior.* Lookouts shall report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming etc.), including speed and direction and if any calves present.

(K) *Resulting mitigation implementation.* Indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.

(L) If observation occurs while explosives are detonating in the water, indicate munition type in use at time of marine mammal detection.

(3) Summary of sources used.

(i) This section shall include the following information summarized from the authorized sound sources used in all training events:

(A) Total annual hours or quantity (per the LOA) of each bin of sonar or other non-impulsive source;

(B) Total annual number of each type of explosive exercises (of those identified as part of the ''Specified Activity'' in this proposed rule) and total annual expended/detonated rounds (missiles, bombs, sonobuoys, etc.) for each explosive bin.

(4) *Geographic information presentation.* The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(g) *Sonar exercise notification.* The Navy shall submit to NMFS (contact as specified in the LOA) an electronic report within fifteen calendar days after the completion of any major training exercise indicating:

(i) Location of the exercise.

(ii) Beginning and end dates of the exercise.

(iii) Type of exercise.

(h) *Five-year close-out exercise report.* This report shall be included as part of the 2021 annual exercise report. This report shall provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report shall include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the SEIS and final rule determinations. The report shall be submitted 3 months after the expiration of this subpart. NMFS shall submit comments on the draft close-out report, if any, within 3 months of receipt. The report shall be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

§ 218.156 Applications for letters of authorization (LOA).

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.106 of this chapter) conducting the activity identified in § 218.150(c) (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 218.157 or a renewal under § 218.158.

§ 218.157 Letters of authorization (LOA).

(a) An LOA, unless suspended or revoked, shall be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each LOA shall set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (*i.e.,* mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the LOA shall be based on a determination that the total number of marine mammals taken by the activity as a whole shall have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.158 Renewals and modifications of letters of authorization (LOA) and adaptive management.

(a) A letter of authorization issued under §§ 216.106 and 218.157 of this chapter for the activity identified in § 218.150(c) shall be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under § 216.106 and § 218.157 of this chapter for the activity identified in § 218.154 of this chapter may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* NMFS may modify and augment the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from Navy's monitoring from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOA.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS would publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.152(c), an LOA may be modified without prior notification and an opportunity for public comment. Notification would be published in the **Federal Register** within 30 days of the action.

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Part III

Federal Deposit Insurance Corporation

12 CFR Part 370
Recordkeeping for Timely Deposit Insurance Determination; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 370

RIN 3064–AE33

Recordkeeping for Timely Deposit Insurance Determination

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is seeking comment on a proposed rule that would facilitate prompt payment of FDIC-insured deposits when large insured depository institutions fail. The proposal would require insured depository institutions that have two million or more deposit accounts to maintain complete and accurate data on each depositor's ownership interest by right and capacity for all of the institution's deposit accounts, and to develop the capability to calculate the insured and uninsured amounts for each deposit owner by ownership right and capacity for all deposit accounts, which would be used by the FDIC to make deposit insurance determinations in the event of the insured depository institution's failure.

DATES: Comments must be received by May 26, 2016.

ADDRESSES: You may submit comments on the notice of proposed rulemaking using any of the following methods:

- *Agency Web site: https://www.fdic.gov/regulations/laws/federal.* Follow the instructions for submitting comments on the agency Web site.
- *Email: comments@fdic.gov.* Include RIN 3064—AE33 on the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.
- *Public Inspection:* All comments received, including any personal information provided, will be posted generally without change to *https://www.fdic.gov/regulations/laws/federal.*

FOR FURTHER INFORMATION CONTACT: Marc Steckel, Deputy Director, Division of Resolutions and Receiverships, 571–858–8224; Teresa J. Franks, Associate Director, Division of Resolutions and Receiverships, 571–858–8226; Shane Kiernan, Counsel, Legal Division, 703–562–2632; Karen L. Main, Counsel, Legal Division, 703–562–2079.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The FDIC is proposing new requirements for certain large and complex insured depository institutions (''IDIs''), as measured by number of deposit accounts, to ensure that depositors have prompt access to insured funds in the event of a failure. When a bank fails, the FDIC must provide depositors insured funds ''as soon as possible'' after failure while also resolving the failed bank in the least costly manner.

The FDIC makes deposit insurance determinations after calculating the net amount due to depositors of a failed institution based upon the laws and regulations governing deposit insurance. While the general coverage limit of $250,000 is widely understood and may appear to be easily applied, the laws and regulations governing deposit insurance limits are more detailed, which necessitates more complex processing. The process begins by aggregating the amounts of all deposits in the failed institution by depositor according to the rights and capacities associated with each account type. This process becomes more complicated, for example, when there are a large number of deposit accounts, when the failed institution has multiple deposit systems, when identifying information for the same depositor in separate accounts is incorrect or inconsistent, when beneficial owners of pass-through accounts have not been identified, or when beneficiaries of trust accounts and their relative interests have not been identified.

The proposed rule would reduce the difficulties the FDIC faces when making prompt deposit insurance determinations at the largest IDIs. It would require IDIs with two million or more deposit accounts to maintain complete and accurate depositor information and to develop the capability to calculate deposit insurance coverage for all deposit accounts using their own information technology system (''IT system''). The proposed rule would ensure that customers of both large and small failed banks receive the same prompt access to their funds, reducing disparities that might undermine market discipline or create unintended competitive advantages in the market for large deposits.

The size and complexity of the IDIs affected by this rule justify imposing more specific data requirements on those IDIs than on smaller IDIs to ensure that the FDIC can make prompt deposit insurance determinations. Institutions covered by the proposed rule often use multiple deposit systems, which may complicate the FDIC's deposit insurance determination as described in *IV. Need for Further Rulemaking.* While challenges resulting from incomplete information are present when any bank fails, obtaining the necessary information could significantly delay the availability of funds when information is incomplete for millions of accounts. Additionally, larger IDIs generally rely on credit-sensitive funding more than smaller IDIs do, which makes them more likely to suffer a liquidity-induced failure. This dynamic increases the risk that the FDIC would have less lead time to prepare for administering deposit claims as part of a resolution. Further, to establish a bridge depository institution, which is a likely resolution strategy for large complex institutions, the FDIC must generally have the ability to rapidly determine the amount of insured and uninsured deposits held by the predecessor failed bank. Having the option to establish a bridge depository institution enhances the FDIC's ability to resolve a failed IDI by transferring parts to smaller institutions rather than arranging the purchase and assumption of the entire bank by another large bank. This option greatly enhances the FDIC's ability to market the failed IDI and preserve its franchise value.

Ensuring the swift availability of funds for millions of depositors at a large IDI would contribute to financial stability. Confidence that the FDIC can promptly determine insured amounts will reinforce the understanding that any size bank can fail without systemic disruptions. That understanding would, in turn, reduce the moral hazard that might otherwise induce the largest banks to take excessive risks.

II. Legal Authority

The FDIC is authorized to prescribe rules and regulations as it may deem necessary to carry out the provisions of the Federal Deposit Insurance Act (''FDI Act'').[1] Under the FDI Act, the FDIC is responsible for paying deposit insurance ''as soon as possible'' following the failure of an IDI.[2] To pay deposit insurance, the FDIC uses a failed IDI's records to aggregate the amounts of all deposits that are maintained by a depositor in the same right and capacity and then applies the standard maximum deposit insurance amount (''SMDIA'') of $250,000.[3] As authorized by law, the FDIC must rely on the failed institution's deposit account records to

[1] 12 U.S.C. 1819(a)(Tenth); 1820(g); 1821(d)(4)(B)(iv).

[2] 12 U.S.C. 1821(f)(1).

[3] 12 U.S.C. 1821(a)(1)(C), 12 U.S.C. 1821(a)(1)(E).

identify deposit owners and the right and capacity in which deposits are owned.[4] In addition, the FDIC operates under a mandate to implement the resolution of a failed IDI at the least possible cost to the Deposit Insurance Fund.[5] Requiring institutions with two million or more deposit accounts to maintain complete and accurate data regarding deposit ownership and to have IT systems that can be used by the FDIC to calculate deposit insurance coverage in the event of failure will enable the prompt payment of deposit insurance and preserve the FDIC's ability to implement the least costly resolution of such an institution.

III. Current Regulatory Approach

Although the statutory requirement that the FDIC pay insurance ''as soon as possible'' does not require the FDIC to pay insurance within a specific time period, the FDIC strives to pay insurance promptly. Indeed, the FDIC strives to make most insured deposits available to depositors by the next business day after a bank fails. The FDIC believes that prompt payment of deposit insurance is essential for several reasons. First, prompt payment of deposit insurance maintains public confidence in the deposit insurance system as well as in the banking system. Second, depositors must have prompt access to their insured funds in order to meet their financial needs and obligations. Third, a delay in the payment of deposit insurance—especially in the case of the failure of one of the largest insured depository institutions—could have systemic consequences. Fourth, a delay could reduce the franchise value of the failed bank and thus increase the cost to the Deposit Insurance Fund. Fifth, prompt payment would reduce the likelihood that disruptions in the check clearing cycle or to direct debit arrangements would occur during the resolution process.

The FDIC took an initial step toward ensuring that prompt deposit insurance determinations could be made at large insured depository institutions through the issuance in July 2008 of § 360.9 of the FDIC's regulations.[6] Section 360.9 applies to IDIs with at least $2 billion in domestic deposits and at least 250,000 deposit accounts or $20 billion in total assets.[7] Section 360.9 requires these institutions to be able to provide the FDIC with standard deposit account information that can be used in the event of the institution's failure. The appendices to part 360 prescribe the structure for the data files that those institutions must provide to the FDIC. However, they are permitted to populate the data fields by using only preexisting data elements. If the institution does not maintain the information to complete a particular data field, then a null value can be used in that field. As a result of this discretionary approach, these institutions' standard data files are frequently incomplete. Section 360.9 also requires these institutions to maintain the technological capability to automatically place and release holds on deposit accounts if an insurance determination could not be made by the FDIC by the next business day after failure. While § 360.9 would assist the FDIC in fulfilling its legal mandates regarding the resolution of failed institutions subject to that rule, the FDIC believes that if a large institution were to fail with little prior warning, additional measures would be needed to ensure the prompt and accurate payment of deposit insurance to all depositors.

IV. Need for Further Rulemaking

While the FDIC is authorized to rely upon the account records of a failed IDI to identify owners and ownership rights and capacities, in the FDIC's experience it is not unusual for a failed bank's records to be ambiguous or incomplete. For example, the FDIC might discover multiple accounts under one name but at different addresses or under different names but at the same address. The problem of accurately identifying the owners of deposits is exacerbated when an account at a failed bank has been opened through a deposit broker or other agent or custodian and neither the name nor the address of the owner appears in the failed bank's records. Often in such cases, the only party identified in the records is the agent or custodian. (In the case of accounts held by agents or custodians, the FDIC provides ''pass-through'' insurance coverage, meaning that the coverage ''passes through'' the agent or custodian to each of the actual owners.[8]) Trust accounts may also present challenges to an accurate determination of deposit insurance coverage, even when the owner of a particular account is clearly disclosed in the failed bank's account records. The identities of the beneficiaries might not be contained in the bank's records or electronically stored in a structured way using standardized formatting. A further complication is that bank records on trust accounts are often in paper form or electronically scanned images that require a time-consuming manual review.

Under each of these circumstances, in order to ensure the accurate payment of deposit insurance, the FDIC may need to delay the payment of insured amounts to depositors while it manually reviews files and obtains additional information as to the actual owners or beneficiaries and their respective interests. Such delays in the insurance determination process could increase the likelihood of disruptions to an assuming institution's or an FDIC-managed bridge bank's back office functions, such as the check clearing cycle and direct debit arrangements.

While these challenges to accurately determining and promptly paying deposit insurance may be present at any size of failed institution, they become increasingly formidable as the size and complexity of the institution increases. Larger institutions are generally more complex, have more deposit accounts, greater geographic dispersion, multiple deposit systems, and more issues with data accuracy and completeness. These factors, which all contribute to the difficulty of making a prompt deposit insurance determination, have become more pronounced over time and can be attributed largely to consolidation in the banking industry. From 2004 to 2014, the largest number of deposit accounts held at a single IDI increased 119 percent, and the deposit accounts at the ten banks having the most deposit accounts increased 106 percent. As a result of this concentration, the largest banks have become even more complex than before, with greater potential for significant IT systems disparities, as well as data accuracy and completeness problems. The largest IDIs which grew through acquisition have inherited the legacy deposit account systems of the acquired banks. Those systems might have missing and inaccurate deposit account information; the acquired records might not be automated or compatible with the acquired institution's deposit systems—resulting in multiple deposit platforms.

Although the largest institutions are still able to conduct their banking operations without expending the resources necessary to integrate these inherited systems or update the acquired deposit account files, the state of their deposit systems would complicate and prolong the deposit insurance determination process in the event of failure. Because delays in deposit insurance determinations could lead to bank runs or other systemic problems, the FDIC believes that

[4] 12 U.S.C. 1822(c); 12 CFR 330.5.

[5] 12 U.S.C. 1823(c)(4).

[6] 12 CFR 360.9. *See* 73 FR 41180 (July 17, 2008).

[7] 12 CFR 360.9(b)(1).

[8] *See* 12 CFR 330.7.

improved strategies must be implemented to ensure prompt deposit insurance determinations upon the failure of a bank with a large number of deposit accounts.

The FDIC's experience in the financial crisis, which peaked in the months following the promulgation of § 360.9, indicated that failures can often happen with very little notice and time for the FDIC to prepare. Since 2009, the FDIC was called upon to resolve 47 institutions within 30 days from the commencement of the resolution process to the ultimate closing of the bank. In addition to these rapid failures, the financial condition of two banks with a large number of deposit accounts—Washington Mutual Bank and Wachovia [9]—deteriorated very quickly, leaving the FDIC little time to prepare. If a large bank were to fail due to liquidity problems, the FDIC's opportunity to prepare for the bank's closing would be limited, thus further exacerbating the challenge to making prompt deposit insurance determinations.

The FDIC has worked with institutions covered by § 360.9 for several years to confirm their ability to comply with the rule's requirements. This implementation process has led the FDIC to conclude that the standard data sets and other requirements of § 360.9 are not sufficient to mitigate the complexities of the largest institution failures. Based on its experience reviewing the covered institutions' deposit data (and often finding inaccurate or incomplete data), deposit recordkeeping systems, and capabilities for imposing provisional holds, the FDIC believes that § 360.9 has not been as effective as had been hoped in enhancing the capacity of the FDIC to make prompt deposit insurance determinations. Specifically, the continued growth following the promulgation of § 360.9 in the number of deposit accounts at larger IDIs and the number and complexity of deposit systems or platforms in many of these institutions would exacerbate the difficulty of making prompt deposit insurance determinations. A failed IDI that has multiple deposit systems would further complicate the aggregation of deposits owned by a particular depositor in a particular right and capacity, causing additional delay.

Using the FDIC's IT system to make deposit insurance determinations at a failed institution with a large number of deposit accounts would require the transmission of massive amounts of deposit data from the IDI's IT system to the FDIC's IT system. The time required for transmitting and processing such a large amount of data would present a significant impediment to making an insurance determination in the timely manner that the public has come to expect. The 36 institutions projected to be covered by the proposed rule each hold between 2 million and 85 million deposit accounts. Requiring the covered institutions to enhance their deposit account data and upgrade their IT systems so that the FDIC can perform the deposit insurance determination on all of their deposit accounts without a data transfer would address many of these issues.

On April 28, 2015, the FDIC published in the **Federal Register** an Advance Notice of Proposed Rulemaking (''ANPR'') seeking comment on whether certain insured depository institutions such as those that have two million or more deposit accounts should be required to take steps to ensure that depositors would have access to their FDIC-insured funds in a timely manner (usually within one business day of failure) if one of these institutions were to fail.[10] Specifically, the FDIC sought comment on whether these IDIs should be required to enhance their recordkeeping to maintain and be able to provide substantially more accurate and complete data on each depositor's ownership interest by right and capacity for all or a large subset of the institution's deposit accounts. The FDIC also sought comment on whether these IDIs' IT systems should have the capability to calculate the insured and uninsured amounts for each depositor by deposit insurance capacity for all or a substantial subset of deposit accounts at the end of any business day. The comment period ended on July 27, 2015. The FDIC received 10 comment letters. The FDIC also had six meetings or conference calls with banks, trade groups, and software providers.

V. Discussion of Comments

The FDIC has carefully considered all of the comments. The commenters generally acknowledged the FDIC's objectives regarding the need for the covered institutions to maintain more complete and accurate depositor information and to develop the capability to calculate the deposit insurance coverage for all deposit accounts using their IT systems. The commenters recognized the FDIC's obligation to fulfill its statutory mandates. One commenter that would not be covered expressed its full support for the proposals set forth in the ANPR. This commenter agreed that because delays in the FDIC's determination of deposit insurance coverage could lead to bank runs or other systemic problems, more needs to be done to ensure that the FDIC can continue to make prompt deposit insurance determinations for accounts at even the largest and most complex insured depository institutions, specifically those with a large number of deposit accounts. In addition, another commenter noted a number of possible benefits to the implementation of these proposals by the covered institutions; this commenter believed that the greatest benefit would be the preservation of the public's confidence in the FDIC and in the banking industry in general. Other benefits identified included: Greater efficiencies in the wind-down process, less time and human capital spent in the wind-down process, and better compliance with anti-money laundering and Bank Secrecy Act requirements because of the necessity to identify the underlying beneficial owners of various types of accounts.

Nevertheless, a number of commenters expressed concerns with various aspects of the proposals as set forth in the ANPR. The following discussion organizes their comments to present the most common positions discussed in their letters and communications which, inter alia, include: The FDIC would be transferring its statutory responsibility to make the deposit insurance determinations to the covered institutions; community banks should not be covered by the proposals; and the implementation of enhanced deposit account recordkeeping and IT system capabilities by covered institutions would be a multi-year effort involving significant bank resources.

A. FDIC's Statutory Responsibility for Deposit Insurance Determination

Several commenters voiced the opinion that the proposal to require certain large IDIs to develop the capability to perform the deposit insurance calculation on all or a significant subset of their deposit accounts effectively would be transferring the FDIC's statutory responsibility to make deposit insurance determinations to the covered institutions. This is not the case. The FDIC recognizes the importance of distinguishing between the covered institutions' responsibility to maintain complete and accurate records and to enhance their IT systems from the FDIC's responsibility to make deposit

[9] In their final Call Reports (2Q–08) Washington Mutual reported 42 million deposit accounts and Wachovia reported 29 million deposit accounts.

[10] 80 FR 23478 (April 28, 2015).

insurance determinations and pay deposit insurance.

In order to pay insured deposits to the failed bank's depositors as soon as possible, as directed in section 11(f)(1) of the FDI Act,[11] the FDIC is authorized by section 12(c) of the FDI Act to rely upon the failed bank's records to determine the owners of deposits at the failed bank.[12] The large number of deposit accounts at covered institutions makes it necessary for the FDIC to require these institutions to obtain and maintain the necessary depositor information in their records in order to facilitate the identification of the owners of the deposits and the amounts thereof. Deposit account recordkeeping is the covered institutions' responsibility.

In order to fulfill its statutory responsibilities with respect to the depositors of the largest and most complex IDIs, the FDIC must be able to rely on the covered institutions having the requisite deposit account information readily available and having an IT system capable of performing the deposit insurance calculations at the FDIC's direction. Therefore, the proposed rule would require the covered institutions to improve their deposit account recordkeeping and the capability of their IT systems so that in the event of failure, deposit records would be immediately available to the FDIC for the purpose of quickly and accurately determining the appropriate deposit insurance coverage for each deposit account. Upon a covered institution's failure, the FDIC would employ the covered institution's IT system to make the deposit insurance determination. Requiring the covered institutions to develop these capabilities would enable the FDIC to satisfy its statutory mandate to pay insured deposits as soon as possible. The FDIC would use these capabilities to make deposit insurance determinations only after the failure of a covered institution. Consequently, it would not be delegating its statutory responsibility to the covered institution.

B. Requiring Banks To Maintain the Necessary Depositor Information on the Beneficial Owners of Pass-Through Deposit Accounts

The FDIC sought comment regarding two options proposed to address the issue of determining the deposit insurance coverage for pass-through deposit accounts promptly. The first option would require the FDIC to identify the covered institutions' pass-through accounts (upon failure) and place temporary holds on the entire balance in each account. Current FDIC regulation allows the information which would identify the beneficial owners of the pass-through deposit accounts to be maintained off-site in the deposit broker's or other agent's records. Therefore, the financial intermediaries (banks, brokers, agents, and custodians) would submit the required depositor information to the FDIC in a standard format within a certain time frame. The FDIC's claims agents would then review the depositor information provided by the agents and make a deposit insurance determination. This process is labor-intensive and generally requires depositors' access to these funds to be temporarily restricted.

Two commenters focused their discussion on deposit products and accounts provided by brokers to their customers and the preferred procedure for providing the depositors' information to the FDIC at bank failure. Both commenters supported the continued use of the procedures described in Option 1 which would, in effect, maintain the status quo.

As discussed more fully in *I. Policy Objectives* and *IV. Need for Further Rulemaking,* the FDIC does not believe that relying on the status quo is a viable approach with respect to the possible failure of a covered institution. For example, the volume of pass-through accounts for which beneficial ownership information would be unavailable in the covered institution's records at failure could far exceed the number of accounts handled in any of the FDIC's previous resolutions. Moreover, some of these pass-through accounts could be transactional in nature. Depositors may require immediate access to deposit accounts insured on a pass-through basis such as brokered money market demand account (''MMDA'') funds, transaction accounts (including both negotiable order of withdrawal (''NOW'') accounts and demand deposit accounts offered by a financial intermediary) and certain types of prepaid cards. If funds in these transactional accounts are not available when the bridge bank or another assuming institution opens on the next business day, then outstanding items could be returned unpaid and affected depositors might not have immediate access to their funds. This proposal does not aim to directly address this challenge, but instead would cause covered institutions to identify and report such accounts so that they can be further considered.

In order to address the increased volume of pass-through accounts at covered institutions, as well as the need of the beneficial owners to have immediate access to the funds in their transactional accounts on the next business day, the FDIC presented a second option to require the covered institutions to maintain up-to-date information on the principal or underlying depositor at the covered institutions. This proposed change in deposit account recordkeeping would allow the FDIC to make immediate or prompt deposit insurance determinations either for all pass-through deposit accounts or at least those accounts where depositors would expect and require immediate access to their funds on the next business day.

Both of the commenters who discussed pass-through deposit account issues voiced opposition to the FDIC's pass-through proposal for a number of reasons. One commenter challenged the FDIC's statutory authority to require the covered banks to maintain depositor information on the beneficial owners of brokered deposits in the covered institutions' own records. This commenter correctly noted that the concept of pass-through deposit insurance coverage is grounded in the FDIC's enabling statute, the FDI Act. Section 11(a)(1)(C) states that ''[f]or the purpose of determining the net amount due to any depositor . . . the [FDIC] shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person.'' The FDIC is not attempting to alter the statutory basis for pass-through insurance coverage, however.

Section 12(c) of the FDI Act provides the FDIC with the legal basis for determining deposit insurance coverage. The FDIC is not required to recognize and pay deposit insurance to any person whose ''name or interest as such owner is not disclosed on the records'' of the failed financial institution ''if such recognition would increase the aggregate amount of the insured deposits'' in such failed IDI. The only exception to this standard is the proviso: ''Except as otherwise prescribed by the Board of Directors.'' In 1990 and again in 1998, the FDIC adopted amendments to the deposit insurance regulations which involved recordkeeping requirements for fiduciary relationships (which include deposit brokers and their beneficial owners). For example, the multi-tiered fiduciary relationship provisions permit deposit insurance coverage for the principal or underlying depositor if the

[11] 12 U.S.C. 1821(f)(1).

[12] 12 U.S.C. 1822(c).

banks either: (1) Maintain the beneficial ownership information regarding the deposits placed by brokers (for each tier of ownership) at the bank; or (2) indicate on the bank's records that the beneficial ownership information will be maintained by parties (in the normal course of business) at each level of the fiduciary relationships. Additionally, this deposit insurance regulation allows a depositor to prove, in effect, the existence of pass-through coverage for a deposit account even though the bank's records do not explicitly or clearly indicate such a relationship exists. The FDIC's regulations recognizing multi-tiered fiduciary relationships and allowing records of beneficial ownership to be maintained off-site represent the action and approval of the FDIC.

This commenter stated that the FDIC's amendments to its recordkeeping requirements for fiduciary or pass-through accounts ''provide[d] the FDIC with greater flexibility in granting pass-through coverage when the existence of an agency or other relationship necessary for pass-through insurance is not clear from the bank's records.'' If the commenter has interpreted the flexibility afforded to the banks regarding the fiduciary relationship recordkeeping requirements as creating additional FDIC pass-through deposit insurance coverage for deposits placed by multi-tiered fiduciaries or deposit brokers, then that interpretation would be inconsistent with the position the FDIC is taking in the proposed rule. Allowing the covered institutions to rely on the deposit brokers or other agents to maintain the necessary documentation represents a liberalization of the recordkeeping requirement set forth in section 12(c) of the FDI Act. As such, the FDIC's deposit insurance regulations allow the FDIC to recognize the pass-through nature of certain deposit accounts and pay deposit insurance to the underlying deposit owners even when the records are not maintained at the failed bank. The FDIC does not view the relaxing of the statutory recordkeeping requirement as ''granting'' pass-through insurance coverage, but rather merely facilitating recordkeeping arrangements between the covered institutions and their deposit brokers and other agents. Conversely, requiring the covered institutions to maintain beneficial ownership information on-site would not adversely impact the availability of pass-through insurance coverage provided that the necessary documentation is present in the covered institution's records.

In summary, the FDI Act provides for pass-through deposit insurance for the principal depositor or the beneficial owner of a deposit placed by an agent on its behalf. The FDIC recognizes these depositors and pays deposit insurance when their ownership is appropriately documented. In that regard, the FDIC must also adhere to the legal standard set forth in section 12(c) of the FDI Act to identify deposit owners and pay insured deposits. The FDIC has the authority pursuant to section 12(c) of the FDI Act to require the covered institutions to maintain the necessary records on-site. If the FDIC determines that the current recordkeeping flexibility is no longer appropriate or feasible for the covered institutions, then the FDIC Board is within its statutory authority to adopt different recordkeeping requirements through the issuance of a new regulation. To deny the FDIC's authority to require the covered institutions to maintain the necessary information on the beneficial owners of the brokered deposits in their own records in order to make accurate and timely deposit insurance determinations would, in effect, ignore section 12(c) of the FDI Act.

C. Arguments Against Adoption of Option 2

The other commenter presented four arguments to demonstrate why Option 2 would not be an acceptable alternative to the status quo. First, the ANPR did not demonstrate the existence of a problem with pass-through accounts that would justify the imposition of a new regulatory burden as described in the FDIC's pass-through proposal. Second, requiring covered institutions also to maintain beneficial ownership information that presently resides with financial intermediaries such as deposit brokers would needlessly increase the exposure of depositor information to cyber-attack and identity theft. Third, community banks would be forced to provide information on their best customers to large banks, potentially giving the covered institutions an unfair competitive advantage. Finally, the application of different depositor recordkeeping rules to different banks could create depositor confusion and reduce public confidence in the FDIC.

In response to the first argument, the FDIC briefly addressed in the ANPR the problems of pass-through accounts in making a deposit insurance determination.[13] Moreover, the challenges the FDIC faces in making timely deposit insurance determinations for pass-through deposit accounts are also discussed in *IV. Need for Further Rulemaking,* above. Second, IDIs already maintain significant amounts of sensitive data such as PII that could be a target for cyber-attack or identity theft. However, they have cybersecurity defenses in place and are continuously enhancing those defenses. The FDIC believes that the benefits of conducting the deposit insurance determination using the covered institutions' own IT systems would outweigh the risk of the beneficial ownership information being exposed to cyber-attack or identity theft. With respect to the commenter's third argument, it would be the duty of the covered institution receiving the deposit to obtain and maintain the beneficial ownership information. Nevertheless, the commenter expressed concern that community banks would be forced to share proprietary information regarding their best customers with the large covered institutions thereby putting them at a competitive disadvantage. A community bank could refuse to provide information on its best customers if it so chooses. As discussed more fully in *VI. Description of the Proposed Rule,* the recipient covered institution would then be able to apply to the FDIC for an exception to the proposed rule's requirements for that particular account. The argument that the FDIC would be creating different deposit insurance coverage rules if the proposed rule is finalized is discussed below.

The proposed rule would not create different deposit insurance coverage for the covered institutions' depositors. The purpose of this proposed rulemaking is to modify the deposit account *recordkeeping requirements* for the largest and most complex IDIs. For example, § 330.5(b)(2) and (3) of the FDIC's regulations allows IDIs to have the beneficial ownership information concerning deposit accounts opened by agents and other financial intermediaries to be maintained by a financial intermediary rather than on-site at the IDI. In other words, the requisite deposit ownership information to determine pass-through insurance coverage will not be found in the IDI's

[13] ''The problem identifying the owners of deposits is exacerbated when an account at a failed bank has been opened through a deposit broker or other agent or custodian. In this scenario, neither the name nor the address of the owner may appear in the failed bank's records.'' 81 FR 23478 (April 28, 2015). ''The need to obtain information from the agents or custodians delays the calculation of deposit insurance by the FDIC, which may result in delayed payments of insured amounts or erroneous overpayment of insurance. At certain banks with a large number of deposit accounts and large numbers of pass-through accounts, potential delays or erroneous overpayments could be substantial.'' Id. at 23482.

records. The FDIC's proposal to require the covered institutions to obtain and maintain beneficial ownership information on pass-through accounts in-house should not be characterized as a limitation or restriction on deposit insurance coverage for pass-through accounts.

While it is true that the FDIC is not required to pay deposit insurance to any depositor ''whose name or other interest as such owner is not disclosed on the record'' of the failed bank, this is not the FDIC's intention in the current rulemaking process. The pass-through proposal, as described in the ANPR, does not attempt to restrict or limit pass-through deposit insurance coverage. Covered institutions would have heightened recordkeeping and IT system capability requirements to enable the FDIC to fulfill its statutory responsibility to pay insured deposits as soon as possible regardless of the size of the IDI. These proposed requirements would not, however, change the deposit insurance coverage standards for any covered institution's depositors.

The FDIC also recognizes that requiring the covered institutions to obtain and maintain information on the beneficiaries of certain types of trust accounts at the covered institutions is a new approach. The FDIC's intent, however, is not to create different insurance coverage rules for accounts at different banks as characterized by one commenter. The FDIC does not view this enhanced recordkeeping requirement for the largest and most complex institutions as effectively bifurcating the deposit insurance coverage rules. Rather, the FDIC is proposing to impose a higher recordkeeping standard on the covered institutions so that the depositors at those institutions can be confident that the FDIC will pay their insured deposits within the same time frame that currently applies to the FDIC's resolution of smaller insured depository institutions. Even though the deposit account recordkeeping requirements for the covered institutions would be increased, the underlying deposit insurance coverage for the covered institutions' depositors would remain unchanged.

This proposed approach stands in contrast, however, to the procedure adopted by the Canada Deposit Insurance Corporation (''CDIC'') in the context of deposits held in trust at its member institutions. The CDIC requires its member institutions *on an annual basis* to contact the trustees of deposit accounts and to request that the trustees update the institutions' records regarding the number of beneficiaries, their names and addresses, and their proportional ownership of the deposits held at the Canadian banks.[14] If the requisite information is not updated and provided to the member institutions by the applicable deadline, then in the event of a Canadian institution's failure, the deposit account would be characterized as a single ownership account in the name of the trustee. The CDIC would aggregate all eligible deposits within a trust and insure them for up to $100,000, regardless of the number of beneficiaries. Inaccurate or incomplete ownership records for Canadian trust accounts result in a diminution of deposit insurance coverage for the beneficiaries. This is a reasonable result given that the information the CDIC must rely upon to make its deposit insurance determination is incomplete and/or inaccurate. The FDIC has the legal authority to adopt a similar approach because it is authorized by section 12(c) of the FDI Act to rely upon the failed bank's records to determine the ownership of the failed bank's deposit accounts. Therefore, the FDIC would be justified in limiting the availability of pass-through insurance coverage as provided by the FDI Act if the covered institutions do not implement the proposed recordkeeping requirements. Nevertheless, the FDIC does not intend to penalize the covered institutions' depositors for the possible inadequacies of the covered institutions' records or IT systems. The lack of accurate or complete ownership information could, however, delay the FDIC's determination of deposit insurance coverage in the event of a covered institution's failure. If the covered institution is not able to collect and maintain the requisite deposit ownership information on-site and seeks an exception, the proposed rule would require the covered institution to notify the underlying owners of pass-through or trust accounts that payment of deposit insurance could be delayed in the event of failure.

D. Access to Liquid Deposit Accounts

Many commenters advanced the argument that obtaining and maintaining the information on the beneficial owners of many types of pass-through deposit accounts would not be possible. The commenters offered a number of reasons, among them: Ownership of certificates of deposit can change on a nightly basis, the volume of underlying beneficial owners is too large, the costs involved to develop the IT system to store such information would be prohibitively expensive, and concerns regarding maintenance of confidentiality. The FDIC is aware of these factors and recognizes that situations will exist which would prevent a covered institution from being able to comply with the general requirements of the proposed rule. As more fully discussed in *VI. Description of the Proposed Rule,* the proposed rule provides covered institutions with a procedure to apply to the FDIC for an exception from compliance with some or all of the recordkeeping requirements for certain types or categories of deposit accounts. Nevertheless, the FDIC expects that every effort would be made to collect and maintain the requisite depositor information to allow the beneficial owners of brokered transactional accounts to have access to their insured deposits just as they would have to a traditional checking and other transactional account. Without access to their funds on the next business day after failure, outstanding items could be returned unpaid, causing these depositors financial hardship or inconvenience.

One commenter did seek confirmation that the FDIC would continue a practice discussed in connection with the implementation of § 360.9, which allows a financial intermediary acting as a fiduciary to make withdrawals from MMDAs transferred to a bridge bank or an assuming institution to satisfy the withdrawal requests of its customers. Nevertheless, as the FDIC stated in the preamble to the § 360.9 final rule, ''Responsibility for [any] shortfall will rest with the broker or agent in whose name the account is titled, and not the FDIC as insurer.'' [15] The FDIC will consider the efficacy of permitting this practice in the context of this proposed rule. It is important to note, however, that the FDIC would authorize a financial intermediary's access to the funds held in its custodial or omnibus account on the next business day after a covered institution's failure on a case-by-case basis and only when to do so would be consistent with the least cost test. It is unclear to the FDIC how deposit brokers would be able to quickly identify the appropriate deposit insurance coverage for their customers so that the brokers would not expose themselves to the liability associated with the overpayment of funds to their underlying customers. If the deposit brokers have the capacity or capability to track those relationships, the FDIC

[14] Canada Deposit Insurance Corporation, Annual disclosure by trustees, available at *http://www.cdic.ca/en/about-di/how-it-works/trusts/disclosure-rules/Pages/annual-disclosure.aspx.* (Accessed on January 13, 2016.)

[15] 73 FR 41180, 41189 (July 17, 2008).

questions how difficult it would be to provide that information on a more frequent basis to the covered institutions.

E. Signature Card Requirement

Three commenters raised a different issue regarding ''qualifying joint accounts'' as defined in the FDIC's regulations at 12 CFR 330.9(c). They expressed their concern specifically with the signature card requirement included as one factor (of three) in establishing a qualifying joint account. These commenters offered reasons why it is difficult for covered institutions to ensure that the joint account holders' signature card complies with the FDIC's regulation. Another commenter noted that the framework for certain types of deposit accounts, such as joint accounts and payable-on-death (''POD'') accounts, is found in state law. Therefore, covered institutions which have a multi-state presence must structure those account categories to satisfy different states' laws. Some of these commenters suggested possible solutions to the perceived problem of maintaining signed and accurate signature cards for joint accounts: First, the regulatory requirement could be deleted in the context of a bank failure or second, the regulation could be amended so that all banks would be allowed to conclusively presume that a joint account is a ''qualifying joint account'' based solely on the titling of the account on their systems.

For several reasons, the FDIC has decided not to use the proposed rule as a vehicle for eliminating the signature card requirement for joint accounts. First, the FDIC believes that its signature card requirement simply reflects what an insured depository institution should be doing as a matter of safe and sound banking practice regardless of the FDIC's deposit insurance coverage requirements. The signature card represents the contractual relationship between the depositor (or depositors) and the covered institution, and signature cards are a reliable indicator of deposit ownership. Second, the purpose of the proposed rule is simply to ensure that the FDIC's deposit insurance rules at 12 CFR part 330 can be applied in a timely manner in the event of failure of a covered institution. Finally, elimination of the signature card requirement for joint accounts might enable some depositors to disguise single accounts (owned entirely by one person) as joint accounts (opened in the names of two persons). Simplification of the rules or requirements prescribed by Part 330 could produce unintended consequences. In short, the FDIC is not proposing to amend the insurance coverage rules in 12 CFR part 330. Assuming that the FDIC does decide to amend part 330, it would do so through a separate rulemaking so that all consequences of doing so could be thoughtfully considered.

F. No Effect on Community Banks

Two commenters voiced strong opposition to the possibility that the proposals described in the ANPR might be applied to community banks. One expressed concern that, in the future, the FDIC might extend the proposal's requirements to the covered institutions currently subject to § 360.9. Another stated that the proposal could force community banks to disclose the identity of their best customers (and information about the deposit relationship) if the proposal would require large banks receiving brokered deposits to obtain and maintain information about beneficial owners. This could give the large banks an unfair competitive advantage.

Currently, 12 CFR 360.9 applies to approximately 150 insured depository institutions. As the ANPR explained, the most recent financial crisis has resulted in continued consolidation of the banking industry and even greater complexity of banks' deposit systems. The FDIC's concerns are focused on the very largest and most complex institutions and not on insured depository institutions that would be identified as community banks. The proposals set forth in this notice of proposed rulemaking (''NPR'') would apply to only a subset of the covered institutions under § 360.9; *i.e.,* approximately the largest 36 banks in the country as measured by number of deposit accounts. The proposed threshold for becoming subject to the requirements of the proposed rule is two million or more deposit accounts. The FDIC solicited comment on this proposed standard in the ANPR but received no comments recommending that the threshold should be raised to a greater number of accounts. On the other hand, one commenter suggested that IDIs with $10 billion in assets and 100,000 accounts should be required to comply with the ANPR's proposals if ultimately adopted.[16] The FDIC will again solicit comments regarding the appropriate size institution to be subject to these proposed requirements, and what criteria, if any, should be considered in addition to the number of deposit accounts. Finally, the proposed regulation provides for an exemption from the requirements set forth therein; *i.e.,* the covered institution would not have any deposit accounts and does not intend to have any deposit accounts (when aggregated) which would exceed the standard maximum deposit insurance amount, which is currently $250,000. Therefore, if a relatively small covered institution with two million or more accounts could satisfy that condition, it would be able to seek an exemption from complying with the proposed regulation. Ultimately, as stated in the ANPR, the FDIC ''does not contemplate imposing these requirements on community banks'' as this is aimed at institutions with more than two million deposit accounts.[17]

G. Accounts Subject to Immediate Deposit Insurance Determination (''Closing Night Deposits'')

Commenters who addressed the scope of closing night deposits generally agreed that individual, joint, and business accounts should be designated as closing night deposits. Some commenters asserted that these three categories represent a substantial subset of deposit accounts. One commented that it should also include retirement accounts. Another suggested that closing night deposits be limited to transaction, savings, and money market accounts where clients are accustomed to immediate liquidity. This commenter would also include brokered MMDAs, prepaid cards such as payroll cards and General Purpose Reloadable (''GPR'') cards, and POD accounts. Still another commenter advocated for coverage of transactional and MMDA accounts at a minimum to meet depositors' immediate liquidity needs, as well as savings accounts and, on a voluntary basis, certificates of deposit.

Several commenters asserted that the covered institutions have significantly varying projections of the percentages of their deposit balances for which they anticipate their IT systems having the capability to make insurance determinations because the data and systems capabilities vary among covered institutions and the definition of ''closing night deposits'' is not yet known. Another commenter estimated that its suggested definition would represent approximately 90–92 percent of its deposits. It noted, however, that the other 8–10 percent of its deposit base would be very difficult to treat as closing night deposits. And another commenter estimated that its definition would represent 70 percent of its accounts and 55 percent of balances from its core deposit systems. One

[16] 80 FR 23478, 23481 (April 28, 2015).

[17] Id. at p. 23478.

commenter, on the other hand, took the position that banks covered by the proposal should be able to handle all the pass-through deposit accounts as well as the prepaid cards as closing night deposits, stating that they should maintain up-to-date records for all of their pass-through accounts sufficient to allow immediate or prompt insurance determinations.

The FDIC recognizes that the concept of ''closing night deposits'' served as a proxy for those deposit accounts and deposit insurance rights and capacities for which depositors would expect immediate access to their funds on the next business day. Therefore, the deposit insurance determination would have to be performed by the FDIC on ''closing night'' to ensure next business day availability. It is apparent to the FDIC from the comments that, for most covered institutions, the deposit accounts or deposit insurance rights and capacities that the commenters would prefer be identified as closing night deposits were those for which the requisite deposit ownership information was readily available.

However, as noted by the commenters, there is currently no uniformity or consistency among institutions regarding which deposit insurance categories could be handled as closing night deposits. At the moment, certain institutions would be able to include more types and a greater volume of deposit accounts for immediate insurance determination processing than other covered institutions. The FDIC does not intend to restrict the covered institutions to a pre-determined set of deposit insurance categories. Consequently, the FDIC has adjusted its approach for identifying the deposit accounts for which a covered institution should have complete and accurate ownership information that would be needed by the FDIC to make deposit insurance determinations at the time of the covered institution's failure. The ultimate goal would be for a covered institution's IT system to be able to calculate deposit insurance on all deposit accounts promptly upon the covered institution's failure. Rather than rely on the notion of ''closing night deposits,'' the proposed rule generally requires covered institutions to obtain and maintain the deposit account information for *all* deposit accounts.

Nevertheless, the FDIC recognizes that it may prove difficult, and in some cases, impossible, for covered institutions to obtain the requisite depositor information for certain deposit insurance categories and/or types of deposit accounts. To address that possibility, the proposed rule provides a procedure for a covered institution to request an extension to comply with the proposed rule's requirements, an exception from compliance with respect to certain deposit accounts which meet certain criteria, and in one specific situation, an exemption from compliance with the regulation as ultimately adopted. The accounts that would not fit within the scope of closing night deposits are those for which the covered institutions would be unable to obtain the necessary deposit ownership information and are, therefore, the type which would be eligible for exception. The FDIC would consider the particular facts and circumstances presented in a covered institution's application when determining whether to grant an exception for certain types of accounts or deposit insurance categories.

H. Accounts Not Subject to Immediate Deposit Insurance Determination (''Post-Closing Deposits'')

The majority of the commenters expressed the opinion that certain types of accounts, such as formal trust accounts, brokered deposits, time deposits, foreign deposits, prepaid cards and other omnibus accounts entitled to pass-through deposit insurance coverage should not be closing night deposits. (Omnibus accounts are described by one commenter as business accounts or operating cash accounts in which cash is temporarily deposited while awaiting investment or distribution.) According to the commenters, acquiring complete records of beneficial owners of pass-through accounts presents significant challenges. Moreover, the commenters maintained that these accountholders do not need immediate or near-immediate access to funds after failure. Such accounts should therefore be post-closing deposits. A number of commenters stated that the FDIC already has established procedures for determining deposit insurance for brokered deposits placed at a failed institution. Furthermore, these commenters recommended that there be no material change in the FDIC's procedures in this regard, and therefore, brokered deposits should continue to be handled as post-closing deposits.

Several commenters also stated that covered institutions should not be required to maintain information on beneficiaries of trust deposit accounts, beneficial owners of pass-through accounts, or other parties for whom covered institutions do not currently collect such information. Their comment letter set forth four legal or practical barriers to a covered institution's ability and/or authority to obtain depositor information on various types of trust accounts. First, a trustee has a fiduciary duty to keep the affairs of the trust confidential. Second, the Uniform Trust Code and certain state statutes provide that a trustee may use a Certification of Trust to protect the privacy of a trust instrument by discouraging requests for complete copies of the instrument. Third, banks serving as trustees pursuant to a bond indenture, for example, do not know who the beneficiaries are. Fourth, the status of various beneficiaries (*e.g.,* birth, death, non-contingent) changes periodically as conditions for contingent beneficiaries are satisfied. One of these commenters asserted that it is entirely infeasible for covered institutions to meet a requirement to have beneficiary information on an ongoing basis. These commenters, in effect, concluded that all trust accounts and pass-through accounts should be handled as post-closing deposits.

Additionally, several commenters requested that foreign deposits be excluded entirely from the scope of any proposed or final rule. These commenters reasoned that these types of deposits are not eligible for deposit insurance, and therefore, should not be evaluated for insurance coverage at the depositor level.

As discussed above, the FDIC is not utilizing the concepts of closing night deposits and post-closing deposits in the proposed rule to differentiate between the types of deposit accounts for which deposit insurance should be calculated immediately upon a covered institution's failure. As several commenters noted, determining which depositors should have immediate access to their funds following a bank failure is a public policy issue that should be determined by Congress and the FDIC. The FDIC believes that it is not realistic or accurate to assume that all transaction accounts will be found in the individual, joint, and business account categories. In fact, several of the commenters recognized that, with technological advances and the evolution of financial products, many other types of accounts can be structured as transactional accounts. For example, one commenter recognized that its clients would likely need immediate or near-immediate access to brokered MMDA funds after failure. Another commenter believed that transaction accounts, MMDA, and savings accounts would include the funds that may be most needed by consumers. Moreover, this same commenter suggested that access to CDs is not critical and therefore should be included only on a voluntary basis. Still

another commenter acknowledged that certain types of prepaid cards such as ''payroll cards and General Purpose Reloadable prepaid cards can be used as alternatives or substitutes, to DDA accounts.'' A different commenter recognized that cardholders will ''likely need immediate access to the funds in the custodial account [which holds the pass-through funds] to meet their basic financial needs and obligations.'' Finally, a commenter stated that access to POD accounts is often needed immediately because a POD account can be used as a depositor's primary banking account.

There appears to be no consensus within the banking industry regarding which categories or types of deposit accounts must be made immediately available to the depositors of a failed bank. The FDIC believes, however, that only providing immediate access to the deposit accounts associated with the individual, joint and business categories may no longer be adequate because consumers now have access to many additional types of deposit accounts and financial products outside of these categories which effectively serve as transactional accounts. Therefore, the FDIC has developed the proposed rule to require covered institutions to obtain and maintain the necessary information regarding all deposit accounts so that the FDIC can make deposit insurance determinations and pay insured deposits as soon as possible after a covered institution's failure as required by section 11(f)(1) of the FDI Act.[18] For example, there are certain types of accounts, such as POD accounts, for which a covered institution should already have the requisite account information available in the IDI as it is required by the FDIC's deposit insurance regulations. Section 330.10(b)(2) of the FDIC's regulations states ''[f]or informal revocable trust accounts, the beneficiaries must be specifically named in the deposit account records of the insured depository institution.'' [19] Moreover, the FDIC believes that the same advances in technology that allow financial institutions to offer new types of transactional accounts and other financial products as substitutes for checking accounts may facilitate and support the covered institutions' efforts to obtain and maintain deposit account information for additional deposit insurance categories and types of accounts. One commenter described characteristics of its banking software, specifically, its customer information file (''CIF'') which is ''organized by customer name and tax ID number . . . to help uniquely identify each customer. . . . the system also maintains placeholders for related party or non-customer CIFs such that detailed information can be maintained on cosigners, guarantors, beneficiaries, and other similar types of entities.'' Finally, according to this commenter, the related party CIF feature ''has the capacity to track the beneficial owners included in a brokered deposit'' or in the case of a trust account, the system can track beneficiaries to the extent that they are known. The FDIC believes that it is reasonable to expect that institutions that would be covered by the proposed rule would be able to make substantial progress toward complying with the recordkeeping requirements of the proposal.

With respect to foreign deposits, the FDIC believes that covered institutions should maintain the relevant depositor information concerning foreign deposits in their deposit account systems. While it is true, as several commenters pointed out, that the FDIC does not need the information about foreign deposits to complete its initial deposit insurance determinations on a failed bank, the FDIC will need such information post-closing to determine whether certain depositors who hold dually payable accounts in foreign branches of domestic covered institutions should receive advance dividends on their foreign deposits. In October 2013, the FDIC amended its deposit insurance regulations to clarify that deposits placed in a foreign branch of a domestic bank that are dually payable would be recognized as ''uninsured deposits'' rather than as a general unsecured claim against the failed bank's receivership estate.[20] Therefore, under the ''depositor preference'' provisions of the FDI Act, depositors with deposits that are dually payable would receive payments on their uninsured deposit amounts before general unsecured creditors.[21] For that reason, information regarding foreign deposits is relevant and necessary for the resolution of a failed covered institution. The FDIC believes that retaining this recordkeeping requirement should not impose any additional burden because the potentially covered institutions are all subject to § 360.9 currently. Section 360.9(d) requires the institutions covered by that rule to be able to provide the FDIC with standard data sets ''with required depositor and customer data for all deposit accounts held in domestic and foreign offices.'' [22] Appendix C to part 360, entitled ''Deposit File Structure,'' contains a data field which requires the covered institution to provide a ''deposit type indicator''; *i.e.,* whether the deposit is domestic or foreign.[23] Finally, insured depository institutions that have foreign offices provide information regarding their foreign deposits in their Call Reports.

I. Prepaid Cards

Four commenters shared their views regarding the applicable treatment of prepaid cards as ''closing night'' versus ''post-closing night'' deposits as described in the ANPR. Several commenters relied on the guidance and practices adopted in the implementation of § 360.9 to conclude that deposits represented by prepaid cards would still have to be handled as post-closing night deposits. These commenters stated that the FDIC, in working with the covered institutions to implement § 360.9, ''identified classes of deposits for which full depositor identification could not reasonably or practically be obtained and the data download requirements would not apply;'' they cited to the FDIC's Web site and the guidance that was originally posted on March 18, 2009.[24] Moreover, their comment letter enumerated several of the attributes of these types of deposits as described in the FDIC's guidance: ''credit card, prepaid card, payroll card, gift card, and other similar accounts . . . due to the small balances and inaccessibility to owner information; balances representing government benefits payable, such as food stamps, child support, and similar programs.'' These commenters reiterated their position by emphasizing that ''[w]here account attributes mean that these data are *unavailable* or *cannot feasibly be collected,* these accounts should be identified as 'post-closing deposits.' '' (Emphasis supplied.)

One commenter took the position that prepaid card accounts should be divided into two categories; *i.e.,* closing night and post-closing night deposits. Various types of prepaid cards such as payroll cards and general purpose reloadable (''GPR'') prepaid cards can be used as alternatives, or substitutes, to demand deposit accounts (''DDA'')

[18] 12 U.S.C. 1821(f)(1).

[19] 12 CFR 330.10(b)(2). As discussed, above, the covered institutions should also have the requisite information to verify joint accounts in their records as well. See, 12 CFR 330.9(c).

[20] 78 FR 56583 (September 13, 2013). See 12 CFR 330.1 and 330.3(e).

[21] 12 U.S.C. 1821(d)(11)(A).

[22] 12 CFR 360.9(d)(1).

[23] 12 CFR part 360, Appendix C, field 12.

[24] Available at *https://www.fdic.gov/regulations/resources/largebankdim/modernization.html.*

accounts. This commenter believed that holders of these types of prepaid cards would require uninterrupted access to the funds loaded on their cards to meet their daily living expenses. In effect, they should receive the same treatment as other core retail DDA transaction accounts. Nevertheless, there are other types of prepaid cards, such as gift cards, that would not need to be recognized as closing night deposits. (In fact, some of these types of cards may not be eligible for deposit insurance coverage.) This commenter identified two problems with treating prepaid cards as closing night deposits. In order to calculate deposit insurance coverage, a covered institution would have to be able to aggregate all of an individual's single accounts—which could include prepaid cards. Some card programs allow employers to load an employee's wages directly to a payroll card; these cards are currently associated with employee name, address, and a unique identifier. A problem would arise, however, if the employee is a foreign national in which case the prepaid cardholder's unique identifier might be a passport ID. In such cases, the necessary aggregation step would not be possible until a covered institution made additional system development efforts because aggregation could not be executed via Social Security Number match. Finally, this commenter believed that irrespective of the particular problem described above, the investment required to maintain the current ownership interests of holders of its prepaid cards ''may be significant.'' One commenter believed that balances on prepaid cards should be easy to track; conversely, identification of prepaid card owners would present significant challenges. This commenter concluded that there should be a hybrid approach for handling the beneficial owner information for various types of pass-through accounts. Covered institutions should be required to obtain and maintain beneficial owner information in their own records for some types of pass-through accounts, but the requisite information on beneficiaries or beneficial owners of other types of accounts would be provided to the FDIC by a specified time after the covered institution's failure.

One commenter highlighted several issues that it believed would impair the FDIC's ability to make prompt deposit insurance determinations at the largest institutions, *e.g.,* numerous legacy software systems inherited through acquisitions and mergers and the significant expansion in accounts with pass-through insurance coverage—in particular, prepaid card programs. To address the pass-through insurance coverage and prepaid card issues, this commenter recommended that the covered institutions be required to ''maintain up-to-date records sufficient to allow immediate or prompt insurance determinations for all pass-through accounts.'' Moreover, with respect to prepaid cards, the commenter took the position that covered institutions should be required to maintain current records on each prepaid cardholder's ownership interest. The commenter argued that these IDIs should not be allowed to rely on the agent's or custodian's records any longer. The information concerning the prepaid cardholders should be available at the covered institution so that examiners can check them periodically for accuracy.

The FDIC recognizes two major types of prepaid cards: ''closed-loop cards'' and ''open-loop cards.'' Generally, in the case of a ''closed-loop'' card, the card is sold to a member of the public in the same manner that a gift certificate might be sold to a member of the public. The card enables the cardholder to obtain goods or services from a specific merchant or group of merchants. Examples of ''closed-loop'' merchant cards include prepaid telephone cards and gift cards sold by bookstores, coffee shops and other retailers. The funds paid to a merchant in exchange for a merchant card are not insured on a pass-through basis by the FDIC because the funds are not placed into a custodial deposit account at an insured depository institution. Indeed, the funds might not be placed into any type of deposit account at an insured depository institution. Rather, the funds might be used by the merchant in the operation of its business. For purposes of the proposed rule, the FDIC is concerned with ''open-loop'' cards and similar products that provide access to stored funds placed on deposit (by the cardholder or another party) at an insured depository institution. Examples of such cards include GPR cards, payroll cards and government benefits cards. In some cases, the access mechanism is not a plastic card but some other device such as a code used through a computer or mobile telephone. In any event, after the placement of the funds into an account at an insured depository institution, the funds are transferred or withdrawn by the holders of the access mechanisms.

In many cases, the prepaid card or other mechanism is ''reloadable,'' meaning that additional funds may be placed at the insured depository institution for the cardholder's use. The card could be reloaded in many ways, including direct deposit, transfer of funds from another bank account, placement of funds at the insured depository institution through an ATM, or delivery of funds to a clerk at a retail store for subsequent transfer of the funds to the insured depository institution. Moreover, some types of prepaid cards are subject to certain federal consumer protection laws. Specifically, Regulation E, Electronic Funds Transfers, 12 CFR part 1005, applies to payroll cards, which are established directly or indirectly through an employer, and government benefit cards, which are issued by government agencies.[25] In addition, a 2010 Department of Treasury regulation requires deposit insurance for government benefits cards.[26]

Working from the premise that, with respect to prepaid cards, the FDIC's focus is with making prompt deposit insurance determinations on ''open-loop'' prepaid cards, the FDIC recognizes the concerns voiced by the commenters who addressed this issue. For example, it may be much easier to track the balances on certain types of prepaid cards than it would be to identify the actual owners/depositors of those cards. As noted by several commenters, ownership information for some types of prepaid cards might be unavailable or could not feasibly be collected. Nevertheless, the FDIC believes that the financial and technological landscape which existed when it issued its guidance in connection with § 360.9 over six years ago has changed. Therefore, covered institutions should consider their current capabilities before asserting that ownership information for certain types of prepaid cards is not available or could not reasonably be collected. Advances in information technology should keep pace with the development of financial products offered to the public. The same innovation which is responsible for creating the myriad of payment/debit cards should be applied to develop the covered institutions' capability to identify and track the ownership and balances on open-loop cards issued and/or sponsored by these institutions.

Ultimately, the FDIC would consider a hybrid approach as suggested by two of the commenters. A prepaid card is a type of pass-through deposit account which, in many cases, the customer uses

[25] 12 CFR 1005.15(a); 12 CFR 1005.18.

[26] Management of Federal Agency Disbursements, 75 FR 80315 (December 22, 2010). (Codified at 31 CFR part 208.)

regularly for transactions. Therefore, consumers would need to have immediate access to those funds after a covered institution's failure. The FDIC proposes that covered institutions obtain and maintain ownership information regarding GPR cards, employers' payroll cards and government benefit cards, at a minimum. As discussed more fully in the *Description of the Proposed Rule,* a covered institution would be able to request an extension or an exception from certain provisions of the proposed rule for those accounts, including various types of prepaid cards, for which depositor information would truly be unavailable or infeasible to collect and maintain.

J. Time Frame for Calculating Deposit Insurance Coverage Upon a Covered Institution's Failure

Several commenters predicted the deposit insurance calculation would take at least 24 hours following bank failure provided that it is limited to single, joint and business accounts. First, daily closing balances would be established by the FDIC after the failed covered institutions normal daily processing runs to completion, usually not before the early morning hours of the following day. Then, the augmented system developed pursuant to the proposed rule would calculate deposit insurance coverage, taking at least 12 hours based on the time required for normal daily processing. After that, insured balances would be posted to the deposit accounts for which a determination has been made by the FDIC, which could take at least another 12 hours. A commenter predicted that, under the same assumptions for closing night deposits, the deposit insurance determination process could be completed by the FDIC ''by noon the calendar day following bank failure.'' This commenter explained that this ''timeline is predicated on the nightly batch cycle and posting, which would need to complete before data could be gathered to begin the insurance determination process.'' Another commenter indicated that if a covered institution failed on a Friday, for example, there would usually be no batch processing to the applications until the following Monday. Moreover, a bank deposit servicer would normally require 24 hours' notice to run batch processing.

The FDIC has considered these comments and recognizes that various institutions' systems require different amounts of time to compute their end-of-day ledger balances. Nevertheless, the FDIC believes that, given the overriding concerns for financial system stability in a time of crisis, it should establish a uniform time frame within which the FDIC can employ the covered institution's IT system to facilitate the deposit insurance determination process measured from the time of the covered institution's failure and the FDIC's appointment and take-over of the failed institution. The FDIC proposes, therefore, that all covered institutions would develop their IT systems to ensure that the FDIC could complete the deposit insurance determination process within 24 hours after appointment as the receiver. This 24 hour standard would ensure uniformity and consistency across all covered institutions and would allow the FDIC to guarantee prompt payment of insured deposits regardless of the particular failed institution and its deposit systems.

K. Disclosure of Insured and Uninsured Amounts to Depositors

Several commenters are opposed to requiring the covered institutions to disclose to their depositors the insured and uninsured amounts of their deposits. They provided several arguments in favor of their position. Providing up-to-date information regarding the deposit insurance status of depositors' accounts would not be feasible because by the time the covered institutions run their daily processes (and then calculate the insured balances), additional transactions would have taken place which would render the information out-of-date. The stale information combined with the complexity of the deposit insurance rules could lead to unnecessary customer concern and inquiry. Moreover, although the ANPR raised the question of requiring covered institutions to be able to calculate deposit insurance coverage at the close of any business day, the commenters noted that there is no requirement that covered institutions actually perform this operation on a daily basis. The complexity involved to run this operation and present the information in a customer friendly format would far exceed even the complexity of a system to support the FDIC's deposit insurance determination at an IDI's failure. The commenters opined that the costs of this requirement would far outweigh any questionable benefit.

One commenter recommended that the FDIC's Electronic Deposit Insurance Estimator continue to serve as ''the appropriate communication tool for depositors inquiring on insurance coverage.'' This commenter also stated that, if only the covered institutions are required to provide this information to their depositors, then this disparity in the treatment of depositors at community banks could be viewed as a competitive disadvantage to the smaller banks.

Another commenter stated that ''developing the system functionality to calculate the deposit insurance for each account and customer by closing night (or any given night) could be particularly onerous, especially if there are various deposit systems to consider.'' This commenter opined that it would most likely not be worth the cost of development and implementation. The commenter suggested that a covered institution could provide such information, if requested by a depositor, but it should not be required to do so proactively. The FDIC has considered the commenters' views regarding this matter and is not pursuing this initiative as part of this rulemaking process.

L. Compliance Testing

Two commenters mentioned the issue of the FDIC's need to conduct testing to ensure the covered institutions' compliance with the requirements presented in the ANPR. The commenters recommended that the FDIC be flexible in its approach. These commenters expressed the need for the FDIC to provide clear direction on the timing, requirements, parameters, and expectations of testing and reporting as detailed standards would help covered institutions prepare to meet FDIC expectations. They specifically requested that the testing protocols be developed through the public rulemaking process. ''The frequency of testing is a major concern that escalates with the complexity of tests and location (on-site vs. remote).'' These commenters supported their assertion regarding testing by noting that ''even basic testing would take a minimum of 12 hours and many staff to run the system before any follow-up trials or reporting'' could begin. Consequently, they recommended off-site testing and reporting with attestation of results; on-site examinations, if required, should be scheduled well in advance to allow the covered institutions to plan workflows. A commenter recognized the importance of compliance testing to the FDIC and acknowledged that testing would be an important component of this proposed process from its perspective as well. This commenter emphasized that it would be looking to the FDIC for additional guidance regarding the FDIC's testing expectations in order to better organize its efforts and allocate its resources

appropriately. The commenter also expressed its willingness to work with FDIC personnel to conduct on-site testing.

The FDIC recognizes that imposing testing requirements on the covered institutions would create additional demands on their human resources and IT systems as well as impose certain additional financial costs. The FDIC has endeavored to develop a testing protocol that would minimize burden on a covered institution but still provide the FDIC with the information necessary to confirm that each covered institution's IT system would be capable of calculating deposit insurance coverage within the prescribed time frame. In many respects, the proposed testing procedures would be similar to those which currently apply to the institutions covered by § 360.9. The FDIC would expect to conduct one initial on-site testing visit. Once the initial test is completed successfully, the FDIC would schedule additional on-site testing visits to occur no more frequently than annually. More frequent testing might be necessary for covered institutions that make major acquisitions, experience financial distress (even if the distress would be unlikely to result in failure), or undertake major IT system conversions. To reduce the frequency of on-site testing by the FDIC and to ensure on-going compliance, the FDIC would require the covered institutions to conduct their own in-house tests on an annual basis (as is currently required under § 360.9). The covered institutions would be required to provide the FDIC with verification that the test was conducted, a summary of the test results, and its certification that the functionality could be successfully implemented. The FDIC is proposing that no testing would be conducted during the proposed two-year implementation period.

M. Time Frame for Implementation of Recordkeeping and IT System Capabilities

According to some commenters, the covered institutions have advised that ''they would need at least four years with potential extensions for implementation after any final rule is issued.'' These commenters noted that the covered institutions are currently in the process of incorporating systems enhancements to comply with a number of other regulatory requirements. They urged the FDIC to recognize that any requirements imposed by the ANPR proposals would have to be queued with these other regulatory requirements. Finally, these commenters requested the FDIC to provide ''means to alleviate the burden of individual, customized programming'' of the covered institutions' systems and that the FDIC be prepared to work closely with the individual covered institutions to address the systems development which would ''necessarily involve details that are unique to each covered bank.''

One commenter discussed implementation time frames in three different contexts in its comment letter. First, the commenter predicted that based upon its definition of closing night deposits, which would include transaction, savings and MMDAs for individual, joint and business account categories, ''it would take a minimum of 18 months to implement the enhancements for this portion of the bank's deposit base.'' Second, with respect to deposit accounts that this commenter characterized as post-closing deposits (which include trust accounts, retirement accounts, etc.), the commenter estimated that it would take a ''minimum of two years to implement enhancements to the deposit system for this portion of its deposit base.'' Finally, the commenter suggested that any final rule should include a phased-in approach to implementation.

Another commenter recommended a two-year phase-in period for these covered banks to modify their software systems and implement the new regulatory requirements. On the other hand, another commenter stated that the software systems it offers have the requisite capabilities to capture the necessary data already; however, identifying beneficiaries on many trust accounts could be quite labor intensive and would require a significant amount of customer interaction. This commenter also found regulatory efficiency in the sense that the system enhancements would support FinCEN's goals with forthcoming anti-money laundering regulations.

One commenter argued that there is no need for the FDIC to rush to impose new deposit account recordkeeping requirements on financial institutions. This commenter believed that § 360.9 has not been in effect long enough to determine its effectiveness and, moreover, that the IDIs that would be subject to the proposal are not in danger of failing.

The commenters' predictions regarding the appropriate time frame(s) to implement the proposals described in the ANPR ranged from 18 months to four or more years. The FDIC recognizes that many factors must be considered, and numerous variations in the covered institutions' IT systems will cause significant differences in the speed with which the covered institutions would be able to collect the required depositor information and adapt or develop the necessary IT capabilities to comply with the proposed rule's requirements. The FDIC believes that, for purposes of this proposed rule, two years is a reasonable time frame within which a covered institution should collect information from depositors and develop the IT system capability to calculate deposit insurance coverage. To the extent that two years is insufficient for a specific covered institution, the proposed rule would allow the covered institution to apply either for an extension of time to achieve compliance or for an exception from the requirements of certain provisions of the rule as currently proposed. These applications for extensions or exceptions should be submitted to the FDIC during the first two years after the effective date of a final rule.

The FDIC has several observations in response to commenters' assertions that there is no need for the FDIC to hasten new recordkeeping requirements on covered institutions or that § 360.9 has not been in effect for a sufficiently long period of time to determine its effectiveness. As more fully discussed in the ANPR, the process of developing § 360.9 began more than 10 years ago.[27] Section 360.9 was adopted on August 18, 2008.[28] The FDIC has worked with the institutions covered by § 360.9 for the last seven years to implement its recordkeeping and provisional hold requirements. As a result of compliance visits conducted during this implementation period, the FDIC now recognizes some of § 360.9's limitations; for example, the standard data files of most institutions are not required to obtain and maintain depositor information that they do not already collect for their own purposes. As set forth in this ANPR, ''[b]ased on its experience reviewing banks' deposit data, deposit systems and mechanisms for imposing provisional holds, staff has concluded that § 360.9 has not been as effective as had been hoped in enhancing the capacity to make prompt deposit insurance determinations.'' [29] Therefore, seven years after the effective date of the first rulemaking effort to improve large IDIs' recordkeeping and IT systems' capabilities to support the FDIC's statutory mandate to pay insured deposits as soon as possible, the FDIC is undertaking an initiative to find a better way to achieve the goals it sought to achieve with the promulgation of

[27] 70 FR 73652 (December 13, 2005).

[28] 73 FR 41180 (July 17, 2008).

[29] 80 FR 23478, 23480 (April 28, 2015).

§ 360.9. The FDIC began the rulemaking process through the publication of an ANPR—a preliminary step in the informal rulemaking process. The FDIC believes that it is proceeding deliberately, but not prematurely, by taking this step to issue the proposed rule.

Finally, two commenters maintained that none of the covered institutions are in danger of failing, and therefore, no additional rulemaking is necessary at this time. During the course of the § 360.9 rulemaking process, the FDIC received many comments reflecting that same sentiment. In fact, the preamble to the § 360.9 final rule states that several commenters noted that, ''the expected benefits to the FDIC are not likely to outweigh the costs, especially given the perceived *extremely low likelihood of failure* of any particular large bank.'' [30] Yet, IndyMac Bank failed six days before the publication of the § 360.9 final rule and Washington Mutual Bank failed only months later. During the financial crisis that began in 2008, 511 insured depository institutions failed, comprising a total asset value of approximately $696 billion. These failed banks range in asset value from a few million to over $300 billion.[31] Further disruptions were mitigated by the U.S. government providing unprecedented assistance to the financial sector. Therefore, the FDIC believes it is prudent and appropriate to address this deposit insurance determination project now, while the banking industry is not under stress and before another financial crisis develops.

N. Burden Imposed by the ANPR

Several commenters stated that ''[c]overed banks advise that it will not be possible for them to estimate costs until key issues are resolved, including the scope of deposits to be included in 'closing night deposits.' '' Moreover, these commenters requested that the FDIC provide a clear statement of the deposit accounts/systems to be covered, the business rule that the covered institutions would need to follow in order to design their systems in a manner in which they can be employed by the FDIC to determine deposit insurance and adjust account balances accordingly, as well as guidance regarding systems expectations.

A commenter made several observations regarding the perceived costs versus benefits of adopting the ANPR proposals. First, while this commenter acknowledged that the FDIC may need this information to fulfill its statutory duties, it did not consider any of the required recordkeeping enhancements or the capability to calculate deposit insurance coverage as providing any intrinsic benefits to a covered institution itself. Moreover, it asserted that most of the covered institutions ''are operating as going-concerns without financial difficulty.'' It also made the point that the implementation of the ANPR's proposals would require an unsuitable use of resources to make substantial changes to existing legacy platforms. Another commenter pointed out that the burden is based more on the need for manual information collection than it is on increasing IT system capabilities.

Regarding cost/benefit, two commenters argued that the costly operational and information technology-related requirements would not generally enhance current processes or ongoing operations. Further, one of those commenters maintained that institutions are consolidating to cope with compliance costs and the additional costs imposed by the proposed rule would be passed through to consumers in the form of higher costs for banking services and products. Two commenters acknowledged that the benefit would be worth the cost, however. One reasoned that because delays in insurance determinations could undermine public confidence, more needs to be done to ensure prompt deposit insurance determinations when IDIs with a large number of deposit accounts fail. Another found benefits in improved consumer confidence in the FDIC and the banking system and greater efficiencies in the wind-down process which would translate to less time and human capital spent and thus less cost associated with the process.

The FDIC recognizes that the ANPR presented various options and general concepts regarding how a covered institution might develop its IT system and improve its depositor information collection and recordkeeping capabilities to comply with the FDIC's proposals. The ANPR represented the FDIC's effort to solicit the opinions and recommendations of the financial services industry as well as other interested parties at a very early stage in the development of its proposal. For this reason, no specific regulatory text was offered for consideration.

The FDIC's proposed rule provides specific requirements that the FDIC believes would be necessary to achieve its objectives as well as the details that the commenters are seeking, *e.g.,* the types of deposit accounts and/or categories to be included within the scope of the proposed rule as well as guidance regarding systems expectations. In addition, materials available on the FDIC's Web site which describe deposit insurance coverage as well as the periodic deposit insurance coverage seminars offered by the FDIC should assist the covered institutions to develop their systems and to assess the cost to comply with the proposed rule's requirements. Finally, the FDIC, in addressing the requirements of the Paperwork Reduction Act, has provided its own estimates of the potential costs and burden to the covered institutions.[32] The FDIC invites all interested parties, including covered institutions to comment on the FDIC's estimates as well as provide their own. See, *X. Regulatory Process, A. Paperwork Reduction Act,* below.

VI. The Proposed Rule

A. Summary

The proposed rule would apply to all insured depository institutions that have two million or more deposit accounts, defined as ''covered institutions.'' Each covered institution would be required to (i) collect the information needed to allow the FDIC to determine promptly the deposit insurance coverage for each owner of funds on deposit at the covered institution, and (ii) ensure that its IT system is capable of calculating the deposit insurance available to each owner of funds on deposit in accordance with the FDIC's deposit insurance rules set forth in 12 CFR part 330. Moreover, the covered institutions' IT systems would need to facilitate the FDIC's deposit insurance determination by calculating deposit insurance coverage for each deposit account and adjusting account balances within 24 hours after the appointment of the FDIC as receiver should the covered institution fail. Developing these capabilities would improve the FDIC's deposit insurance determination and payment process by avoiding the need to transfer increasingly large amounts of data from a covered institution's IT system to the FDIC's IT system (including the need to rectify that data) in the event of a covered institution's failure. A covered institution could apply for: An extension of the implementation deadlines; an exception from the information collection requirements for certain deposit accounts under specified circumstances; an exemption from the proposed rule's requirements if all the deposits it takes are fully insured; or a release from all

[30] 73 FR 41180, 41185 (July 17, 2008) (Emphasis supplied).

[31] 80 FR 23478, 23480 (April 28, 2015).

[32] 44 U.S.C. 3501 *et seq.*

requirements when it no longer meets the definition of a covered institution. Covered institutions would be required to certify compliance annually and a failure to meet the requirements of the proposed rule would result in enforcement action pursuant to section 8 of the FDI Act.

B. Scope

The FDIC has identified two million accounts as the threshold for coverage under this proposed rule. This encompasses one half of one percent of all FDIC insured institutions, but includes the institutions where a prompt deposit insurance determination poses the greatest challenges. The proposed threshold of two million accounts is based on the FDIC's recent experience resolving failed institutions and preparing for the resolution of near-failures. We conclude that, although the total number of deposit accounts is only one dimension of the problem in making timely deposit insurance determinations, it is the most readily measured dimension of this problem. Moreover, the number of deposit accounts is highly correlated with the other attributes, such as the complexity of account relationships and multiple deposit systems that also contribute to this problem. The choice of two million deposit accounts as a threshold for coverage follows directly from the notion that the largest institutions pose a much greater challenge in terms of making a deposit insurance determination, and will also incur a lower cost of implementation per deposit account. That is, it is much more likely that the public benefits of meeting these requirements will exceed implementation costs at these very large institutions. To preclude the possibility that these requirements will be needlessly imposed on institutions that do not hold uninsured deposits, the proposal allows those institutions to apply for an exemption.

The FDIC's experience shows that making a deposit insurance determination can still pose operational challenges even at institutions with less than two million deposit accounts, particularly where there are serious inadequacies in the data and complex deposit account relationships. The FDIC is improving its existing systems and processes to address the challenges presented by banks below the two million account threshold. However, the volume of accounts and complexity of deposit recordkeeping systems at institutions with two million or more deposit accounts require that those institutions organize and correct deposit records in advance of failure. This approach would balance the costs of regulation with the benefits of making timely and accurate deposit insurance payments for U.S. financial stability and public confidence in the banking industry.

Most comments submitted in response to the ANPR did not explicitly address the proposed threshold for coverage. Two commenters, however, suggested that the proposed rule should not apply to community banks, but they did not identify a threshold number of accounts for coverage. One commenter shared its view that IDIs with $10 billion in assets and 100,000 accounts should be required to comply with the requirements described in the ANPR. The FDIC continues to seek comment regarding the appropriate scope of coverage for the proposed rule.

C. Definitions

An insured depository institution would be a ''covered institution'' if, as of the effective date of a final rule, it had two million or more deposit accounts for the two consecutive quarters immediately preceding the effective date, as determined by reference to Schedule RC–O, ''Other Data for Deposit Insurance and FICO Assessments,'' in its Report of Condition and Income. An IDI that is not a covered institution as of the effective date of a final rule would become a covered institution when it has two million or more deposit accounts for any two consecutive quarters following the effective date. If the total number of deposit accounts at a covered institution were to fall below two million for three consecutive quarters after becoming a covered institution, then it could apply to the FDIC for release from the requirements set forth in the proposed rule.

The proposed rule incorporates by reference several of the concepts used for determining deposit insurance coverage. The term ''deposit'' is as defined in section 3(*l*) of the FDI Act.[33] The ''standard maximum deposit insurance amount,'' or ''SMDIA,'' is defined in section 11(a)(1)(F) of the FDI Act, as well as in the FDIC's regulations, and is currently $250,000.[34] The SMDIA represents the amount of deposit insurance coverage available to the owner of funds on deposit at an insured depository institution per each ''ownership right and capacity'' in which the deposits are owned. The ''ownership rights and capacities'' for which deposit insurance coverage is available are described in great detail in 12 CFR part 330, so that description is incorporated by reference in the proposed rule. A covered institution would need to understand what each of these defined terms means and how the terms operate in order to identify the depositor information and develop the IT system capabilities needed to meet the requirements of the proposed rule.

The FDIC is proposing to use the term ''unique identifier'' to mean a number associated with an individual or entity that can be used by a covered institution to monitor its deposit relationship with only that individual or entity. The FDIC anticipates that the social security number, taxpayer identification number, or other government-issued identification number of an individual or entity (such as a passport number, or a visa number assigned to a foreign individual) could be used so long as a covered institution consistently and continuously uses only that number as the unique identifier for each individual or entity involved in the deposit relationship.

D. Requirements

The requirements of the proposed rule are set forth in § 370.3. In order for the FDIC to accurately and completely determine the deposit insurance coverage associated with each account for each owner of deposits as soon as possible after a covered institution's failure, certain information must be readily available. The proposed rule's general mandate is that each covered institution must obtain from each of its account holders the information needed to calculate the amount of deposit insurance available for each owner of deposits.

To determine the amount of deposit insurance coverage, the FDIC must presume that deposits are actually owned in the manner indicated on the deposit account records of an IDI.[35] If the deposit account records of an insured depository institution disclose the existence of a relationship that provides a basis for additional insurance, the details of the relationship and the interests of other parties in the account must be ascertainable either from the deposit account records of the IDI or from records maintained, in good faith and in the regular course of business, by the depositor or by some person or entity that has undertaken to maintain such records for the depositor.[36] The proposed rule would require a covered institution to obtain from each account holder the information needed to determine deposit insurance coverage

[33] 12 U.S.C. 1813(*l*)

[34] 12 U.S.C. 1821(a)(1)(F); 12 CFR 330.1(o).

[35] 12 CFR 330.5(a)(1).

[36] 12 CFR 330.5(b)(2).

''notwithstanding 12 CFR 330.5(b)(2) and (3).'' This means that, although 12 CFR 330.5(b)(2) and (3) permit deposit ownership information to be maintained by some entity other than a covered institution, the covered institution would be required to obtain the requisite deposit ownership information and maintain it on-site. Nevertheless, deposit insurance would not be withheld if the details of a fiduciary relationship and the interests of other parties in an account are not in the deposit account records of covered institution. This proposed rule would not change the standards for deposit insurance coverage set forth in 12 CFR part 330, and a covered institution's inability to obtain the necessary information or, alternatively, an exception from the proposed rule's requirements approved by the FDIC would not reduce pass-through deposit insurance coverage. It could impede the FDIC's ability to pay deposit insurance to those depositors promptly upon the covered institution's failure, however. The FDIC would still expect a covered institution to obtain sufficient information from depositors, or to obtain an exception, in order to be in compliance with the proposed rule, and a failure to do so could result in sanctions against the covered institution pursuant to section 8 of the FDI Act.

A covered institution would need to designate a point of contact for communication with the FDIC regarding implementation of the proposed rule's requirements. It would need to notify the FDIC of the designation within ten business days after the effective date of a final rule, or within ten business days after becoming a covered institution if it was not a covered institution on the effective date. The FDIC's staff would provide guidance and feedback to a covered institution through the designated point of contact in order to facilitate the covered institution's efforts to comply with the proposed new requirements. The FDIC believes that the ten business day time frame for designating a point of contact is appropriate because the FDIC intends to begin outreach efforts immediately after a final rule is adopted. Moreover, the three business day time frame for designating a point of contact under 12 CFR part 371, the FDIC's regulation concerning recordkeeping requirements for qualified financial contracts, has not presented any challenge for insured depository institutions that are subject to that rule, so ten days for a similar action under the proposed rule should not be unduly burdensome.

In order to be able to calculate the deposit insurance available to a depositor for each of its accounts, a covered institution would need to be able to identify certain individuals and entities from which information is needed. Those individuals and entities, and the type of information needed from them, would vary depending on the right and capacity in which a deposit is owned. Under the proposed rule, these individuals and entities would need to be assigned a unique identifier in a covered institution's IT system so that the system can reference each as needed to calculate deposit insurance coverage in the correct amounts across the applicable ownership rights and capacities. A covered institution would be required to assign a unique identifier to: Each account holder; each owner of funds on deposit, if the owner is not the account holder; and, in connection with deposit funds that are held in trust, each beneficiary of the trust who could have an interest in the funds on deposit. Covered institutions already use unique identifiers associated with insured deposit accounts for tax reporting purposes so, to the extent the same unique identifiers are used for purposes of the proposed rule, the additional burden should be minimal. Assigning unique identifiers to beneficial owners of deposits held in the name of an agent and to trust account beneficiaries would be a new requirement, however. Unique identifiers would need to be assigned within two years after the effective date of a final rule, or within two years after becoming a covered institution. The FDIC believes that two years would be an appropriate time frame within which to meet this requirement based on the comments it received. The FDIC is seeking further comment regarding this two-year time frame and the challenges that could prevent a covered institution from meeting the requirements of the proposed rule within two years.

A covered institution's IT system would need to be capable of grouping accounts by the appropriate ownership right and capacity because deposit insurance is available up to the SMDIA per each ownership right and capacity in which deposits are held. The proposed rule would require a covered institution to assign an account ownership right and capacity code to each deposit account within two years after the effective date of a final rule, or within two years after becoming a covered institution if it was not a covered institution on the effective date. Appendix A to the proposed rule lists the account ownership right and capacity codes with a corresponding description of each. Based on discussions with industry representatives, the FDIC believes that a substantial number of deposit accounts held at a covered institution can readily be assigned an account ownership right and capacity code because the covered institution already has all of the information needed to make the designation. Nevertheless, the FDIC is proposing a two-year implementation time frame for this requirement because a covered institution might not, on the effective date of a final rule, have sufficient information to assign an account ownership right and capacity code to certain types of deposit accounts. In such cases, the covered institution would need to obtain the missing information and, if it cannot, apply to the FDIC for an extension or exception if permitted pursuant to section 370.4 of the proposed rule.

A covered institution would need to make its IT system capable of accurately calculating the deposit insurance coverage available for each deposit account. The IT system would need to be able to generate a record that reflects the calculation and would contain, at a minimum, the name and unique identifier of the owner of a deposit, the balance of each of an owner's deposit accounts within the applicable ownership right and capacity, the aggregated balance of the owner's deposits within each ownership right and capacity, the amount of the aggregated balance within each ownership right and capacity that is insured, and the amount of the aggregated balance within each ownership right and capacity that is uninsured. Appendix B to the proposed rule specifies the data format for the records that the covered institution's IT system would need to produce. The proposed rule would require that this expansion of a covered institution's IT system's capabilities would need to be completed within two years after the effective date of a final rule, or within two years after becoming a covered institution. The FDIC believes that two years would be an appropriate time frame within which to meet this requirement based on its experiences monitoring development and implementation of IT system changes by insured depository institutions. The FDIC welcomes comment regarding this two-year time frame and the challenges that could prevent a covered institution from meeting the requirements of the proposed rule within two years.

If a covered institution were to fail, its depositors' access to their funds would need to be restricted while the FDIC makes deposit insurance determinations in order to avoid overpayment. Under the proposed rule, a covered

institution's IT system would need to be capable of placing an effective restriction, or hold, on access to all funds in a deposit account until the FDIC has determined the deposit insurance coverage for that account. Using the covered institution's IT system, the FDIC expects that deposit insurance determinations would be made within 24 hours after failure and holds on those accounts would be removed. Holds would remain in place on deposit accounts for which a deposit insurance determination has not been made within that time frame and would be removed after the determination has been made. The deposit accounts for which a deposit insurance determination is not made within the first 24 hours after a covered institution's failure would have been the subject of an FDIC-approved application for exception from the proposed rule's requirements. Under the proposed rule, covered institutions would be required, as a condition for the exception, to notify such account holders that payment of deposit insurance may be delayed until all of the information required to make a deposit insurance determination has been provided to the FDIC.

A covered institution's IT system would need to be capable of adjusting the balance in each of an owner's accounts, if necessary, after the deposit insurance determination has been completed by the FDIC. Specifically, if any of an owner's deposits within a particular ownership right and capacity were not insured, the covered institution's IT system would need to debit the owner's deposit accounts for the uninsured amount associated with each account held in the relevant ownership right and capacity. Any uninsured amount would be payable to the depositor as a receivership claim against the failed covered institution. The FDIC's regulations and resources concerning deposit insurance that are available to the public on the FDIC's Web site are useful tools that covered institutions can use to develop the capabilities of their IT systems to meet the proposed rule's requirements.[37] The FDIC also intends to offer guidance and outreach to facilitate covered institutions' efforts to meet this requirement.

A covered institution's IT system would need to be capable of calculating deposit insurance coverage and debiting uninsured amounts, if any, within 24 hours after the FDIC's appointment as receiver should the covered institution fail. As discussed above, the FDIC believes that a uniform time frame within which it should be able to complete the deposit insurance determination process using a covered institution's IT system should be measured from the time of the covered institution's failure and the FDIC's appointment. The ability to accomplish the deposit insurance determination within 24 hours after failure is essential to preserving continuity of operations for depositors. The inability to access deposits for day-to-day transactions could have an adverse impact on the financial stability of the banking system if enough depositors were to be denied access to their funds for more than a minimal period of time. Additionally, the FDIC's ability to determine deposit insurance coverage quickly should help preserve a failed covered institution's franchise value, which would lead to greater recovery for the Deposit Insurance Fund and, in turn, lessen the negative impact on industry deposit insurance assessments.

E. Limitations on the Applicability of the Proposed Rule

Covered institutions may face challenges in their efforts to obtain the information needed to meet the requirements of the proposed rule. Recognizing that these challenges may be difficult to overcome in some cases, the FDIC is proposing several bases for limitation of the proposed rule's requirements. A covered institution would need to apply to the FDIC for relief from certain of the proposed rule's requirements and, if the application is granted, the covered institution would need to take certain other actions.

The FDIC is proposing a narrow basis for exemption from the requirements set forth in the proposed rule. A covered institution could apply to be exempted from the proposed rule if it could demonstrate that it does not, and will not in the future, take deposits that would exceed a deposit owner's SMDIA regardless of ownership right and capacity. In other words, if each owner of deposits were to have an amount equal to or less than the SMDIA (currently $250,000) on deposit at a covered institution, then each owner would be fully insured. Additionally, there would be no need to analyze any other information, such as beneficiary identities and interests, to determine the extent of deposit insurance coverage because the aggregate amount that the owner has on deposit across all ownership rights and capacities would be equal to or below the SMDIA. The FDIC's deposit insurance determination would be simple for deposit accounts at covered institutions that meet this condition and, therefore, the FDIC does not believe that requiring such covered institutions to develop the capability to calculate deposit insurance coverage is necessary.

A covered institution would be able to apply for an extension of the deadlines set forth in § 370.3 of the proposed rule if it could not meet them based on a well-justified exigency. It could apply for an extension of the two-year deadlines for obtaining the information needed to determine deposit insurance coverage, assigning account ownership right and capacity codes, and developing IT system capabilities. The application would need to explain in detail why the deadline needs to be extended and would need to describe the type of accounts that would be affected, the number of accounts affected, and the total dollar amount on deposit in those accounts as of the date of the covered institution's application. Furthermore, the application would need to specify the amount of time the covered institution expects would be needed to meet the requirement for which it seeks an extension and provide any other information needed to substantiate the request.

The proposed rule would allow a covered institution to apply for an exception from the requirements set forth in § 370.3 of the proposed rule if it can satisfy one of the following three conditions. First, a covered institution would be able to apply for exception if it does not have the information needed to calculate deposit insurance coverage for an account or for all accounts of a specific type, that it has requested such information from the account holder, and the account holder has not been responsive to the covered institution's request. Second, a covered institution would be able to apply for exception if it can provide a reasoned legal opinion that the information needed from an account holder to calculate deposit insurance coverage is protected from disclosure by law. Third, a covered institution would be able to apply for exception if it can provide an explanation of how the information needed to calculate deposit insurance coverage changes so frequently that updating the information on a continual basis would be neither cost effective nor technologically practicable. The FDIC would consider the nature of the deposit relationship to determine how frequently the information would need to change in order for a covered institution to be granted an exception, but anticipates that the rate would need to be on a daily or near daily basis. A covered institution's application for

[37] See 12 CFR part 330 and material on the FDIC's Web site at *https://www.fdic.gov/deposit.*

exception would need to describe the accounts that would be affected, state the number of accounts affected and the total dollar amount on deposit in those accounts as of the date of the covered institution's application, and provide any other information needed to substantiate the request.

The FDIC anticipates that a covered institution would seek release from the proposed rule's requirements if the covered institution were to no longer meet the two million account threshold for coverage. Under the proposed rule, a covered institution could apply for release from the proposed rule's requirements when it has fewer than two million deposit accounts, as determined by reference to Schedule RC–O in its Report of Condition and Income, for three consecutive quarters. It would, like any other IDI, become a covered institution again if it were to have two million or more deposit accounts for two consecutive quarters.

The objectives of the proposed rule overlap to an extent with the objectives of § 360.9. The FDIC recognizes that a covered institution's compliance with the proposed rule's requirements may alleviate the need for the covered institution to continue to take certain of the actions prescribed by § 360.9. Therefore, the proposed rule would allow a covered institution to apply for a release from the provisional hold and standard data format requirements set forth in 12 CFR 360.9, if it could demonstrate to the FDIC's satisfaction that it would comply with the proposed rule's requirements.

The FDIC would review a covered institution's application for exemption, extension, exception, or release, and determine, in its sole discretion, whether to approve the application. The FDIC's approval could be conditional or time-limited, depending on the facts and circumstances set forth in the application. If a covered institution's application for an extension or exception were to be granted by the FDIC, then the covered institution would need to ensure that its IT system can, in the event of its failure, do three things. First, it would need to be capable of imposing a hold on access to all funds in every deposit account that the application concerns for so long as it cannot calculate the deposit insurance available to those accounts. Second, it would need to be capable of generating a record in the format specified in appendix B listing those accounts so that the FDIC could obtain the information needed from the account holder to determine the amount of deposit insurance coverage relevant to those accounts after the covered institution's failure. And third, it would need to be capable of accepting additional information post-failure and performing successive iterations of the deposit insurance coverage calculation process described in § 370.3 of the proposed rule until the amount of deposit insurance available on every account has been determined. In addition to these IT system capabilities, a covered institution would also need to disclose to each account holder for whom its IT system cannot be used by the FDIC to facilitate the FDIC's deposit insurance determination that, in the event that the covered institution were to fail, access to funds in one or more accounts might be delayed. The FDIC would be unable to pay deposit insurance on those deposit accounts until after it received the information needed to make a complete deposit insurance determination. The purpose of this disclosure would be to moderate any expectation by an account holder or deposit owner that insured deposits would be immediately accessible after a covered institution's failure and to put them on notice that draw requests might not be honored until the deposit insurance coverage determination has been completed by the FDIC.

F. Accelerated Implementation

The proposed rule provides for accelerated implementation of the rule's requirements, on a case-by-case basis and with notice from the FDIC to a covered institution, in three scenarios. The first would be when a covered institution has received a composite rating of 3, 4, or 5 under the Uniform Financial Institution's Rating System (CAMELS rating) in its most recently completed Report of Examination. The second scenario would be when a covered institution has become undercapitalized, as defined in the prompt corrective action provisions of 12 CFR part 325. The third would be when the appropriate federal banking agency or the FDIC, in consultation with the appropriate federal banking agency, has determined that a covered institution is experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the covered institution by its appropriate federal banking agency in its most recent Report of Examination. The FDIC is sensitive to concerns about the imposition of an accelerated implementation time frame during episodes of severe economic distress. Understandably, a covered institution's attention would be devoted to solving other critical problems that threaten the covered institution's financial health. However, providing depositors with immediate access to funds and preserving systemic stability is equally critical, and the ability to do that must be balanced against any hardship an accelerated implementation time frame might impose on a covered institution. Before accelerating the implementation time frame, the FDIC would consult with the covered institution's appropriate federal banking agency. The FDIC would evaluate the complexity of the covered institution's deposit systems and operations, the extent of the covered institution's asset quality difficulties, the volatility of the covered institution's funding sources, the expected near-term changes in the covered institution's capital levels, and other relevant factors appropriate for the FDIC's consideration as deposit insurer.

G. Compliance Testing

The proposed rule sets forth a two-part approach for compliance testing. First, beginning two years after the effective date of a final rule, a covered institution would need to certify compliance with the rule on an annual basis by submitting an attestation letter signed by its board of directors along with a summary deposit insurance coverage report to the FDIC by the end of the first quarter of each calendar year. The attestation letter would confirm that the covered institution's IT system would be capable of calculating deposit insurance coverage and that the covered institution had successfully tested that capability. It would also describe the impact of the exceptions or extensions that the covered institution had been granted on the IT system's ability to calculate deposit insurance coverage available to depositors. The summary deposit insurance coverage report accompanying the attestation letter would list key metrics for deposit insurance risk to the FDIC and coverage available to a covered institution's depositors. Those metrics would be: The number of depositors, the number of deposit accounts, and the dollar amount of deposits by ownership right and capacity; the total number of fully-insured deposit accounts and the dollar amount of deposits in those accounts; the total number of deposit accounts with uninsured amounts and the total dollar amount of insured and uninsured amounts in those accounts; the total number of deposit accounts and the dollar amount of deposits in accounts subject to an approved or pending application for exception or extension; and a description of any substantive change to the covered institution's IT system or deposit taking operations since the prior annual certification.

Second, the FDIC would conduct an on-site inspection and test of a covered institution's IT system's capability to calculate deposit insurance coverage. The FDIC would provide data integrity and IT system testing instructions to covered institutions through the issuance of procedures or guidelines prior to initiating its compliance testing program, and would provide outreach to covered institutions to facilitate their implementation efforts. Testing by the FDIC would begin no earlier than two years after the effective date of a final rule in order to give covered institutions time to collect information from account holders and make changes to their IT systems by the deadlines prescribed in the proposed rule. On-site testing would be conducted by the FDIC no more frequently than annually, unless there is a material change to the covered institution's IT system, deposit-taking operations, or financial condition. A covered institution would be required to provide assistance to the FDIC to resolve any issues that arise upon the FDIC's on-site inspection and testing of the IT system's capabilities. The FDIC anticipates that after a covered institution's IT system accurately demonstrates the capability to calculate deposit insurance coverage for a substantial number of the covered institution's deposit accounts, on-site inspection and testing would be needed only infrequently or when there had been a material change to the covered institution's IT system or deposit-taking operations.

H. Enforcement

Under the proposed rule, a violation of the requirements set forth therein would be grounds for enforcement action pursuant to section 8 of the FDI Act.[38] A covered institution's appropriate federal banking agency would have authority to compel compliance by initiating enforcement action. Such action could include, but not be limited to, a cease-and-desist order or an order for a civil money penalty. If the FDIC were to decide that enforcement action would be necessary to compel compliance with the proposed rule's requirements and the appropriate federal banking agency were to elect not to take action, the FDIC could use its backup authority under subsection 8(t) of the FDI Act if it is not the appropriate federal banking agency.[39]

A covered institution might not be able to comply with the proposed rule's requirements during the pendency of a covered institution's application for extension, exception, extension or release. It may not have information sufficient to calculate deposit insurance coverage for some or all of a certain type of account, or it may have difficulties implementing changes to its IT system. Given those contingencies, the FDIC is proposing a safe harbor from enforcement action for noncompliance while a covered institution's application is pending. Enforcement action against a covered institution for noncompliance during that time would not promote the covered institution's level of compliance or improve the FDIC's preparedness for the covered institution's failure.

The FDIC is optimistic that covered institutions will recognize the benefits to be provided by this proposed rule and acknowledge that these improvements to the FDIC's ability to quickly and accurately determine deposit insurance will minimize costs to the Deposit Insurance Fund and increase confidence among depositors that they will have immediate access to their deposits in the event of a covered institution's failure. Enhanced public confidence in the deposit insurance payment process will, in turn, strengthen the banking system. The FDIC anticipates regular and continuous involvement with covered institutions during the implementation period and does not anticipate that an enforcement action would be taken unless a covered institution were to demonstrate persistent disregard for the proposed rule's requirements.

VII. Expected Effects

The purpose of this proposed rule would be to strengthen the FDIC's ability to administer orderly and least-costly resolutions for the nation's largest and most complex financial institutions. As proposed, the rulemaking applies to 36 institutions, each with two million or more deposit accounts, which together comprise only one half of one percent of all FDIC insured institutions. In light of the large size of these institutions and the millions of account holders who would require immediate access to their funds in the event of failure, the estimated implementation costs are relatively modest. Prompt and efficient deposit insurance determination by the FDIC ensures the liquidity of deposit funds, enables the FDIC to more readily resolve a failed IDI, promotes stability in the banking system, reduces moral hazard, and preserves access to credit for the economy.

While the FDIC's analysis estimates the expected costs of the proposed rule to covered institutions, the benefits of financial regulation are primarily shared by the public as a whole. Because there is no market in which the value of these public benefits can be determined, it is not possible to monetize these benefits. Therefore, the FDIC presents an analytical framework that describes the qualitative effects of the proposed rule and the quantitative effects where possible.

A. Expected Costs

The FDIC anticipates that the relatively few large institutions that are subject to this proposed rule will incur significant costs in upgrading their information systems and internal processes in order to comply with its provisions. However, these costs are small relative to covered institutions' size, other expenses, and earnings.

In order to estimate the expected costs of complying with this proposed rule, the FDIC engaged an independent consulting firm and provided that firm with information about 36 larger institutions that were likely to be subject to the proposed rule.[40] Together, these institutions hold more than $10 trillion in total assets and manage over 400 million deposit accounts.

Based on this information and its own extensive experience with IT systems at financial institutions, the consultant developed cost estimates around the following activities:

- Implementing the deposit insurance calculation
- Legacy data clean-up
- Data extraction
- Data aggregation
- Data standardization
- Data quality control and compliance
- Data reporting
- Ongoing operations

Cost estimates for these activities were derived from estimates of the types of workers needed for each task, the labor hours devoted to each cost component, the industry average labor cost (including benefits) for each worker needed, and worker productivity. The analysis assumed that manual data clean-up would affect five percent of deposit accounts, resolve ten accounts per hour, and use internal labor for 60 percent of the clean-up. This analysis also attributed higher costs to individual institutions based on factors that make timely and accurate deposit insurance determinations more complex. These complexity factors include:

- Higher number of deposit accounts
- Higher number of distinct core

[38] 12 U.S.C. 1818.

[39] 12 U.S.C. 1818(t).

[40] As of the end of the fourth quarter of 2015, 36 institutions would be ''covered institutions'' under the proposed rule.

servicing platforms
- Higher number of depository legal entities or separate organizational units
- Broader geographic dispersal of accounts and customers
- Use of sweep accounts
- Greater degree of complexity in the bank's business lines, accounts, and operations

Based on this analysis, the total projected cost for needed improvements at these institutions under the proposed rule amounts to just under $328 million (see Illustration 1, below, for a graphic portrayal of the cost model).

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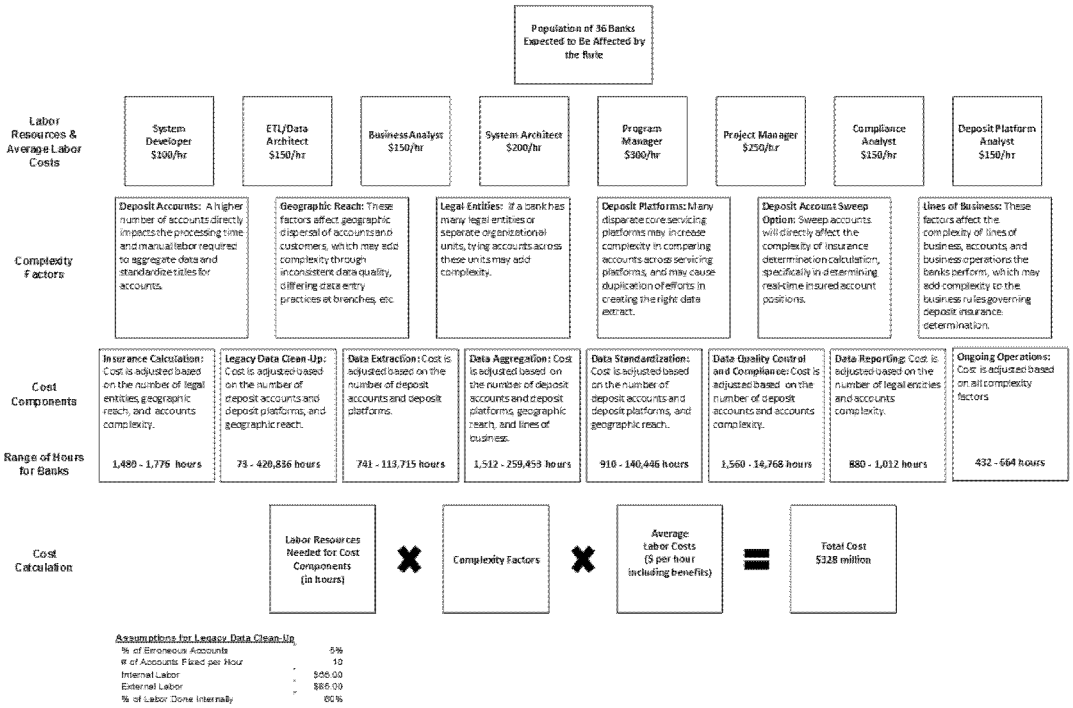
ILLUSTRATION 1—COST ESTIMATE MODEL FOR PROPOSED RULE



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More than half of this cost estimate is attributable solely to legacy data quality improvement. However, some of the putative covered institutions are already undertaking efforts to improve their data quality to address their own operational concerns or other regulatory compliance efforts (*e.g.,* efforts to comply with the Bank Secrecy Act). Therefore this cost estimate may be overstated.

This estimate of the projected cost, while thorough in its treatment, may not perfectly account for the individual cost structures of the covered institutions. Consequently, the total estimated costs could be somewhat higher or lower than $328 million. The FDIC invites interested parties to comment on all expected costs or benefits of the proposed rule.

At the same time, it is instructive to place this cost estimate in context with the size of these institutions and the annual income and expense amounts they regularly report. Table 1, below, compares the $328 million cost estimate to 2014 annual expense totals for these institutions.

TABLE 1—COST ESTIMATE COMPARISON

Expense item	2014 Expenses for banks in the study (000's)	Expected compliance cost as a percent of annual expense item %
Noninterest Expense	$268,778,648	0.12
Personnel Expense	119,579,601	0.27
Tax Expense	48,353,250	0.68
Premises Expense	28,293,572	1.16
Interest Expense	27,223,308	1.20

As indicated in Table 1, if compliance costs for these institutions total $328 million, they would equal just over one tenth of one percent of the total noninterest expenses incurred by these institutions in 2014. Given that these same institutions earned total pre-tax net income of just under $150 billion for the year, estimated compliance costs would be 0.22 percent of that amount.

Expressed as an average cost per deposit account, the $328 million cost would be equal to 80 cents for each account managed by these banks. This low average compliance cost per

account reflects the fact that most of the more than 400 million accounts managed by these banks do not involve complex structures or incomplete data, and will not require extensive clean-up of existing data records.

It is worth noting that even if actual compliance costs turned out to be $650 million, twice the amount estimated in the consulting firm's analysis, these costs would still be relatively small in the context of the size, annual income, and expenses of these institutions. If costs were to be as high as $650 million, they would be equal to 0.24 percent of 2014 noninterest expenses, 0.43 percent of pre-tax net income, or $1.60 per deposit account managed by these institutions.

Clearly, not every institution would incur the same compliance costs in dollar terms or in relation to their annual income or expenses. Banks with more serious deficiencies in their current systems or with greater complexity in their business lines, accounts, and operations would be expected to incur above-average compliance costs. For example, some institutions that grew through acquisition have retained the legacy IT systems of the acquired banks. Multiple deposit platforms, missing and inaccurate depositor information, and the incompatibility of the IT systems would all contribute to higher costs. Banks with simpler operations and better systems would incur lower costs.

Covered institutions could pass at least some of the costs of the proposed rule to their stakeholders (customers, creditors, shareholders). The proposed rule is crafted in a manner that affects only large banks, and the FDIC neither intends nor anticipates negative consequences for small banks.

B. Expected Benefits

The FDIC expects that the benefits of the proposed rule would accrue broadly to the public at large, to bank customers, to banks not covered by the rule, and to the covered banks themselves. The primary benefits of the proposed rule are to ensure the liquidity of deposit funds in the event of the failure of one or more large banks, and to facilitate their orderly resolution. This outcome in turn would promote stability in the banking system, trust and confidence in deposit insurance, and access to credit for the economy.

The recent financial crisis has demonstrated that large financial institutions can fail very rapidly, and that their failures can have outsized effects on the macroeconomy. In addition to the direct economic impact of a large institution's failure, such a failure can also have contagion effects on other financial institutions. Consequently, post-crisis reforms are aimed at preventing or mitigating such effects. This proposed rule bolsters the FDIC's ability to allow depositors timely access to their insured funds in the event of a covered institution's failure without the need for extraordinary government assistance.

The failure of a covered institution would necessarily involve millions of deposit insurance claims. The inability to promptly settle these claims could lead to financial disruptions that could have effects on the macroeconomy as a whole. One recent study reported that government support for the financial sector in the 2008 financial crisis totaled more than $12 trillion, and the resulting loss of domestic output is estimated at $6 trillion to $14 trillion.[41]

The public at large will be the primary beneficiaries of the proposed rule. An effective failed bank resolution maintains liquidity by providing timely access to insured funds, promotes financial stability by ensuring an orderly, least costly resolution, and reduces moral hazard by recognizing deposit insurance limits. Broadly, it facilitates the use of resolution transaction structures that would otherwise be unavailable. Making accurate and fair deposit insurance determinations for all insured institutions is a key component in carrying out the FDIC's mission of ensuring confidence in the banking system.

Bank customers will also benefit from the proposed rule. Timely deposit insurance determinations supported by the proposed rule would delineate insured and uninsured amounts for bank customers, granting them access to insured amounts to meet their transaction needs and financial obligations. The proposed rule improves upon current resolution practices by providing a mechanism for timely access to funds for depositors at even the largest IDIs.

Banks not covered by the proposed rule will benefit because the prompt payment of deposit insurance at the largest IDIs should promote public confidence in the banking system as a whole.

The enhancements to data accuracy and completeness supported by the proposed rule should benefit covered institutions as well. Improvements to data on depositors and information systems as a result of adopting the proposed rule may lead to efficiencies in managing customer data. The processing of daily bank transactions may be less prone to data errors. Moreover, opportunities for cross-marketing of bank products may result from maintaining more accurate data on deposit account relationships.

VIII. Alternatives Considered

A number of alternatives were considered in developing the proposed rule. The major alternatives include: (i) Thresholds above and below the proposed two million accounts; (ii) the FDIC's current approach to deposit insurance determinations (status quo); (iii) the FDIC's development of an internal IT system and transfer processes capable of subsuming the deposit system of any large covered IDI in order to perform deposit insurance determinations; and (iv) simplifying deposit insurance coverage rules. The proposed rule is considered by the FDIC to be the most effective approach relative to the alternative approaches in terms of cost to the industry, the speed and accuracy of deposit insurance determinations, access to funds, and reduction of systemic and information security risks. Development of the proposed rule was based on a careful evaluation of expected effects and expertise of staff on the challenges of resolving a large failed IDI.

In deciding which institutions would be subject to the proposed rule, the FDIC considered thresholds above and below two million deposit accounts. Raising the threshold would decrease the costs of the rule on the industry because fewer institutions would be covered, but would also increase the risk of the FDIC being unable to make timely and accurate deposit insurance determinations for very large institutions. As described in *VI. The Proposed Rule,* above, the selection of two million deposit accounts as the threshold for this rule was based on this being a readily observable metric and on the large anticipated benefits relative to implementation costs for institutions over this threshold.

Making a correct and timely deposit insurance determination always requires that the FDIC have access to accurate data on deposit account relationships. The FDIC has learned from prior experience that it is possible to rectify data quality problems at small institutions without delaying the deposit insurance determination. However, the ability of the FDIC to promptly remedy data quality problems at large institutions declines rapidly with the number and complexity of

[41] Luttrell, Atkinson and Rosenblum, ''Assessing the Costs and Consequences of the 2007–09 Financial Crisis and Its Aftermath,'' *Economic Letter,* Federal Reserve Bank of Dallas, v. 8, n. 7, Sep. 2013.

deposit accounts. Therefore, resolving data quality problems at institutions with the largest number of accounts and most complex deposit account systems prior to failure, as required by this proposed rule, would substantially lower the risk of delay in making determinations.

As described above in *VII. Expected Effects,* the FDIC estimates that the costs associated with the proposed threshold for these large IDIs are relatively modest compared to their net income and other usual costs of doing business. Decreasing the deposit account threshold below two million accounts would impose higher costs on the industry as a whole, and the marginal benefits of the rule would decline since smaller institutions present less risk to prompt deposit insurance determinations.

The alternative of maintaining the status quo is defined by the existing deposit insurance determination process for large banks established in § 360.9 of the FDIC regulations, which became effective in August 2008. Section 360.9 requires covered institutions to maintain processes that provide the FDIC with standard deposit account information promptly in the event of failure. In addition, § 360.9 requires covered institutions to maintain the technological capability to automatically place and release holds on deposit accounts. Section 360.9 applies to insured depository institutions with at least $2 billion in domestic deposits and either 250,000 or more deposit accounts or $20 billion in total assets.

Adoption of § 360.9 was an important step toward resolving a large depository institution in an efficient and orderly manner. However, that rule does not adequately address two important problems that arise in the resolution of the largest and most complex institutions. First, it does not currently require institutions to maintain deposit account data that are accurate and complete for deposit insurance purposes. Addressing these data quality problems at the time of failure can introduce significant delays in making accurate deposit insurance determinations. Second, deposit insurance determination under 360.9 necessitates a secure bulk download of depositor data that introduces additional delays in making that determination. The FDIC's experience in resolving large institutions shows that the amount of time for a data download can vary widely based on the file size, complexity of the data, and the number of deposit systems among other things. Given the limited time available to the FDIC to make determinations these delays pose the risk of creating hardships on depositors and disruptions to financial markets.

Another alternative considered was establishing a system to rapidly transfer all deposit data from the failed IDI's IT system to the FDIC for processing in order to calculate and make deposit insurance determinations. Although this alternative could leverage efficiencies in computing power, the challenge of absorbing the deposit system or systems of a large, complex IDI in a time period short enough to produce prompt insurance determinations is practically infeasible. The process of moving the data in a quick and organized fashion would require a great deal of skilled labor and pose information security concerns. FDIC staff, working with staff from each large IDI, would have to develop individualized data transfer solutions for each institution tailored to their IT systems and third party applications. Extensive initial and ongoing testing would be required to establish the viability of the data transfer process and the validity of the data. Transferring large volumes of personal identifiable information would pose some information security risk to bank customers. Finally, any major changes in the large IDI's deposit system would necessitate further testing and validation. The large development, testing, and recertification costs borne by the FDIC under this alternative would likely be passed onto insured depository institutions as ongoing insurance assessments.

Simplifying the deposit insurance coverage rules was another alternative considered. Currently, deposit insurance can be obtained under different ownership rights and capacities, some of which have coverage levels that are set according to complex formulas. Reducing the number of rights and capacities or simplifying the coverage rules would reduce the costs associated with covered institutions' development of the capability to calculate deposit insurance coverage. However, most efforts to simplify the deposit insurance coverage rules would effectively reduce coverage to depositors at all FDIC insured institutions, an approach that would impose a cost on a wider range of institutions and bank customers. Further, these complex account types only present problems when the FDIC must analyze a significant number of those deposit accounts at the same time. The FDIC's established methods for dealing with these more complex accounts in smaller and mid-sized resolutions include manual processing, a process that could take too long in a larger resolution involving a significant number of these accounts. Consequently, the FDIC is not pursuing simplification of the deposit insurance coverage rules.

IX. Request for Comments

The FDIC invites comments on all aspects of the proposed rule and requests feedback on the specific questions set out below.

A. Scope of Coverage

The proposed rule, if adopted, would impose requirements on insured depository institutions that have two million or more deposit accounts. The FDIC has proposed this threshold based on its recent experience with actual failures and near-failures. This work indicates that the FDIC should first focus on improving its existing systems and processes to address the challenges presented by banks below the two million account threshold, and then pursue other approaches only if, and to the extent that, these efforts prove insufficient. The FDIC's experience indicates that a fundamentally different approach is needed to resolve large complex institutions. The volume of accounts held by such banks, coupled with the complexity typically found in these banks' deposit IT systems, necessitates that deposit records be organized in advance of failure in a way that facilitates rapid insurance determinations.

- Is the number of deposit accounts the appropriate metric for identifying insured depository institutions to be covered by the proposed rule's requirements? If not, what should the appropriate criteria be?
- Should the deposit account threshold be tiered based on the types of accounts offered by an insured depository institution?
- Should other factors or a combination of factors be used to determine which insured depository institutions would be subject to the requirements?

B. Requirements

Covered institutions would be required to uniquely identify each account holder, each owner of funds on deposit if the accountholder is not the owner, and each beneficiary of a trust that has an interest in the deposits owned by the trust. The FDIC requests comments on all aspects of this proposed requirement. In particular:

- To what extent can covered institutions uniquely identify depositors using current systems, procedures, and identifying information (such as social

security numbers or tax identification numbers)?

• What would be the best methods(s) to use for depositor identification? Should the FDIC specify the format to be used for depositor identification or should this be left to the covered institutions to determine?

• How expensive would it be for covered institutions to supply a unique identifier for each deposit owner? Is this something that covered institutions are considering for internal business purposes? If not, how do covered institutions determine common ownership for relationship management, cross-selling, risk management or other purposes? How long would it take to implement a unique depositor identification process? To what extent is the answer to the previous question a function of having to run deposit accounts on more than one platform?

• To what extent are covered institutions able to identify account owners (as opposed to trustees, managers, beneficiaries, etc.) from source files being supplied to the FDIC for insurance determination purposes? Does this differ by types of accounts; for example, checking accounts versus (brokered) CDs?

• Could covered institutions uniquely identify depositors within a single legacy data system? Is there an accompanying Customer Information File available for each legacy data system? Could the covered institutions provide instructions or rules to assist the FDIC to integrate depositor records across these legacy data sources?

Authorities in foreign jurisdictions have implemented similar initiatives since the financial crisis in 2008. Some covered institutions have branches in those countries.

• If covered institutions are already required to assign a unique identifier to each deposit owner in foreign jurisdictions, how would covered institutions integrate their efforts to meet those requirements with their efforts to meet the proposed rule's requirements?

• Could some of the systems development work, such as software programming, logic, data warehouse capabilities, be leveraged with the proposed U.S. implementation?

• Are there any best practices that should be considered in the U.S. proposal related to implementation, testing, or time frames?

Under the proposed rule, covered institutions would be required to identify and separate foreign deposits from domestic deposits. Foreign deposits are not insured, but the FDIC, as receiver, would need to determine claims of foreign depositors. The proposed rule would require foreign and dually-payable deposits to be identified separately from the rights and capacities set forth in Appendix A.

• How difficult would it be to do this?

• How many foreign deposit accounts do covered institutions have as compared to domestic accounts?

• What is the relative dollar amount of foreign deposits versus domestic deposits?

• How long would it take to identify and code foreign deposits that are dually payable?

• If a covered institution failed today, approximately how long would it take to identify the dually payable foreign deposits in the covered institutions' IT systems?

• How would the costs of developing an IT system for all deposits be significantly impacted by the inclusion of deposits held in branches outside of the United States?

• How would the inclusion of foreign deposits in the requirements of the proposed rule impact the covered institution's ability to provide timely information on the covered institution's insured deposits?

C. Implementation

The FDIC recognizes that substantial time may be needed to implement the requirements described in this NPR and has proposed a two-year implementation timetable.

• Are there particular requirements that would take less time to implement?

• Are there particular requirements that would take more time to implement? If so, which requirements would pose these delays? Why?

• Is a two-year time frame reasonable for obtaining the information needed to calculate deposit insurance available on all accounts? Is a graduated approach, such as 90 percent of all accounts within two years, preferable?

• Would the proposed availability of extensions to accommodate aspects of compliance that are expected to take longer than two years provide sufficient implementation flexibility? If not, why?

The FDIC recognizes that covered institutions may need substantial guidance from the FDIC regarding deposit insurance coverage rules and application of those rules in various scenarios.

• The FDIC's regulations and resources concerning deposit insurance are available to the public on the FDIC's Web site. These are useful tools that covered institutions can use in their efforts to meet the proposed rule's requirements.[42] Are these resources sufficient for that purpose?

• Should the FDIC staff be available to assist with the initial implementation? If so, what would be the best approach?

• Should a one year check-in be mandatory or optional in order for covered institutions to obtain feedback before finalizing system enhancements?

• Are the standard FDIC deposit insurance coverage seminars and materials available at on the FDIC's Web site sufficient for covered institutions to accurately assign all of its deposit accounts with an account ownership right and capacity code? If not, how might the FDIC assist? Form letters? FDIC Declaration forms? Targeted outreach to certain constituencies?

D. Exceptions

The proposed rule provides an exception from the requirements for certain types of deposit accounts.

• What types of deposit accounts do not fit within the proposed rule's parameters for exception as presently described, but should? Why?

• To what extent do depositors rely for day-to-day funding on accounts for which a covered institution could be granted an exception from the proposed rule's requirements?

• Could an institution experience a significant cost savings if it were able to obtain an exception from the requirements of the proposed regulation on the basis that deposit insurance coverage would not be calculated for those accounts—such as CDs or IRAs—for several business days after the institution's failure?

In the case of accounts held by agents or custodians, the FDIC provides pass-through insurance coverage.[43] This coverage is not available, however, unless certain conditions are satisfied. One of these conditions is that information about the actual owners must be held by either the insured depository institution or by the agent, custodian or other party.[44] In most cases, the agent or custodian holds the necessary information and the insured depository institution does not, thus making it impossible to determine deposit insurance coverage before that information is obtained. The need to obtain information from the agents or custodians delays the determination of deposit insurance by the FDIC, which may result in delayed payments of insurance or overpayment of insurance.

[42] See 12 CFR part 330 and material on the FDIC's Web site at *https://www.fdic.gov/deposit.*

[43] *See* 12 CFR 330.7.

[44] *See* 12 CFR 330.5.

At a bank with a large number of pass-through accounts, delays could be substantial. The FDIC is proposing that covered institutions may apply for and be granted an exception from the basic requirement to collect the information needed to determine deposit insurance coverage for deposit accounts entitled to pass-through coverage if certain conditions are met, namely that the account holder will not provide the information, the information is protected from disclosure by law, or the information changes so frequently that collecting it is neither cost effective nor technologically practicable.

- In addition to brokered deposits that are reported on the Call Report, how many accounts with pass-through coverage do covered institutions have (number of accounts and aggregate dollar value)?
- What types of brokered, agent or custodial deposit accounts would deposit owners likely need immediate or near-immediate access to after failure?
- How difficult would it be for covered institutions to maintain current records on beneficial owners of pass-through deposit accounts? Are there certain types of pass-through deposit accounts where maintaining current records might be relatively easy or relatively difficult?
- How difficult would it be for banks to maintain current records on beneficial owners of pass-through accounts where the broker is an affiliate of the bank?
- What would the challenges and costs be for covered institutions to obtain information from agents and custodians regarding each principal's or beneficial owner's interest and to update that information whenever it changes?
- Could a covered institution or a broker enter into account agreements where the institution or broker would be able to assure payment on an account on the business day following the failure of the institution through the availability of overdraft protection or otherwise? If so, would this be a reasonable basis to provide an exception for such an account?
- The FDIC's rules for pass-through insurance coverage also apply to deposit accounts held by prepaid card companies or similar companies. Cardholders might use these cards (and the funds in the custodial account) as a substitute for a checking account. In the event of the failure of the insured depository institution, the cardholders will likely need immediate access to the funds in the custodial account to meet their basic financial needs and obligations. Under the proposed rule, covered institutions could apply for an exception from the obligation to collect the information needed to determine deposit insurance coverage for prepaid card accounts as described above. How difficult would it be for covered institutions to regularly collect current information from prepaid card issuers regarding each cardholder's ownership interest?
- Would it be feasible to obtain and maintain the necessary depositor information on a significant subset of prepaid card accounts such as payroll cards or accounts through which federal benefits are paid?

In the case of revocable and irrevocable trust accounts, the FDIC provides ''per beneficiary'' insurance coverage subject to certain conditions and limitations.[45] Informal revocable trust accounts (payable-on-death accounts), covered institutions will have information about beneficiaries. With respect to formal revocable trust accounts, however, information needed to calculate ''per beneficiary'' coverage may not be available before obtaining a copy of the trust agreement (with information about the number of beneficiaries and the respective interests of the beneficiaries) from the depositor. The need to obtain and review the trust agreement delays the FDIC's determination of insurance. Under the proposed rule, covered institutions could apply for an exception from the requirement to collect the information needed to determine deposit insurance coverage for trust accounts if certain conditions are met, namely that the account holder will not provide the information, the information is protected from disclosure by law, or the information changes so frequently that collecting it is neither cost effective nor technologically practicable.

- How many trust accounts do covered institutions have (number and dollar amounts)?
- How many trust accounts are transaction accounts that depositors will likely need access on the next business day after failure? Is the proposed handling of this problem (through the exception request process) reasonable?
- If a covered institution is granted an exception from the proposed rule's requirements as to trust accounts, deposit insurance would not be paid until all necessary information has been provided to the FDIC. How disruptive would denying access to trust accounts after failure be?
- How difficult would it be for covered institutions to maintain current records on each beneficiary's ownership interest? How much information do banks already collect and retain on beneficiaries?
- How difficult would it be for trustees to supply the information to banks and keep it current?
- What legal authority do trustees have to withhold information from a covered institution about the number of beneficiaries and the respective interests of the beneficiaries?
- Are there other reasons trustees would not provide such information to a covered institution?
- Would covered institutions or account holders be receptive to using the FDIC Declarations for trust accounts?[46]

Special statutory rules apply to the insurance coverage of certain types of accounts, including retirement accounts,[47] employee benefit plan accounts[48] and government accounts.[49] In some cases, the FDIC cannot apply these special statutory rules without obtaining information from the depositor, which delays the calculation and payment of deposit insurance. Under the proposed rule, covered institutions would be required to obtain the information needed by the FDIC to make a deposit insurance determination for these types of accounts unless the conditions for exception can be met.

- Would any of these types of deposit accounts fit within the parameters for exception? How? Are there any that would not, but should?
- These accounts often have characteristics similar to accounts with pass-through coverage. The proposed rule would require covered institutions to identify deposit accounts by right and capacity. Can covered institutions reliably distinguish these special statutory accounts from accounts with pass-through insurance coverage that belong in other ownership rights and capacities?
- How difficult would it be for banks with a large number of deposit accounts to maintain full and up-to-date information on the owners of these accounts? How difficult would it be for depositors to supply the information and keep it current? For which types of accounts would it be relatively easy, or relatively difficult, to maintain current information for the purpose of determining deposit insurance coverage?

[45] *See* 12 CFR 330.10; 12 CFR 330.13.

[46] Available at *https://www.fdic.gov/regulations/laws/FORMS/claims.html.*

[47] *See* 12 U.S.C. 1821(a)(3).

[48] *See* 12 U.S.C. 1821(a)(1)(D).

[49] *See* 12 U.S.C. 1821(a)(2).

E. Compliance and Testing

The proposed rule sets forth a framework for covered institutions to demonstrate compliance with the proposed rule's requirements.

- Do the agents have preferences for participating in the annual testing by the covered institutions or during the FDIC onsite compliance visit? Would masking the beneficiary information alleviate concerns about privacy or proprietary information? Could the agents estimate the time to submit the files?
- The FDIC staff would consider pulling a sample data set to check for completeness and accuracy against the covered institution's books and records during the onsite compliance review. Covered institutions would receive at least three months advance notice with detailed instructions. Would a minimum of three months be sufficient for preparation? However, some review could be conducted offsite.

F. Benefits and Costs

The proposed rule would impose costs on covered institutions, but would also provide benefits to depositors, covered institutions and the banking system.

- To what extent would the proposed rule change insured depository institutions' deposit operations and IT systems?
- What would the costs associated with these changes be? Specifically, what would be the incremental cost of—

○ Obtaining and maintaining the information needed for the FDIC to make a deposit insurance determination that a covered institution does not already have?

○ Adapting its IT system to calculate the insured and uninsured amounts for all deposit accounts, other than accounts for which the covered institution would be granted an exception, within 24 hours after failure?

- In what ways could the implementation and maintenance costs be mitigated while still meeting the FDIC's objective of timely deposit insurance determinations?
- How could covered institutions' IT capabilities best be used to minimize the cost of the requirements?
- Banks have operational schedules for synchronizing systems for reporting at month-end, quarter-end and year-end. How disruptive or expensive would off-period reporting be? How long would it take to develop the ability for off-period reporting?

X. Regulatory Process

A. Paperwork Reduction Act

The FDIC has determined that this proposed rule involves a collection of information pursuant to the provisions of the Paperwork Reduction Act of 1995 (the ''PRA'') (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, this information collection unless the information collection displays a currently valid OMB control number. The FDIC will request approval from the OMB for this proposed information collection. OMB will assign an OMB control number.

OMB Number: 3064–AE33.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions having at least two million deposit accounts.

Implementation Burden:

Estimated number of respondents: 36.

Estimated time per response: 10,300 to 747,700 hours per respondent.

Estimated total implementation burden: 3.2 million hours.

Ongoing Burden:

Estimated number of respondents: 36.

Estimated time per response: 1,300 to 1,700 hours per respondent.

Estimated total ongoing annual burden: 53,500 hours.

Background/General Description of Collection

The proposed rule would require insured depository institutions that have two million or more deposit accounts (1) to maintain complete and accurate data on each depositor's ownership interest by right and capacity for all of the bank's deposit accounts, and (2) to develop and maintain the capability to calculate the insured and uninsured amounts for each deposit owner by owner right and capacity for all deposit accounts to be used by the FDIC to determine deposit insurance coverage in the event of failure. These requirements also must be supported by policies and procedures, as well as notification of individuals responsible for the systems. Further, the requirements will involve ongoing costs for testing and general maintenance and upkeep of the functionality. Estimates of both initial implementation and ongoing costs are provided.

Compliance with this proposed rule would involve certain reporting requirements.

- Not later than ten business days after the effective date of the final rule or after becoming a covered institution, a covered institution shall designate a point of contact responsible for implementing the requirements of this rulemaking.
- Covered institutions would be required to certify annually that their IT systems can calculate deposit insurance coverage accurately and completely within the time frame set forth in the proposed rule. This certification shall include all agent account files, but may be masked for testing purposes to maintain confidential or proprietary information. A covered institution shall provide the appropriate assistance to the FDIC when testing the IT system.
- Also on an annual basis, covered institutions shall complete a deposit insurance coverage summary report (as detailed in *VI. The Proposed Rule*) and file an attestation letter signed by the covered institution's Board of Directors. The letter shall confirm that the covered institution has implemented and successfully tested its IT system for compliance.
- If a covered institution experiences a significant change in its deposit taking operations, it may be required to demonstrate that its IT system can calculate deposit insurance coverage accurately and completely more frequently than annually.

Estimated Costs

Comments on the ANPR provided little indication of implementation and ongoing costs for covered institutions. However, the FDIC conducted an analysis to estimate the various costs for covered institutions in the event that the requirements are adopted as proposed. The total projected cost of the proposed rule for covered institutions amounts to just under $328 million or approximately 3.2 million total labor hours over two years. The cost components of the estimate include: (1) Implementing the deposit insurance calculation; (2) legacy data cleanup; (3) data extraction; (4) data aggregation; (5) data standardization; (6) data quality control and compliance; (7) data reporting; and (8) ongoing operations. Estimates of total costs and labor hours for each component are calculated by assuming a standard mix of skilled labor tasks, industry standard hourly compensation estimates, and labor productivity. It is assumed that a combination of in-house and external services is used for legacy data clean up in proportions of 40 and 60 percent respectively. Finally, the estimated costs for each institution are adjusted according to the complexity of their operations and systems.

Implementation Costs

Implementation costs are expected to vary widely among the covered

institutions. There are considerable differences in the complexity and scope of the deposit operations across covered institutions. Some covered institutions only slightly exceed the two million deposit account threshold while others greatly exceed that number. In addition, some covered institutions— most notably the largest—have proprietary deposit systems likely requiring an in-house, custom solution for the proposed requirements while others may purchase deposit software from a vendor or use a servicer for deposit processing. Deposit software vendors and servicers are expected to incorporate the proposed requirements into their products or services to be available for their clients.

The implementation costs for covered institutions are estimated to total just over $319 million and require approximately 3.1 million labor hours. The implementation costs cover: (1) Making the deposit insurance calculation; (2) legacy data cleanup; (3) data extraction; (4) data aggregation; (5) data standardization; and (6) data quality control and compliance. Costs for each covered institution are estimated to range from $1.5 million to $100 million and require 10,300 to 747,700 labor hours.

Ongoing Reporting Costs

Ongoing costs for reporting, testing, maintenance and other periodic items are estimated to range between $213,000 and $270,000 annually for covered institutions. Approximately, 1,300 to 1,700 hours are estimated to be required for covered institutions to meet these requirements.

Comments

In addition to the questions raised elsewhere in this NPR, comment is solicited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information will have practical utility; (2) the accuracy of the FDIC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; (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; *e.g.,* permitting electronic submission of responses; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Addresses

Interested parties are invited to submit written comments to the FDIC concerning the Paperwork Reduction Act implications of this proposal. Such comments should refer to ''Recordkeeping for Timely Deposit Insurance Determination, 3064—AE33.'' Comments may be submitted by any of the following methods:

- *Agency Web site: https://www.fdic.gov/regulations/laws/federal.* Follow instructions for submitting comments on the Agency Web site.
- *Email: comments@FDIC.gov.* Include ''Recordkeeping for Timely Deposit Insurance Determination, 3064—AE33'' in the subject line of the message.
- *Mail:* Executive Secretary, Attention: Comments, FDIC, 550 17th St. NW., Room F–1066, Washington, DC 20429.
- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (EST).
- *Public Inspection:* All PRA-related comments received will be posted without change, including any personal information provided, to *https://www.fdic.gov/regulations/laws/federal.*
- A copy of the PRA-related comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 through 612, requires an agency to provide an initial regulatory flexibility analysis with a proposed rule, unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small business entities. 5 U.S.C. 603 through 605. The FDIC hereby certifies that the Proposed Rule would not have a significant economic impact on a substantial number of small business entities, as that term applies to insured depository institutions.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 12338, 1471) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rule in a simple and straightforward manner.

Text of the Proposed Rule

Federal Deposit Insurance Corporation

12 CFR Chapter III

List of Subjects in 12 CFR Part 370

Bank deposit insurance, Banks, Banking, Reporting and recordkeeping requirements, Savings and Loan associations.

Authority and Issuance

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add part 370 to title 12 of the Code of Federal Regulations to read as follows:

PART 370—RECORDKEEPING FOR TIMELY DEPOSIT INSURANCE DETERMINATION

Sec.

Authority: 12 U.S.C. 1819 (Tenth), 1821(f)(1), 1822(c), 1823(c)(4).

§ 370.1 Purpose and scope.

This part requires the information technology system of a ''covered institution'' (defined in § 370.2(a)) to be capable of calculating the amount of deposit insurance coverage available for each deposit account in the event of the covered institution's failure. The purpose of this part is to improve the FDIC's ability to fulfill its legal mandates to pay deposit insurance as soon as possible after failure and to resolve a covered institution at the least cost to the Deposit Insurance Fund.

§ 370.2 Definitions.

(a) A *covered institution* is an insured depository institution which, based on its Reports of Condition and Income filed with the appropriate federal banking agency, has 2 million or more deposit accounts during the two consecutive quarters preceding the effective date of this part or thereafter.

(b) *Deposit* has the same meaning as provided under section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)).

(c) *Ownership rights and capacities* are set forth in 12 CFR part 330.

(d) *Standard maximum deposit insurance amount* (or ''SMDIA'') has the

same meaning as provided pursuant to section 11(a)(1)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(E)) and 12 CFR 330.1(o).

(e) *Unique identifier* means a number associated with an individual or entity that is used by a covered institution to monitor its relationship with only that individual or entity. A unique identifier could be the social security number, taxpayer identification number, or other government-issued identification number of an individual or entity so long as a covered institution consistently and continuously uses only that number as the unique identifier.

§ 370.3 Requirements.

(a) Notwithstanding 12 CFR 330.5(b)(2) and (3), a covered institution must obtain from each account holder and maintain in its records the information necessary to comply with this section unless otherwise permitted in accordance with § 370.4.

(b) *Point of contact.* Not later than ten business days after either [EFFECTIVE DATE OF THE FINAL RULE] or becoming a covered institution, a covered institution shall designate a point of contact responsible for implementing the requirements of this part. The identity of that designee shall be sent, in writing, to the Office of the Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002.

(c) *Unique identifier.* Within two years after either the effective date of this part or becoming a covered institution, whichever is later, the covered institution must assign a unique identifier to each:

(1) Account holder;

(2) Owner, if the owner of the funds on deposit is not the accountholder; and

(3) Beneficiary, if the funds on deposit are held in trust.

(d) *Assignment of account ownership right and capacity code.* Within two years after either the [EFFECTIVE DATE OF THE FINAL RULE] or becoming a covered institution, whichever is later, the covered institution must assign one of the account ownership right and capacity codes listed and described in appendix A to part 370 to each of its deposit accounts.

(e) *Deposit insurance coverage calculation.* Within two years after either the effective date of this part or becoming a covered institution, whichever is later, the covered institution's information technology system shall be capable of accurately calculating the deposit insurance coverage available for each owner and generating a record reflecting this deposit insurance coverage calculation upon request by the FDIC. Each record shall be in the data format and layout specified in appendix B to part 370 and must include:

(1) The account holder's name or, if the owner of the funds on deposit is not the accountholder, the owner's name;

(2) The account holder's unique identifier or, if the owner of the funds on deposit is not the account holder, the owner's unique identifier;

(3) The balance of each of the account holder's deposit accounts within the applicable ownership right and capacity or, if the owner of the funds on deposit is not the accountholder, the balance of the owner's share of deposit accounts within the applicable ownership right and capacity;

(4) The aggregated balance of the account holder's deposits within the applicable ownership right and capacity or, if the owner of the funds on deposit is not the accountholder, the aggregated balance of each owner's deposits within the applicable ownership right and capacity;

(5) The amount of the aggregated balance in paragraph (e)(4) of this section that is insured; and

(6) The amount of the aggregated balance in paragraph (e)(4) of this section that is uninsured.

(f) *Holds pending FDIC's determination.* The covered institution's information technology system shall, in the event of the covered institution's failure, be capable of placing an effective restriction on access to all of the funds in a deposit account until the FDIC, using the covered institution's IT system to calculate deposit insurance coverage, has made the deposit insurance coverage determination for that account.

(g) *Process uninsured.* The covered institution's information technology system must be capable of debiting from an owner's deposit accounts the amount of the aggregated balance of the owner's deposits within the applicable ownership right and capacity that is uninsured as calculated pursuant to paragraph (d) of this section.

(h) *Deposit insurance calculation time frame.* The covered institution's information technology system shall be capable of completing the deposit insurance coverage calculation set forth in paragraphs (d) through (f) of this section within 24 hours after the FDIC's appointment as receiver for the covered institution.

§ 370.4 Limitations.

A covered institution may apply for relief from the requirements of § 370.3(a) as described in this section. The FDIC will consider all applications on a case-by-case basis in light of the objectives of this part. Applications should be submitted in writing to: Office of the Director, Division of Resolutions and Receiverships, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002.

(a) *Exemptions.* A covered institution may apply to the FDIC for an exemption from this part if it demonstrates that it has not and will not take deposits from any account holder which, when aggregated, would exceed the SMDIA for any owner of the funds on deposit.

(b) *Extensions.* (1) A covered institution may apply to the FDIC for an extension of the time frames set forth in § 370.3 if the covered institution will require additional time to:

(i) Complete the development of additional capabilities in its information technology system to complete the requirements set forth in § 370.3; or

(ii) Obtain the information necessary to comply with § 370.3 from the account holder.

(2) The application shall provide a summarized description of the accounts affected including, at a minimum, the number of accounts affected, the amounts on deposit in affected accounts, the amount of additional time needed, and other information needed to justify the request.

(c) *Exceptions.* (1) A covered institution may apply to the FDIC for an exception from the requirements of § 370.3(a) if the covered institution:

(i) Does not maintain the information needed to complete the requirements set forth in § 370.3(a), has requested such information from the account holder and certifies that the account holder has refused to provide such information or has not responded to the covered institution's request for information;

(ii) Provides a reasoned legal opinion that the information needed to complete the requirements set forth in § 370.3(a) for accounts of a certain type is protected from disclosure by law; or

(iii) Provides an explanation of how the information needed to complete the requirements set forth in § 370.3(a) changes frequently and updating the information on a continual basis is neither cost effective nor technologically practicable.

(2) The covered institution's application shall provide a copy of the information request letter sent to the account holder(s) and a summarized description of the accounts affected that includes, at a minimum, the number of accounts affected, the amounts on deposit in affected accounts, and any

other information needed to justify the request.

(d) The FDIC's grant of a covered institution's application may be conditional or time-limited.

(e) Notwithstanding § 370.7, a covered institution will not be in violation of this part during the pendency of an application for an extension, exception or exemption submitted pursuant to this section.

(f) If a covered institution's application for an exception or extension is granted by the FDIC, the covered institution shall:

(1) Ensure that its information technology system is, in the event of the covered institution's failure, capable of placing an effective restriction on access to all funds in deposit accounts identified in the request for exception or extension;

(2) Ensure that its information technology system is capable of creating files in the format and layout specified in Appendix B listing all accounts for which it is granted an exception or an extension under this section;

(3) Ensure that its information technology system is, in the event of the covered institution's failure, capable of receiving additional information collected by the FDIC after failure and repeatedly performing the requirements set forth in § 370.3; and

(4) In the case of an exception, disclose to the account holder reported with the application that in the event of the covered institution's failure, payment of deposit insurance may be delayed and items may be returned unpaid until all of the information required to make a deposit insurance determination has been provided to the FDIC.

(g) *Release from this part.* A covered institution may apply to the FDIC for a release from this part if, based on its Reports of Condition and Income filed with the appropriate federal banking agency, it has less than two million deposit accounts during any three consecutive quarters after becoming a covered institution.

(h) *Release from § 360.9 of this chapter.* A covered institution may apply to the FDIC for a release from the provisional hold and standard data format requirements of § 360.9 of this chapter. The FDIC's grant of such a release will be based upon the covered institution's particular facts and circumstances as well as its ability to demonstrate compliance with the requirements set forth in § 370.3.

§ 370.5 Accelerated implementation.

(a) On a case-by-case basis, the FDIC may accelerate, upon notice, the implementation time frame for all or part of the requirements of this part for a covered institution that:

(1) Has a composite rating of 3, 4, or 5 under the Uniform Financial Institution's Rating System (*CAMELS* rating), or in the case of an insured branch of a foreign bank, an equivalent rating;

(2) Is undercapitalized, as defined under the prompt corrective action provisions of 12 CFR part 325; or

(3) Is determined by the appropriate federal banking agency or the FDIC in consultation with the appropriate federal banking agency to be experiencing a significant deterioration of capital or significant funding difficulties or liquidity stress, notwithstanding the composite rating of the covered institution by its appropriate federal banking agency in its most recent report of examination.

(b) In implementing this section, the FDIC must consult with the covered institution's appropriate federal banking agency and consider the: complexity of the covered institution's deposit system and operations, extent of the covered institution's asset quality difficulties, volatility of the institution's funding sources, expected near-term changes in the covered institution's capital levels, and other relevant factors appropriate for the FDIC to consider in its roles as insurer of the covered institution.

§ 370.6 Compliance.

(a) *Annual certification.* (1) Beginning on March 31 two years after [EFFECTIVE DATE OF THE FINAL RULE] and annually thereafter, a covered institution shall complete a deposit insurance coverage summary report and file an attestation letter signed by the covered institution's Board of Directors. The covered institution's annual certification shall pertain to the preceding calendar year. The letter shall confirm that the covered institution has implemented and successfully tested its information technology system for compliance with this part. The letter shall describe the effects of all approved or pending applications for exception or extension on the ability to determine deposit insurance coverage using the covered institution's information technology system.

(2) The deposit insurance coverage summary report shall include:

(i) The number of depositors, number of deposit accounts and dollar amount of deposits by ownership right and capacity;

(ii) The total number of fully-insured deposit accounts and the dollar amount of deposits in those accounts;

(iii) The total number of deposit accounts containing uninsured amounts and the total dollar amount of insured and uninsured amounts in those accounts;

(iv) The total number of deposit accounts and the dollar amount of deposits in accounts subject to an approved or pending application for exception or extension under § 370.4; and

(v) A description of any substantive change to the covered institution's information technology system or deposit taking operations since the prior annual certification.

(3) If a covered institution experiences a significant change in its deposit taking operations, the FDIC may require it to demonstrate that its information technology system can determine deposit insurance coverage accurately and completely more frequently than annually.

(b) *FDIC testing.* (1) The FDIC will conduct periodic tests of covered institutions' compliance with this part. These tests will begin on or after March 31 two years after [EFFECTIVE DATE OF THE FINAL RULE] and will occur on an annual or less frequent basis, unless there is a material change to the covered institution's IT system, deposit-taking operations or financial condition.

(2) A covered institution shall provide the appropriate assistance to the FDIC as the FDIC tests the information technology system's capability to meet the requirements set forth in this part.

(3) The FDIC will provide system and data integrity testing instructions to covered institutions through the issuance of subsequent procedures or guidelines.

§ 370.7 Enforcement.

Violating the terms or requirements set forth in this part constitutes a violation of a regulation and subjects the covered institution to enforcement actions under section 8 of the FDI Act (12 U.S.C. 1818).

Appendix A to Part 370—Account Ownership Right and Capacity Codes

A covered institution must use the codes defined below when assigning account ownership right and capacity codes.

Code	Definition
1. SGL	Single Account (12 CFR 330.6): An account owned by one person with no testamentary or ''payable-on-death'' beneficiaries. It includes individual accounts, sole proprietorship accounts, single-name accounts containing community property funds, and accounts of a decedent and accounts held by executors or administrators of a decedent's estate.
2. JNT	Joint Account (12 CFR 330.9): An account owned by two or more persons with no testamentary or ''payable-on-death'' beneficiaries (other than surviving co-owners). An account does not qualify as a joint account unless: (1) All co-owners are living persons; (2) each co-owner has personally signed a deposit account signature card (except that the signature requirement does not apply to certificates of deposit, to any deposit obligation evidenced by a negotiable instrument, or to any account maintained on behalf of the co-owners by an agent or custodian); and (3) each co-owner possesses withdrawal rights on the same basis.
3. REV	Revocable Trust Account (12 CFR 330.10): An account owned by one or more persons that evidences an intention that, upon the death of the owner(s), the funds shall belong to one or more beneficiaries. There are two types of revocable trust accounts: (a) Payable-on Death Account (Informal Revocable Trust Account): An account owned by one or more persons with one or more testamentary or ''payable-on-death'' beneficiaries. (b) Revocable Living Trust Account (Formal Revocable Trust Account): An account in the name of a formal revocable ''living trust'' with one or more grantors and one or more testamentary beneficiaries.
4. IRR	Irrevocable Trust Account (12 CFR 330.13): An account in the name of an irrevocable trust (unless the trustee is an insured depository institution).
5. IRA	Individual Retirement Account or Certain Other Retirement Accounts (12 CFR 330.14 (b) and (c)): An individual retirement account described in section 408(a) of the Internal Revenue Code (26 U.S.C. 408(a)); or an account of a deferred compensation plan described in section 457 of the Internal Revenue Code (26 U.S.C. 457); or an account of an individual account plan as defined in section 3(34) of the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1002) or a plan described in section 401(d) of the Internal Revenue Code (26 U.S.C. 401(d)), to the extent that participants under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan.
6. EBP	Employee Benefit Plan Account (12 CFR 330.14): An account of an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1002), including any plan described in section 401(d) of the Internal Revenue Code (26 U.S.C. 401(d)), but not including any account classified as an Individual Retirement Account or Certain Other Retirement Account.
7. BUS	Business/Organization Account (12 CFR 330.11): An account of an organization engaged in an 'independent activity' (as defined in 12 CFR 330.1(g)), but not an account of a sole proprietorship. This category includes: (a) Corporation Account: An account owned by a corporation. (b) Partnership Account: An account owned by a partnership. (c) Unincorporated Association Account: An account owned by an unincorporated association (*i.e.*, an account owned by an association of two or more persons formed for some religious, educational, charitable, social or other noncommercial purpose).
8. GOV1	Government Account (12 CFR 330.15): All time and savings deposit accounts of the United States and all time and savings deposit accounts of a state, county, municipality or political subdivision depositing funds in an insured depository institution in the state comprising the public unit or wherein the public unit is located (including any insured depository institution having a branch in said state).
9. GOV2	Government Account (12 CFR 330.15): All demand deposit accounts of the United States and all demand deposit accounts of a state, county, municipality or political subdivision depositing funds in an insured depository institution in the state comprising the public unit or wherein the public unit is located (including any insured depository institution having a branch in said state).
10. GOV3	Government Account (12 CFR 330.15): All deposits, regardless of whether they are time, savings or demand deposit accounts of a state, county, municipality or political subdivision depositing funds in an insured depository institution outside of the state comprising the public unit or wherein the public unit is located.
11. MSA	Mortgage Servicing Account (12 CFR 330.7(d)): An account held by a mortgage servicer, funded by payments by mortgagors of principal and interest or taxes and insurance premiums.
12. PBA	Public Bond Accounts (12 CFR 330.15(c)): An account consisting of funds held by an officer, agent or employee of a public unit for the purpose of discharging a debt owed to the holders of notes or bonds issued by the public unit.
13. DIT	IDI as trustee of irrevocable trust accounts (12 CFR 330.12): ''Trust funds'' (as defined in 12 CFR 330.1(q)) account held by an insured depository institution as trustee of an irrevocable trust.
14. ANC	Annuity Contract Accounts (12 CFR 330.8): Funds held by an insurance company or other corporation in a deposit account for the sole purpose of funding life insurance or annuity contracts and any benefits incidental to such contracts.
15. BIA	Custodian accounts for American Indians (12 CFR 330.7(e)): Funds deposited by the Bureau of Indian Affairs of the United States Department of the Interior (the ''BIA'') on behalf of American Indians pursuant to 25 U.S.C. 162(a), or by any other disbursing agent of the United States on behalf of American Indians pursuant to similar authority, in an insured depository institution.
16. DOE	IDI Accounts under Department of Energy Program: Funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.

Appendix B—Output Files

The output files will include the data necessary for the FDIC to determine the deposit insurance coverage in a resolution. A covered institution must have the capability to prepare and maintain the files detailed below. These files must be prepared in successive iterations as the covered institution receives additional data from external sources necessary to complete any pending deposit insurance calculations. The unique identifier is required in all four files to link the depositor information. All files are pipe delimited. Do not pad leading and trailing spacing or zeros for the data fields.

A. Customer File

The Customer file will be used by the FDIC to identify the depositor. One record represents one unique depositor. The data elements will include:

TABLE A1—CUSTOMER FILE DATA ELEMENTS

Field name	Description	Format
1. CS_Unique_ID	Unique identifier. In most instances, this will be the tax identification number maintained on the account. In the rare instances where a tax identification number is not available the IDI should assign a number that is sufficiently distinct in composition that it will not be confused with a taxpayer identification number. For consumer accounts, typically, this would be the primary account holder's social security number (''SSN''). For business accounts it would be the federal tax identification number (''TIN'').	Character (25).
2. CS_First_Name	Customer first name. Use only for individuals, not for businesses or companies	Character (50).
3. CS_Middle_Name	Customer middle name. Use only for individuals, not for businesses or companies	Character (50).
4. CS_Last_Name	Customer last name or company name	Character (50).
5. CS_Name_Suffix	Customer suffix such as ''Jr''	Character (10).
6. CS_Street_Add_Ln1	Street address line 1. The current account statement mailing address of record	Character (100).
7. CS_Street_Add_Ln2	Street address line 2. If available, the second address line	Character (100)
8. CS_Street_Add_Ln3	Street address line 3. If available, the third address line	Character (100).
9. CS_City	The city associated with the permanent legal address	Character (50).
10. CS_State	The state abbreviation associated with the permanent legal address	Character (2).
11. CS_ZIP	The U.S. Postal Service ZIP+4 code associated with the permanent legal address	Character (10).
12. CS_Country	The country associated with the mailing address ..... Provide the country name or the standard IRS country code.	Character (50).
13. CS_Telephone	Customer telephone number. The telephone number on record for the customer	Character (20).
14. CS_Email	The email address on record for the customer	Character (50).

B. Account File

The Account file contains the deposit ownership right and capacity information including allocated balances, and insured and uninsured amounts. Each customer may have multiple records within each account ownership category (right and capacity) if the customer has multiple accounts in an insurance category. The balances are in U.S. dollars. The Account file is linked to the Customer file by the CS_Unique_ID. The data elements will include:

TABLE A2—ACCOUNT FILE DATA ELEMENTS

Field name	Description	Format
1. CS_Unique_ID	Unique identifier. In most instances, this will be the tax identification number maintained on the account. In the rare instances where a tax identification number is not available the IDI should assign a number that is sufficiently distinct in composition that it will not be confused with a taxpayer identification number. For consumer accounts, typically, this would be the primary account holder's social security number (''SSN''). For business accounts it would be the federal tax identification number (''TIN'').	Character (25).
2. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account ..... The account identifier may be composed of more than one physical data element to uniquely identify a deposit account.	Character (100).
3. DP_Right_Capacity ...	Account ownership categories. Additional information is provided in section 7 ..... — SGL—Single accounts. —JNT—Joint accounts. —REV—Revocable trust accounts. —IRR—Irrevocable trust accounts. —IRA—Certain retirement accounts. —EBP—Employee benefit plan accounts. —BUS—Business/Organization accounts. —GOV1, GOV2, GOV3—Government accounts (public unit accounts). —MSA—Mortgage servicing accounts for principal and interest payments. —DIT—Accounts held by a depository institution as the trustee of an irrevocable trust. —ANC—Annuity contract accounts. —PBA—Public bond accounts. —BIA—Custodian accounts for American Indians. —DOE—Accounts of an IDI pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy.	Character (4).
4. DP_Prod_Cat	Product category or classification ..... —DDA—Non-interest bearing checking accounts. —NOW—Interest bearing checking accounts. —MMA—Money market deposit accounts. —SAV—Other savings accounts. —CDS—Time deposit accounts and certificate of deposit accounts, including any accounts with specified maturity dates that may or may not be renewable.	Character (3).
5. DP_Allocated_Amt	The current balance in the account at the end of business on the effective date of the file, allocated to a specific owner in that insurance category. For JNT accounts, this is a calculated field that represents the allocated amount to each owner in JNT category. For REV accounts, this is a calculated field that represents the allocated amount to each owner-beneficiary in REV category.	Decimal (14,2).

TABLE A2—ACCOUNT FILE DATA ELEMENTS—Continued

Field name	Description	Format
	For other accounts with only owner, this is the account current balance. This balance should not be reduced by float or holds. For CDs and time deposits, the balance should reflect the principal balance plus any interest paid and available for withdrawal not already included in the principal (do not include accrued interest).	
6. DP_Acc_Int	Accrued interest allocated similarly as data field #5 DP_Allocated_Amt The amount of interest that has been earned but not yet paid to the account as of the date of the file.	Decimal (14,2).
7. DP_Total_PI	Total amount adding #5 DP_Allocated_Amt and #6 DP_Acc_Int	Decimal (14,2).
8. DP_Hold_Amount	Bank hold amount on the account The available balance of the account is reduced by the hold amount. It has no effect on current balance (ledger balance).	Decimal (14,2).
9. Insured_Amount	The insured amount of the account in dollars	Decimal (14,2).
10. Uninsured_Amount	The uninsured amount of the account in dollars	Decimal (14,2).

C. Beneficiary File

The Beneficiary file will be used by the FDIC to identify the beneficiaries for each account and account owner. One record represents one unique beneficiary. The Beneficiary file is linked to the Account file by CS_Unique_ID and DP_Acct_Identifier. The data elements will include:

TABLE A3—BENEFICIARY FILE DATA ELEMENTS

Field name	Description	Format
1. CS_Unique_ID	Unique identifier. In most instances, this will be the tax identification number maintained on the account. In the rare instances where a tax identification number is not available the IDI should assign a number that is sufficiently distinct in composition that it will not be confused with a taxpayer identification number. For consumer accounts, typically, this would be the primary account holder's social security number (''SSN''). For business accounts it would be the federal tax identification number (''TIN'').	Character (25).
2. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account The account identifier may be composed of more than one physical data element to uniquely identify a deposit account.	Character (100).
3. DP_Right_Capacity	Account ownership categories applicable to have beneficiaries —REV—Revocable trust accounts. —IRR—Irrevocable trust accounts.	Character (4).
4. CS_Bene_ID	Unique identifier for the beneficiary. In most instances, this will be the tax identification number maintained for the beneficiary. In the rare instances where a tax identification number is not available the IDI should assign a number that is sufficiently distinct in composition that it will not be confused with a taxpayer identification number.	Character (25).
5. CS_Bene_Name	Beneficiary name	Character (100).

D. Pending File

The Pending file contains the information needed for the FDIC to contact the owner or agent requesting additional information to complete the deposit insurance calculation. Each record represents a deposit account.

TABLE A4—PENDING FILE DATA ELEMENTS

Field name	Description	Format
1. CS_Unique_ID	Unique identifier. In most instances, this will be the tax identification number maintained on the account. In the rare instances where a tax identification number is not available, the covered institution should assign a number that is sufficiently distinct in composition that it will not be confused with a taxpayer identification number. For consumer accounts, typically, this would be the primary account holder's social security number (''SSN''). For business accounts it would be the federal tax identification number (''TIN'').	Character (25).
2. DP_Acct_Identifier	Deposit account identifier. The primary field used to identify a deposit account The account identifier may be composed of more than one physical data element to identify a deposit account.	
3. DP_Acct_Title	Account title line. Account styling or title of the account. This should be how the account is titled on the signature card or certificate of deposit. Data in this field can be used to identify the owner(s) and beneficiaries of the account. It is the statement name or account name to be used to issue checks or for the uninsured title.	Character (100).
4. CS_Street_Add_Ln1	Street address line 1. The current account statement mailing address of record	Character (100).
5. CS_Street_Add_Ln2	Street address line 2. If available, the second address line	Character (100).
6. CS_Street_Add_Ln3	Street address line 3. If available, the third address line	Character (100).
7. CS_City	The city associated with the permanent legal address	Character (50).

TABLE A4—PENDING FILE DATA ELEMENTS—Continued

Field name	Description	Format
8. CS_State	The state abbreviation associated with the permanent legal address	Character (2).
9. CS_ZIP	The U.S. Postal Service ZIP+4 code associated with the permanent legal address	Character (10).
10. CS_Country	The country associated with the mailing address Provide the country name or the standard IRS country code.	Character (50).
11. CS_Telephone	Customer telephone number. The telephone number on record for the customer	Character (20).
12. CS_Email	The email address on record for the customer	Character (50).
13. DP_Cur_Bal	Current balance. The current balance in the account at the end of business on the effective date of the file. This balance should not be reduced by float or holds. For CDs and time deposits, the balance should reflect the principal balance plus any interest paid and available for withdrawal not already included in the principal (do not include accrued interest).	Decimal (14,2).
14. DP_Acc_Int	Accrued interest. The amount of interest that has been earned but not yet paid to the account as of the date of the file.	Decimal (14,2).
15. DP_Total_PI	Total of principal and accrued interest	Decimal (14,2).
16. DP_Hold_Amount	Hold amount on the account The available balance of the account is reduced by the hold amount. It has no impact on current balance (ledger balance).	Decimal (14,2).
17. Pending_Reason	Reason code for the account to be included in Pending table • A = need agency, custodian, or nominee account information. • B = missing beneficiary info. • CAT = missing right and capacity code. • F = foreign deposit. • OI = official item. The FDIC needs these codes to initiate the collection of needed information post-closing.	Character (5).

By order of the Board of Directors.

Dated at Washington, DC, this 17th day of February, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

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