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The President

Amending Executive Order 13597

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to support the essential functions of the Department of State's Bureau of Consular Affairs, it is hereby ordered as follows:

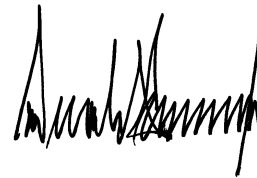
Section 1. *Amendment to Executive Order 13597.* Executive Order 13597 of January 19, 2012 (Establishing Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness), is amended by deleting subsection (b)(ii) of section 2 of that order.

Sec. 2. *Updated Implementation Plan.* The Secretaries of State and Homeland Security, in consultation with the heads of such executive departments and agencies as appropriate, shall revise the implementation plan described in section 2(b) of Executive Order 13597, as necessary and appropriate, consistent with the amendment described in section 1 of this order.

Sec. 3. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
 - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be the signature of Donald Trump, located in the upper right quadrant of the page.

THE WHITE HOUSE,
June 21, 2017.

Rules and Regulations

Federal Register

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS-SC-16-0105; SC16-930-5 FR]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2016-17 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Cherry Industry Administrative Board (Board) to establish free and restricted percentages for the 2016-17 crop year under the marketing order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin (order). The Board locally administers the marketing order and is comprised of producers and handlers of tart cherries operating within the production area, and a public member. This action establishes the proportion of tart cherries from the 2016 crop which may be handled in commercial outlets at 71 percent free and 29 percent restricted. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Effective June 27, 2017.

FOR FURTHER INFORMATION CONTACT: Steven W. Kauffman, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or Email: Steven.Kauffman@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower,

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: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 930, both as amended (7 CFR part 930), regulating the handling of tart cherries produced in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, 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 13563 and 13175.

This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled "Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs'" (February 2, 2017).

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order provisions now in effect, free and restricted percentages may be established for tart cherries handled during the crop year. This final rule establishes free and restricted percentages for tart cherries for the 2016-17 crop year, beginning July 1, 2016, through June 30, 2017.

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. A 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 final rule establishes free and restricted percentages for the 2016-17 crop year. This rule establishes the proportion of tart cherries from the 2016 crop which may be handled in commercial outlets at 71 percent free and 29 percent restricted. This action should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The carry-out and the final percentages were recommended by the Cherry Industry Administrative Board (Board) at a meeting on September 8, 2016.

Section 930.51(a) of the order provides authority to regulate volume by designating free and restricted percentages for any tart cherries acquired by handlers in a given crop year. Section 930.50 prescribes procedures for computing an optimum supply based on sales history and for calculating these free and restricted percentages. Free percentage volume may be shipped to any market, while restricted percentage volume must be held by handlers in a primary or secondary reserve, or be diverted or used for exempt purposes as prescribed in §§ 930.159 and 930.162 of the regulations. Exempt purposes include, in part, the development of new products, sales into new markets, the development of export markets, and charitable contributions. Sections 930.55 through 930.57 prescribe procedures for inventory reserve. For cherries held in reserve, handlers would be responsible for storage and would retain title of the tart cherries.

Under § 930.52, only those districts with an annual average production over the prior three years of at least six million pounds are subject to regulation, and any district producing a crop which is less than 50 percent of its annual average of the previous five years is exempt. The regulated districts for the 2016-17 crop year are: District 1—Northern Michigan; District 2—Central Michigan; District 3—Southern Michigan; District 4—New York; District

7—Utah; District 8—Washington; and District 9—Wisconsin. Districts 5 and 6 (Oregon and Pennsylvania, respectively) are not regulated for the 2016–17 season.

Demand for tart cherries and tart cherry products tends to be relatively stable from year to year. Conversely, annual tart cherry production can vary greatly. In addition, tart cherries are processed and can be stored and carried over from crop year to crop year, further impacting supply. As a result, supply and demand for tart cherries are rarely in balance.

Because demand for tart cherries is inelastic, total sales volume is not very responsive to changes in price. However, prices are very sensitive to changes in supply. As such, an oversupply of cherries can have a sharp negative effect on prices, driving down grower returns. The Board, aware of this economic relationship, focuses on using the volume control provisions in the order to balance supply and demand to stabilize industry returns.

Pursuant to § 930.50 of the order, the Board meets on or about July 1 to review sales data, inventory data, current crop forecasts and market conditions for the upcoming season and, if necessary, to recommend preliminary free and restricted percentages if anticipated supply would exceed demand. After harvest is complete, but no later than September 15, the Board meets again to update its calculations using actual production data, consider any necessary adjustments to the preliminary percentages, and determine if final free and restricted percentages should be recommended to the Secretary.

The Board uses sales history, inventory, and production data to determine whether there is a surplus, and if so, how much volume should be restricted to maintain optimum supply. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year. Optimum supply is defined as the average free sales of the prior three years plus desirable carry-out inventory. Desirable carry-out is the amount of fruit needed by the industry to be carried into the succeeding crop year to meet market demand until the new crop is available. Desirable carry-out is set by the Board after considering market circumstances and needs. Section 930.151(b) specifies that desirable carry-out can range from zero to a maximum of 100 million pounds.

In addition, USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (<http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable->

marketing-orders) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This requirement is codified in § 930.50(g) of the order, which specifies that, in years when restricted percentages are established, the Board shall make available tonnage equivalent to an additional 10 percent of the average sales of the prior three years for market expansion (market growth factor).

After the Board determines optimum supply, desirable carry-out, and market growth factor, it must examine the current year's available volume to determine whether there is an oversupply situation. Available volume includes carry-in inventory (any inventory available at the beginning of the season) along with that season's production. If production is greater than the optimum supply minus carry-in, the difference is considered surplus. This surplus tonnage is divided by the sum of production in the regulated districts to reach a restricted percentage. This percentage must be held in reserve or used for approved diversion activities, such as exports.

The Board met on June 23, 2016, and computed an optimum supply of 287 million pounds for the 2016–17 crop year using the average of free sales for the three previous seasons and a desirable carry-out of 57 million pounds. The Board determined three months of sales would be a good estimate for what was needed at the end of the season, as there is a three-month gap between the calculation of carry-out at the end of one season and the availability of fruit in the next season. The recommended carry-out of 57 million pounds is approximately a quarter of average annual sales.

The Board then subtracted the estimated carry-in of 81.3 million pounds from the optimum supply to calculate the production needed from the 2016–17 crop to meet optimum supply. This number, 205.7 million pounds, was subtracted from the Board's estimated 2016–17 production of 351.3 million pounds to calculate a surplus of 145.6 million pounds of tart cherries. The Board also complied with the market growth factor requirement by adding 23 million pounds (average sales for prior three years of 230 million times 10 percent) to the free supply. The surplus minus the market growth factor was then divided by the expected production in the regulated districts (348 million pounds) to reach a preliminary restricted percentage of 35 percent for the 2016–17 crop year.

The Board then discussed whether this calculation would provide sufficient supply to grow sales while being able to supply orders that are already scheduled, including filling remaining orders from a USDA purchase made the previous season. The Board, after considering anticipated supply needs for the 2016–17 season, decided to make an economic adjustment of 22 million pounds to increase the available supply of tart cherries. This economic adjustment further reduced the preliminary surplus to 100.6 million pounds. After these adjustments, the preliminary restricted percentage was recalculated as 29 percent (100.6 million pounds divided by 348 million pounds).

The Board met again on September 8, 2016, to consider final volume regulation percentages for the 2016–17 season. The final percentages are based on the Board's reported production figures and the supply and demand information available in September. The total production for the 2016–17 season was 341 million pounds, 10 million pounds below the Board's June estimate. In addition, growers diverted 26 million pounds in the orchard, leaving 315 million pounds available to market, 310 million pounds of which are in the restricted districts. Using the actual production numbers, and accounting for the recommended desirable carry-out and economic adjustment, as well as the market growth factor, the restricted percentage was recalculated.

The Board subtracted the carry-in figure used in June of 81.3 million pounds from the optimum supply of 287 million pounds to determine 205.7 million pounds of 2016–17 production would be necessary to reach optimum supply. The Board subtracted the 205.7 million pounds from the actual production of 341.3 million pounds, resulting in a surplus of 135.6 million pounds of tart cherries. The surplus was then reduced by subtracting the economic adjustment of 22 million pounds and the market growth factor of 23 million pounds, resulting in an adjusted surplus of 90.6 million pounds. The Board then divided this final surplus by the available production of 310 million pounds in the regulated districts (336.1 million pounds minus 26.4 million pounds of in-orchard diversion) to calculate a restricted percentage of 29 percent with a corresponding free percentage of 71 percent for the 2016–17 crop year, as outlined in the following table:

	Millions of pounds
Final Calculations:	
(1) Average sales of the prior three years	230.0
(2) Plus desirable carry-out	57.0
(3) Optimum supply calculated by the Board	287.0
(4) Carry-in as of July 1, 2016	81.3
(5) Adjusted optimum supply (item 3 minus item 4)	205.7
(6) Board reported production	341.3
(7) Surplus (item 6 minus item 5)	135.6
(8) Total economic adjustments	22.0
(9) Market growth factor	23.0
(10) Adjusted Surplus (item 7 minus items 8 and 9)	90.6
(11) Supply in regulated districts	336.1
(12) In-Orchard Diversion	26.4
(13) Production minus in orchard diversion	309.7
Final Percentages:	
Restricted (item 10 divided by item 13 × 100)	29
Free (100 minus restricted percentage)	71

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is oversupplied with cherries, grower prices decline substantially. Restricted percentages have benefited grower returns and helped stabilize the market as compared to those seasons prior to the implementation of the order. The Board believes the available information indicates that a restricted percentage should be established for the 2016–17 crop year to avoid oversupplying the market with tart cherries. Consequently, based on its discussion of this issue and the result of the above calculations, the Board recommended final percentages of 71 percent free and 29 percent restricted by a vote of 16 in favor, 2 opposed, and 2 abstentions.

Though production came in below the Board's June, 2016, estimate, the initial restriction percentage remained the same due to the substantial in-orchard diversion. During the discussion of the proposed restriction, several members supported the proposed percentages as there was no change from the preliminary 29 percent restriction recommended in June. They believed deviating from the percentages announced in June would be disruptive to the industry, as processors have already made agreements with growers.

Another member noted when there was a crop failure in 2012, there was not enough reserve to maintain sales and warned against being unprepared in the future. The member also noted that in the last four years, even with volume regulation and an increase in imported products, overall domestic sales have increased since 2013, including modest growth in both juice and piefill.

Some members opposed to the proposed restriction expressed concern regarding competition from imported tart cherry juice concentrate. In particular, they were concerned that the additional volume from imports is not accounted for in the Optimum Supply Formula (OSF), thus not capturing overall supply and demand.

Others were of the opinion that the Board's recent actions to expand the use of diversion credits in new markets or through grower diversion were allowing the industry to remain competitive without making additional adjustments to supply. Another member countered that not all handlers are helped by new market diversion credits and cannot sell all of their product under a restriction.

When asked how much of the market currently being served by imports could be supplied by the domestic handlers, some members stated they could utilize the full adjusted calculated surplus of 90.6 million pounds. Others noted that trying to compete for those markets by matching the price of imported concentrate would drop grower returns to an unsustainable level.

One member summarized that, although there is a carrying cost for storing restricted fruit, and the industry appears to be at a trade disadvantage, the Board should account for those factors all the while focusing on continuing to grow sales. Though there was much discussion regarding the market impact of imports, there was no motion made by any Board member to make a further economic adjustment to the calculation based on imported product.

After reviewing the available data, and considering the concerns expressed, the Board determined that a 29 percent restriction with a carry-out volume of 57 million pounds meets sales needs and establishes some reserves without oversupplying the market. Thus, the Board recommended establishing final percentages of 71 percent free and 29 percent restricted. The Board could meet and recommend the release of additional volume during the crop year if conditions so warranted.

Final Regulatory Flexibility Act

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 action 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 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 600 producers of tart cherries in the regulated area and approximately 40 handlers of tart cherries who are subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000 and small agricultural service firms have been defined as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS) and Board data, the average annual grower price for tart cherries during the 2015–16 season was approximately \$0.347 per pound. With total utilization at 251.1 million pounds, the total 2015–16 crop value is estimated at \$87 million. Dividing the crop value by the estimated number of producers (600) yields an estimated average annual receipt per producer of \$145,000. This is well below the SBA threshold for small producers. In 2015, The Food Institute estimated a free on board (f.o.b.) price of \$0.96 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Multiplying the f.o.b price by total utilization of 251.1 million pounds results in an estimated handler-level tart cherry value of \$241 million. Dividing this figure by the number of handlers (40) yields an estimated average annual handler receipts of \$6 million, which is below the SBA threshold for small agricultural service firms. Assuming a normal bell-curve distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

The tart cherry industry in the United States is characterized by wide, annual fluctuations in production. According to NASS, the pounds of tart cherry production for the years 2012 through 2015 were 85 million, 291 million, 301 million, and 251 million, respectively. Because of these fluctuations, supply and demand for tart cherries are rarely equal.

Demand for tart cherries is inelastic, meaning changes in price have a minimal effect on total sales volume. However, prices are very sensitive to changes in supply, and grower prices vary widely in response to the large swings in annual supply, with prices ranging from a low of 7.3 cents per

pound in 1987 to a high of 59.4 cents per pound in 2012.

Because of this relationship between supply and price, oversupplying the market with tart cherries would have a sharp negative effect on prices, driving down grower returns. The Board, aware of this economic relationship, focuses on using the volume control authority in the order to align supply with demand and stabilize industry returns. This authority allows the industry to set free and restricted percentages as a way to bring supply and demand into balance. Free percentage cherries can be marketed by handlers to any outlet, while restricted percentage volume must be held by handlers in reserve, diverted, or used for exempted purposes.

This rule controls the supply of tart cherries by establishing percentages of 71 percent free and 29 percent restricted for the 2016–17 crop year. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. This rule regulates tart cherries handled in Michigan, New York, Utah, Washington, and Wisconsin. The authority for this action is provided for in §§ 930.50, 930.51(a) and 930.52 of the order. The Board recommended this action at a meeting on September 8, 2016.

This rule will result in some fruit being diverted from the primary domestic markets. However, as mentioned earlier, the USDA's "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" (<http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders>) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity that is available under this action is greater than 110 percent of the average quantity shipped in the prior three years.

In addition, there are secondary uses available for restricted fruit, including the development of new products, sales into new markets, the development of export markets, and being placed in reserve. While these alternatives may provide different levels of return than the sales to primary markets, they play an important role for the industry. The areas of new products, new markets, and the development of export markets utilize restricted fruit to develop and expand the markets for tart cherries. In 2015–16, these activities accounted for over 27 million pounds in sales, 12 million of which were exports.

Placing tart cherries into reserves is also a key part of balancing supply and demand. Although handlers bear the handling and storage costs for fruit in reserve, reserves stored in large crop years are used to supplement supplies in short crop years. The reserves allow the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to maintain supply to markets in years when production falls below demand. Further, storage and handling costs are more than offset by the increase in price when moving from a large crop to a short crop year.

In addition, the Board recommended an increased carry-out of 57 million pounds and made a demand adjustment of 22 million pounds in order to make the regulation less restrictive. Even with the restriction, over 300 million pounds of fruit will be available to the domestic market. Consequently, it is not anticipated that this regulation will unduly burden growers or handlers.

While this action could result in some additional costs to the industry, these costs are more than outweighed by the benefits. The purpose of setting restricted percentages is to attempt to bring supply and demand into balance. If the primary market (domestic) is oversupplied with cherries, grower prices decline substantially. Without volume control, the primary market will likely be oversupplied, resulting in lower grower prices.

The three districts in Michigan, along with the districts in New York, Utah, Washington, and Wisconsin, are the restricted areas for this crop year with a combined total production of 310 million pounds. A 29 percent restriction means 220 million pounds will be available to be shipped to primary markets from these five states. The 220 million pounds from the restricted districts, 5 million pounds from the unrestricted districts (Oregon and Pennsylvania), and the 81 million pound carry-in inventory would make a total of 306 million pounds available as free tonnage for the primary markets. This is similar to the 305 million pounds of free tonnage made available last year. This is enough to cover the 251 million pounds of total utilization in 2015–16, while providing substantial carry-out. Further, the Board could meet and recommend the release of additional volume during the crop year if conditions so warranted.

Prior to the implementation of the order, grower prices often did not cover the cost of production. The most recent costs of production determined by representatives of Michigan State University are an estimated \$0.33 per

pound. To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. Based on the model, the use of volume control would have a positive impact on grower returns for this crop year. With volume control, grower prices are estimated to be approximately \$0.06 per pound higher than without restrictions. In addition, absent volume control, the industry could start to build large amounts of unwanted inventories. These inventories would have a depressing effect on grower prices.

Retail demand is assumed to be highly inelastic, which indicates that changes in price do not result in significant changes in the quantity demanded. Consumer prices largely do not reflect fluctuations in cherry supplies. Therefore, this action should have little or no effect on consumer prices and should not result in a reduction in retail sales.

The free and restricted percentages established by this rule provide the market with optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. As the restriction represents a percentage of a handler's volume, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities.

The stabilizing effects of this action benefit all handlers by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all growers and handlers by allowing them to better anticipate the revenues their tart cherries would generate. Growers and handlers, regardless of size, benefit from the stabilizing effects of this restriction. In addition, the increased carry-out should provide processors enough supply to meet market needs going into the next season.

The Board considered alternatives in its preliminary restriction discussions that affected this action. Regarding demand, the Board began with the actual sales average of 230 million pounds. However, the Board noted that some previously contracted sales would be due for delivery in the coming season. In order to avoid undersupplying the market, the Board determined that the calculation of the optimum supply should include an additional adjustment for that purpose. After discussion, an adjustment of an additional 22 million pounds was made in the 2016–17 available supply of tart cherries as it was determined that this amount would best meet the industry's

sales needs. Thus, the other alternative levels were rejected.

Regarding the carry-out value, the Board considered a range of alternatives. One member suggested the Board begin with 57 million pounds, approximately a quarter of average annual sales. Other members suggested alternatives as high as 70 million pounds. However, some members were concerned about leaving too much fruit on the market at the end of the season and depressing prices going into the next year. The Board determined three months of sales would be a good estimate for what is needed at the end of the season, as there is a three-month gap between the calculation of carry-out at the end of one season and the availability of fruit from the next season. Thus, the other alternatives were rejected.

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 OMB and assigned OMB No. 0581-0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. 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 will not impose any additional reporting or recordkeeping requirements on either small or large tart cherry 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. Further, the public comments received concerning the proposal did not address the initial regulatory flexibility analysis.

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.

In addition, the Board's meeting was widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the June 23, 2016, and September 8, 2016, meetings were public meetings, and all entities, both

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

A proposed rule concerning this action was published in the **Federal Register** on March 21, 2017 (82 FR 14481). Copies of the rule were sent via email to all Board members and tart cherry handlers. Finally, the rule was made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending April 20, 2017, was provided to allow interested persons to respond to the proposal.

Eleven comments were received during the comment period in response to the proposal. Four comments favored the proposed regulation and seven comments opposed the proposed regulation. One comment received was signed by 67 industry members. The commenters included growers, handlers, Board members, an industry representative, economic policy and law students, individuals, and one anonymous cherry consumer. Most of the points made by the commenters in opposition had been discussed prior to the Board's vote recommending this action.

The comment signed by 67 industry members asserted the United States government import data indicate that 40 percent of tart cherry consumption in the 2015 season was from imported products. AMS's analysis of the Foreign Agricultural Service's Global Agricultural Trade System (GATS) indicates an equivalent of more than 230 million pounds of cherries products were imported into the U.S. in the 2016 season. The imported volume has remained above 230 million pounds since the 2014 season. According to the data, tart cherry juice concentrate represents by far the largest segment of imports and has experienced tremendous growth beginning in 2012.

Five of the comments in opposition, including the comment signed by 67 industry members, reference the absence of imported tart cherry products in the OSF. All of these commenters implied that not including imported tart cherry products into the OSF calculation disregards a large portion of the demand for tart cherries. As a result, these commenters since believe the proposed rule fails to bring supply into balance with demand in the targeted market. The comment with 67 signatures states the federal marketing order does not account for the total demand of tart cherry products in the US because imported products are not included in the formula. Another commenter suggested not considering imported products in the OSF indicates

the Board's recommended restriction is arbitrary and capricious.

The OSF presented to the Board included several adjustments to avoid the possibility of undersupplying the market. In determining demand, the Board takes into account many factors, including previous sales history and an analysis of economic factors having a bearing on the market. The final percentages recommended by the Board included several adjustments to supply additional fruit to the market. In calculating these adjustments for determining demand in the OSF, the Board also considered supplies of competing commodities and the additional ten percent added for the market growth factor. This was noted by one of the commenters voicing support for the proposed regulation. The economic adjustment added 22 million pounds and the market growth factor added 23 million pounds for an additional 55 million pounds beyond the average sales.

Under the order, when computing and determining final percentages for recommendation to the Secretary, the Board must give consideration to several factors including supplies of competing commodities and economic factors having a bearing on cherry markets. At the meetings on June 23, 2016, and September 8, 2016, the Board discussed its concerns regarding the economic impact of imports. At the September meeting, following the motion to adopt the OSF as presented, several comments and observations were made regarding the matter of imports. However, none of the members suggested an alternative adjustment for imports. Additionally, the Board did not propose amending the order language in section 930.50 to include imports as a factor in calculating the OSF. Most of the comments at the September meeting supported the motion to adopt the OSF as presented.

The comment with 67 signatures also states that the domestic industry has been unable to supply the significant growth in consumption of dried and juiced cherry products. Data concur that domestic production alone would not replace the imported volume in recent years. However, the Board reported steady or increased overall domestic sales from 2013-15, even though each of those seasons were regulated. The use of diversion credits allowed handlers to ship an additional 27.5 million pounds of restricted fruit during the 2015-16 season in addition to free sales. Despite this growth, the industry reported a remaining free inventory of over 80 million pounds going into the crop year,

suggesting availability of domestic fruit is not a concern.

Also at the September meeting, a Board member stated an adjustment to the OSF for imports is one alternative, but the Board's preferred alternative was to use restricted cherries for supplying new and competing commodity markets. Therefore, alternatives were considered consistent with Executive Order 13563. The member also stated that restricting cherries under the order aids in stabilizing grower prices. Placing excess cherries into the market is contrary to the purpose of the order. The Board supports utilizing exempted markets for restricted cherries as an alternative to storage. Exporting cherry products and participating in new product and new market projects allows handlers to sell restricted cherries into these markets.

Should domestic handlers decide to compete in these new markets, in most cases, restricted cherries could be used and the handler could receive diversion credits under the diversion provisions of the order. Further, the Board recently recommended extending the maximum length of these activities from three years to five years, creating even more opportunities to pursue new markets. Consequently, handlers currently have ample opportunity to compete for new markets using restricted cherries while continuing to service traditional markets with unrestricted cherries. In addition, should industry efforts cause demand to exceed available volume, the Board could meet and recommend the release of additional volume.

Another commenter opposed to the 29 percent or approximately 90 million pound restriction indicated the total percent restriction, over the past three years, was 69 percent. However, the percent restriction for each year cannot be added together to arrive at the total restriction over the last three years. The calculation to derive the percent restriction over the past three years is achieved by dividing the total adjusted surplus by the total production in regulated districts over the past three years. The pounds of regulated production for 2014, 2015, and 2016 seasons were 295 million with 59 million restricted, 240 million with 47 million restricted, and 310 million with 91 million restricted, respectively. The total 197 million pounds of surplus divided by the total regulated production of 845 million equals a 23 percent restriction. The miscalculation from the commenter in opposition overstated the total percent restriction for the past three years by triple.

This commenter also stated that marketers of cherry products should not

be forced to hold volume off the market while imported products enter the market freely. Contrary to the commenter's opinion, a Board member at the September 8, 2016, meeting stated that placing excess cherries into the market as a method of countering imports would only lower grower prices significantly and would not be positive for the grower community. Another Board member added that imports are capturing a less profitable market while the domestic industry is serving more profitable markets.

One commenter indicated the OSF was calculated incorrectly by including the in-orchard diverted fruit as part of production in the formula. This individual suggested if the in-orchard diverted fruit was removed from production, the percentage would be 21 percent, instead of 29 percent restriction. However, 26.4 million pounds of in-orchard diversion were accounted for when calculating the volume subject to restriction from the regulated districts. This is consistent with the method used to account for fruit produced in unrestricted districts. The total production (341.3 million pounds) minus the in-orchard diversions (26.4 million pounds) and production in unrestricted districts (5.2 million pounds) left 309.7 million pounds subject to restriction. The Board divided the surplus of 90.6 million pounds by this volume to arrive at 29 percent restricted and 71 percent free market cherries.

One comment, submitted twice, from two students in opposition to this regulation suggested the government should not intervene and require cherry farmers to restrict supply. This comment assumed the order restricts the amount of tart cherries that can be produced. Volume regulation under the order is a tool for the tart cherry industry to stabilize market conditions due to fluctuations in supply and the inelastic nature of demand for tart cherries. This action does not regulate growers' production of the commodity. This regulatory action is a restriction on domestic tart cherry products handled for the market. This regulation will only restrict cherries purchased for handling. Further, this action is a recommendation from the tart cherry industry as represented by the Board made up of growers, handlers, and a member of the public. The Board considered not regulating as a possible alternative, consistent with Executive Order 13563, but this consideration was rejected after reviewing production data.

One commenter opposed the restriction because it would reduce tart cherry production and not allow the

producers to benefit from maximizing the crop. The commenter also concluded the restriction would make it difficult for the industry to reach optimum supply. As previously mentioned, this action does not restrict tart cherry production. Production decisions are made well in advance of the recommendation for volume restriction, which is discussed just prior to harvest and finalized following harvest. Unlike some other commodities like row crops, tree crops such as tart cherries cannot be easily taken out of production. This action regulates only the handling of tart cherries.

Regarding the commenter's second concern, USDA requires 110 percent of average sales be made available under any volume regulation. The Board recommended an economic adjustment for the 2016–17 season to make even more fruit available, going beyond the initial optimum supply calculation. While the restriction may not impact production costs, producers do experience a drop in price when the market is oversupplied. When the market approaches optimum supply, prices tend to be more stable.

All four of the proponents of this action suggest the restriction will stabilize the cherry industry's economy. Three of the proponents made reference to the industry wide support for the recommended restriction, as represented by the Board's vote in which 16 members, the majority of the Board, voted in favor, two abstained and two opposed the recommended restriction. One of these proponents indicated this level of support is significantly greater than the requisite two-thirds majority required for Board action. Further, two proponents made reference that the action is supported by a large majority of the industry.

Three proponents of this action recognized the Board's consideration of the opponents' concerns in their comments on the proposal. All three noted the matter of imports has been addressed by the Board at several meetings. One proponent recognized the Board established a committee to suggest alternative ways to increase domestic juice and juice concentrate sales. Another commenter suggested if growers and processors want to account for imports in a way other than through adjustments, then the Board should focus on amending the order language for determining optimum supply to account for imports.

All three proponents made reference to the Board's efforts in promoting the exemption process as a method of competing with imported cherry products. One commenter noted the

Board's recommendation for extending the time from one year to three years for new product and new market exemptions that was implemented in the previous season. As mentioned previously, the Board has recommended a further expansion of the timeframe. The additional time will allow opportunity for more cherries to qualify for exemption in response to the level of imported cherry products.

One commenter referenced the opportunities available to use both in-orchard and post-harvest diversion to comply with a restriction. The commenter stated the Federal marketing order provides major incentive to expand sales by using restricted fruit to serve new markets, new products, and exports. Additionally, there is incentive in place for growers to divert excess fruit where there is no market or where the cost associated with marketing the fruit may not increase returns. Growers who choose to divert in the orchard can be issued certificates by the Board that can be sold to handlers to meet their restriction requirements.

One commenter noted the Board felt the final calculations were appropriate. They also stated that the majority of the industry approved the order in its last referendum, believing that the order brings more returns to growers. Another proponent noted, even with the restriction, sales are not being lost due to lack of available unrestricted cherries. The carry-in from July 2016 (81 million lbs.) and the projected availability of free market carry-out (57 million lbs.) indicate the restriction is not a factor in limiting sales of tart cherry products. The Board deliberated thoroughly on whether or not to make an additional economic adjustment to account for imported cherry products. However, no motion was made for an additional adjustment to reflect the impact of imported cherry products. As one commenter noted, there is a lack of consensus on how to factor imports into the final calculation.

Further, according to Foreign Agricultural Service's GATS database, though imported cherry products remained high (230 million lbs. equivalent) during the 2016 calendar year, the volume is down from the 2015 calendar year (267 million lbs. equivalent) and also below the 2014 calendar year (244 million lbs. equivalent). The final NASS prices for the 2016 season are not yet available, but from 2013–15, grower prices were stable, ranging from \$0.34 to \$0.36 per pound. Thus, when using available sales, utilization, and price data from previous years it is difficult to determine what, if any, specific negative

impact imports have had on the market for domestic tart cherries and then account for that impact in the OSF.

As previously stated, there are more than 309 million pounds of tart cherries available for free sales for 2016–17. This volume exceeds total sales from 2015–16 of both free and restricted cherries of 288 million pounds. Further, the order provides numerous alternatives for the use of restricted fruit, such as handler diversion, for complying with the recommended restriction. Additionally, the USDA announced the intent to purchase over 10 million pounds of cherry products in the 2016–2017 season as surplus purchases. Therefore, as stated in the RFA, it is not anticipated that this action will unduly burden growers or handlers.

Accordingly, no changes will be made to the rule as proposed, based on the comments 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 Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter 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.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping tart cherries from the 2016–17 crop. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

- 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

- 2. Section 930.151 is revised to read as follows:

§ 930.151 Desirable carry-out inventory.

For the 2016 crop year, the desirable carry-out inventory, for the purposes of determining an optimum supply volume, will be 57 million pounds.

- 3. Section 930.256 is revised to read as follows:

§ 930.256 Free and restricted percentages for the 2016–17 crop year.

The percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2016, which shall be free and restricted, respectively, are designated as follows: Free percentage, 71 percent and restricted percentage, 29 percent.

Dated: June 20, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–13241 Filed 6–23–17; 8:45 am]

BILLING CODE 3410-02-P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1565; RIN 7100 AE–79]

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation A to reflect the Board’s approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board’s primary credit rate action.

DATES: This rule is effective June 26, 2017. The rate changes for primary and secondary credit were applicable beginning June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Attorney (202/452–3952), or Sophia Allison, Special Counsel, (202/452–3565), Legal Division, or Lyle Kumasaka, Senior Financial Analyst (202/452–2382); for users of Telecommunications Device for the Deaf (TDD) only, contact 202/263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary

and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

On June 14, 2017, the Board voted to approve a ¼ percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 1.50 percent to 1.75 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved to renew the formula for the secondary credit rate, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by ¼ percentage point as a result of the Board's primary credit rate action, thereby increasing from 2.00 percent to 2.25 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The ¼ percentage point increase in the primary credit rate was associated with an increase in the target range for the federal funds rate (from a target range of ¾ to 1 percent to a target range of 1 to 1¼ percent) announced by the Federal Open Market Committee ("Committee") on June 14, 2017, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (12 U.S.C. 551 *et seq.*) ("APA") imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be "unnecessary, impracticable, or contrary to the public interest." 12 U.S.C. 553(b)(3)(A). Section 553(d) of the APA also provides that publication not less

than 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) an agency finding good cause for shortened notice and publishing its reasoning with the rule. 12 U.S.C. 553(d). The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 U.S.C. 553(a)(2) (emphasis added).

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to the final amendments to Regulation A for several reasons. The amendments involve a matter relating to loans, and are therefore exempt under the terms of the APA. In addition, the Board has determined that notice, public comment, and delayed effective date would be unnecessary and contrary to the public interest because delay in implementation of changes to the rates charged on primary credit and secondary credit would permit insured depository institutions to profit improperly from the difference in the current rate and the announced increased rate. Finally, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that "good cause" exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act ("RFA") does not apply to a rulemaking where a general notice of proposed rulemaking is not required.¹ As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and

¹ 5 U.S.C. 603 and 604.

final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act ("PRA") of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR part 201 as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.²

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 1.75 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under § 201.4(b) is 2.25 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 19, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–13106 Filed 6–23–17; 8:45 am]

BILLING CODE 6210-02-P

² The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

FEDERAL RESERVE SYSTEM**12 CFR Part 204**

[Docket No. R-1566; RIN 7100 AE-80]

Regulation D: Reserve Requirements of Depository Institutions**AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (“Board”) is amending Regulation D (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (“IORR”) and the rate of interest paid on excess balances (“IOER”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 1.25 percent and IOER is 1.25 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee (“FOMC” or “Committee”).

DATES: This rule is effective June 26, 2017. The IORR and IOER rate changes were applicable on June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Attorney (202-452-3952), or Sophia Allison, Special Counsel (202-452-3198), Legal Division, or Thomas Keating, Financial Analyst (202-973-7401), or Laura Lipscomb, Section Chief (202-973-7964), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202-263-4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:**I. Statutory and Regulatory Background**

For monetary policy purposes, section 19 of the Federal Reserve Act (“the Act”) imposes reserve requirements on certain types of deposits and other liabilities of depository institutions. Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (“Reserve Bank”).¹ Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive

earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates. Institutions that are eligible to receive earnings on their balances held at Reserve Banks (“eligible institutions”) include depository institutions and certain other institutions.² Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.³ Prior to these amendments, Regulation D specified a rate of 1.00 percent for both IORR and IOER.⁴

II. Amendments to IORR and IOER

The Board is amending § 204.10(b)(5) of Regulation D to specify that IORR is 1.25 percent and IOER is 1.25 percent. This 0.25 percentage point increase in the IORR and IOER was associated with an increase in the target range for the federal funds rate, from a target range of $\frac{3}{4}$ to 1 percent to a target range of 1 to $1\frac{1}{4}$ percent, announced by the FOMC on June 14, 2017, with an effective date of June 15, 2017. The FOMC’s press release on the same day as the announcement noted that:

Information received since the Federal Open Market Committee met in May indicates that the labor market has continued to strengthen and that economic activity has been rising moderately so far this year. Job gains have moderated but have been solid, on average, since the beginning of the year, and the unemployment rate has declined. Household spending has picked up in recent months, and business fixed investment has continued to expand. On a 12-month basis,

inflation has declined recently and, like the measure excluding food and energy prices, is running somewhat below 2 percent. Market-based measures of inflation compensation remain low; survey-based measures of longer-term inflation expectations are little changed, on balance.

Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability. The Committee continues to expect that, with gradual adjustments in the stance of monetary policy, economic activity will expand at a moderate pace, and labor market conditions will strengthen somewhat further. Inflation on a 12-month basis is expected to remain somewhat below 2 percent in the near term but to stabilize around the Committee’s 2 percent objective over the medium term. Near term risks to the economic outlook appear roughly balanced, but the Committee is monitoring inflation developments closely.

In view of realized and expected labor market conditions and inflation, the Committee decided to raise the target range for the federal funds rate to 1 to $1\frac{1}{4}$ percent. The stance of monetary policy remains accommodative, thereby supporting some further strengthening in labor market conditions and a sustained return to 2 percent inflation.

A Federal Reserve Implementation note released simultaneously with the announcement stated that:

The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on required and excess reserve balances to 1.25 percent, effective June 15, 2017.

As a result, the Board is amending § 204.10(b)(5) of Regulation D to change IORR to 1.25 percent and IOER to 1.25 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (12 U.S.C. 551 *et seq.*) (“APA”) imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule’s content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be “unnecessary, impracticable, or contrary to the public interest.” 12 U.S.C. 553(b)(3)(A). Section 553(d) of the APA also provides that publication not less than 30 days prior to a rule’s effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) an agency finding good

² Section 19(b)(1)(A) defines “depository institution” as any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act; any member as defined in section 2 of the Federal Home Loan Bank Act; [and] any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act. See 12 U.S.C. 461(b)(1)(A). Eligible institution also includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978). 12 U.S.C. 461(b)(12)(C); see 12 CFR 204.2(y) (definition of “eligible institution”).

³ See 12 U.S.C. 461(b)(12).

⁴ See 12 CFR 204.10(b)(5).

¹ 12 CFR 204.5(a)(1).

cause for shortened notice and publishing its reasoning with the rule. 12 U.S.C. 553(d).

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to the final amendments to Regulation D. The rate increases for IORR and IOER that are reflected in the final amendments to Regulation D were made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest, and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act ("RFA") does not apply to a rulemaking where a general notice of proposed rulemaking is not required.⁵ As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act ("PRA") of 1995 (44 U.S.C. 3506; 5 CFR part 1320, appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(5) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(5) The rates for IORR and IOER are:

	Rate (%)
IORR	1.25
IOER	1.25

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 19, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-13107 Filed 6-23-17; 8:45 am]

BILLING CODE 6210-01-P

**DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration**

14 CFR Part 39

[Docket No. FAA-2017-0343; Directorate Identifier 2017-CE-005-AD; Amendment 39-18936; AD 2017-13-06]

RIN 2120-AA64

Airworthiness Directives; DG Flugzeugbau GmbH Gliders

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all DG Flugzeugbau GmbH Models DG-400, DG-500M, DG-500MB, DG-800A, and DG-800B gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect in certain textile fabric covered fuel hoses, which could cause the fuel hose to fail. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 31, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 31, 2017.

ADDRESSES: You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0343; or in person at 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 service information identified in this AD, contact DG Flugzeugbau GmbH, Otto-Lilienthal Weg 2, D-76646 Bruchsal, Germany; telephone: +49 (0)7251 3202-0; email: info@dg-flugzeugbau.de; Internet: http://www.dg-flugzeugbau.de/en/?noredirect=en_US. You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the Internet at <http://www.regulations.gov> by searching for Docket No. FAA-2017-0343.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4165; fax: (816) 329-4090; email: jim.rutherford@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 DG Flugzeugbau GmbH Models DG-400, DG-500M, DG-500MB, DG-800A, and DG-800B gliders. The NPRM was published in the **Federal Register** on April 21, 2017 (82 FR 18722). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

The MCAI states:

During service and annual inspection, DG found that some fuel hoses with textile fabric covering, installed from the beginning of the year 2015, had become weak or untight with time. The suspected root cause for this premature degradation is a manufacturing defect of a certain batch of fuel hoses.

This condition, if not detected and corrected, may lead to kinking of the fuel hoses, possibly resulting in a reduced fuel supply and consequent partial or total loss of available power.

⁵ 5 U.S.C. 603 and 604.

To address this unsafe condition, DG-Flugzeugbau published Technical Note TN 800–44, 500–10, DG–SS–02 providing inspection and replacement instructions.

For the reason described above, this [EASA] AD requires inspection and replacement of the affected fuel hoses.

The MCAI can be found in the AD docket on the Internet at <https://www.regulations.gov/document?D=FAA-2017-0343-0002>.

Comments

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

Conclusion

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

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

Related Service Information Under 14 CFR Part 51

We reviewed DG Flugzeugbau GmbH Technical note No. 800–44, 500–10, DG–SS–02, dated November 9, 2016, and co-published as one document; DG–400 diagram 8, 6 TN DG–SS–02; DG–500M diagram 14, TN 500/10; DG–500MB diagram 14, TN 500/10; DG–800A/LA diagram 11, TN 800/44; DG–800B Solo 2625 diagram 11, TN 800/44; DG–800B Solo 2625 diagram 11a, TN 800/44; DG–800B Solo 2625 diagram 11b, TN 800/44; and DG–800B ab W.Nr. 8–155/from ser. no. 8–155 on, diagram 11d, TN 800/44, all diagrams issued October 2016. In combination, the service information describes procedures for inspecting and replacing the fuel hoses on different aircraft model variants covered by the applicability of this AD. 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 of this AD.

Costs of Compliance

We estimate that this AD will affect 59 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with each inspection required by this AD. The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the inspection cost of this AD on U.S.

operators to be \$10,030, or \$170 per product.

In addition, we estimate that each replacement action required by this AD will take about 8 work-hours and require parts costing \$500. Based on these figures, we estimate the replacement cost of this AD on U.S. operators to be \$69,620, or \$1,180 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify 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> by searching for and locating Docket No. FAA–2017–0343; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 AD:

2017–13–06 DG Flugzeugbau GmbH:

Amendment 39–18936; Docket No. FAA–2017–0343; Directorate Identifier 2017–CE–005–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 31, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DG Flugzeugbau GmbH Models DG–400, DG–500M, DG–500MB, DG–800A, and DG–800B gliders, all serial numbers, that:

- (1) Have textile fabric covered fuel hoses installed in the fuselage; and
- (2) are certificated in any category.

Note 1 to paragraph (c) of this AD: Metal fabric covered fuel hoses installed in the engine area are not affected by this AD.

(d) Subject

Air Transport Association of America (ATA) Code 28: Fuel.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect in certain textile fabric covered fuel hoses, which could cause the fuel hose to fail. We are issuing this AD to prevent failure of the fuel hose, which could cause reduced fuel supply and result in partial or total loss of power.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 30 days after July 31, 2017 (the effective date of this AD), inspect all textile fabric covered fuel hoses located in the fuselage following Instructions 1. of DG Flugzeugbau GmbH Technical note (TN) No. 800-44, 500-10, DG-SS-02, dated November 9, 2016.

Note 2 to paragraph (f)(1) through (6) of this AD: DG Flugzeugbau GmbH TN No. 800-44, DG Flugzeugbau GmbH TN No. 500-10, and DG Flugzeugbau GmbH TN No. DG-SS-02, are all dated November 9, 2016, and co-published as one document.

(2) If any kinking or wet fabric covering is found during the inspection required in paragraph (f)(1) of this AD, within the next 14 days after the inspection, replace all textile fabric covered fuel hoses located in the fuselage following Instructions 2. of DG Flugzeugbau GmbH TN No. 800-44, 500-10, DG-SS-02, dated November 9, 2016, and DG-400 diagram 8, 6 TN DG-SS-02; DG-500M diagram 14, TN 500/10; DG-500MB diagram 14, TN 500/10; DG-800A/LA diagram 11, TN 800/44; DG-800B Solo 2625 diagram 11, TN 800/44; DG-800B Solo 2625 diagram 11a, TN 800/44; DG-800B Solo 2625 diagram 11b, TN 800/44; and DG-800B ab W.Nr. 8-155/from ser. no. 8-155 on, diagram 11d, TN 800/44, as applicable, all diagrams issued October 2016.

(3) If no kinking or wet fabric covering is found during the inspection required in paragraph (f)(1) of this AD, within the next 12 months after July 31, 2017 (the effective date of this AD), replace all textile fabric covered fuel hoses located in the fuselage following the instructions and diagrams specified in paragraph (f)(2) of this AD.

(4) Within 12 months after doing the replacements required in paragraph (f)(2) or (f)(3) of this AD, as applicable, and repetitively thereafter at intervals not to exceed 12 months, inspect all fuel hoses in the fuselage for any signs of wear, fissures, kinks, lack of tight fit, or leaks. For this inspection, the ignition switch must be turned on to run the electric fuel pump to demonstrate an operating fuel pressure. Do this inspection following Instructions 4. of DG Flugzeugbau GmbH TN No. 800-44, 500-10, DG-SS-02, dated November 9, 2016.

(5) If any signs of wear, fissures, kinks, lack of tight fit, or leaks are found during any inspection required in paragraph (f)(4) of this AD, replace the defective fuel hose in the fuselage following the instructions and diagrams specified in paragraph (f)(2) of this AD. Continue with the repetitive inspections as specified in paragraph (f)(4) of this AD.

(6) If no signs of wear, fissures, kinks, lack of tight fit, or leaks are found during any inspection required in paragraph (f)(4) of this AD, at intervals not to exceed 10 years, replace the fuel hoses in the fuselage with new fuel hoses following the instructions and diagrams specified in paragraph (f)(2) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4165; fax: (816) 329-4090; email: jim.rutherford@faa.gov. Before using any approved AMOC on any glider to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2016-0259, dated December 21, 2016, for related information. You may examine the MCAI on the Internet at <https://www.regulations.gov/document?D=FAA-2017-0343-0002>.

(i) Material Incorporated by Reference

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

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

(i) DG-400 diagram 8, issued October 2016 TN DG-SS-02.

(ii) DG-500M diagram 14, issued October 2016 TN 500/10.

(iii) DG-500MB diagram 14, issued October 2016 TN 500/10.

(iv) DG-800A/LA diagram 11, issued October 2016 TN 800/44.

(v) DG-800B Solo 2625 diagram 11, issued October 2016 TN 800/44.

(vi) DG-800B Solo 2625 diagram 11a, issued October 2016 TN 800/44.

(vii) DG-800B Solo 2625 diagram 11b, issued October 2016 TN 800/44.

(viii) DG-800B ab W.Nr. 8-155/from ser. no. 8-155 on, diagram 11d, issued October 2016 TN 800/44.

(ix) DG Flugzeugbau GmbH Technical note (TN) No. 800-44, 500-10, DG-SS-02, dated November 9, 2016.

Note 3 to paragraph (i)(2)(ix) of this AD: DG Flugzeugbau GmbH TN No. 800-44, DG Flugzeugbau GmbH TN No. 500-10, and DG Flugzeugbau GmbH TN No. DG-SS-02, are all dated November 9, 2016, and co-published as one document.

(3) For service information identified in this AD, DG Flugzeugbau GmbH, Otto-Lilienthal Weg 2, D-76646 Bruchsal, Germany; telephone: +49 (0)7251 3202-0; email: info@dg-flugzeugbau.de; Internet: http://www.dg-flugzeugbau.de/en/?noredirect=en_US.

(4) You may view this service information at the FAA, Small Airplane Directorate, 901

Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. In addition, you can access this service information on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0343.

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

Issued in Kansas City, Missouri, on June 19, 2017.

Pat Mullen,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-13127 Filed 6-23-17; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**14 CFR Parts 1264 and 1271**

RIN 2700-AE30

[Document Number NASA-17-039: Docket Number—NASA-2017-0002]

Implementation of the Federal Civil Penalties Inflation Adjustment Act

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim final rule with request for public comment.

SUMMARY: The National Aeronautics and Space Administration (NASA) is publishing for public comment an interim final rule to adjust the civil monetary penalties within its jurisdiction for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Inflation Adjustment Act or the Act), as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act). The revision to this rule is part of NASA's retrospective plan under Executive Order (E.O.) 13563 completed in August 2011. NASA's full plan can be accessed on the Agency's open Government Web site at <http://www.nasa.gov/open/>.

DATES: This interim final rule is effective August 25, 2017.

FOR FURTHER INFORMATION CONTACT: Bryan R. Diederich, Office of the General Counsel, NASA Headquarters, telephone (202) 358-0216.

SUPPLEMENTARY INFORMATION:

I. Background

The Inflation Adjustment Act, as amended by the 2015 Act, requires Federal agencies to adjust the civil penalty amounts within their jurisdiction for inflation by July 1, 2016, and then by January 15 every year thereafter.¹ Agencies must make the initial 2016 adjustments through an interim final rulemaking published in the **Federal Register**.² Under the amended Act, any increase in a civil penalty made under the Act will apply to penalties assessed after the increase takes effect, including penalties whose associated violation predated the increase.³ The inflation adjustments mandated by the Act serve to maintain the deterrent effect of civil penalties and to promote compliance with the law.

II. Method of Calculation

The Inflation Adjustment Act prescribes a specific method for calculating the inflation adjustments.⁴ As amended by the 2015 Act, the Act provides that the maximum (and

minimum, if applicable) amounts for each civil penalty must be increased by the “cost-of-living adjustment,” a term that the Act defines. For purposes of the initial adjustments that agencies must make by July 1, 2016, the “cost-of-living adjustment” is defined as the percentage increase in the Consumer Price Index between (1) October of the calendar year during which the civil penalty amount was established or adjusted under a provision of law other than the Inflation Adjustment Act and (2) October 2015. The Consumer Price Index to be used for purposes of this calculation is the Consumer Price Index for all urban consumers (CPI-U) published by the Department of Labor.⁵ The Office of Management and Budget (OMB) has published guidance for implementing this requirement.⁶ OMB’s guidance memorandum provides multipliers that agencies should use to adjust penalty amounts based on the year the penalty was established or last adjusted under

authority other than the Inflation Adjustment Act.

To determine the new penalty amount, the agency must apply the multiplier reflecting the “cost-of-living adjustment”⁷ to the penalty amount as it was most recently established or adjusted under a provision of law other than the Inflation Adjustment Act. The agency must then round that amount to the nearest dollar.⁸ The increase made by this initial adjustment may not exceed 150 percent of the penalty amount in effect on the date the 2015 Act was enacted, November 2, 2015.

III. Description of the Interim Final Rule

This interim final rule establishes the inflation-adjusted maximum amounts for each civil penalty within NASA’s jurisdiction. The following table lists the civil penalties within NASA’s jurisdiction and summarizes the relevant information needed to calculate the inflation adjustments pursuant to the statutory method.

Law	Penalty description	Penalty amount as established or last adjusted under a provision other than the Inflation Adjustment Act	Year penalty established or last adjusted under a provision other than the Inflation Adjustment Act	Penalty amount in effect on November 2, 2015
Program Fraud Civil Remedies Act of 1986	Maximum penalties for false claims	\$5,000	1986	\$5,000
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Minimum penalty for use of appropriated funds to lobby or influence certain contracts.	10,000	1989	10,000
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Maximum penalty for use of appropriated funds to lobby or influence certain contracts.	100,000	1989	100,000
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Minimum penalty for failure to report certain lobbying transactions.	10,000	1989	10,000
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101–121, sec. 319.	Maximum penalty for failure to report certain lobbying transactions.	100,000	1989	100,000

NASA followed the procedure outlined above in part II to calculate the adjusted civil penalty amounts. In accordance with the statutory requirements and OMB guidance, NASA

multiplied each penalty amount as established or last adjusted under a provision other than the Inflation Adjustment Act by the OMB multiplier corresponding to the appropriate year,

and then rounded that amount to the nearest dollar, to calculate the new, inflation-adjusted civil penalty amount. The following chart summarizes the results of these calculations:

¹ See 28 U.S.C. 2461 note.

² The statute also provides that, for the initial 2016 adjustment, an agency may adjust a civil penalty by less than the otherwise required amount if (1) it determines, after publishing a notice of proposed rulemaking and providing an opportunity for comment, that increasing the civil penalty by the otherwise required amount would have a negative economic impact or that the social costs of increasing the civil penalty by the otherwise required amount outweigh the benefits, and (2) the Director of the Office of Management and Budget concurs with that determination. Inflation

Adjustment Act section 4(c), *codified at* 28 U.S.C. 2461 note. NASA has chosen not to make use of this exception.

³ Inflation Adjustment Act section 6, *codified at* 28 U.S.C. 2461 note.

⁴ Inflation Adjustment Act section 5, *codified at* 28 U.S.C. 2461 note.

⁵ U.S. Dep’t of Labor, Bureau of Labor Statistics, CPI Tables, <http://www.bls.gov/cpi/#tables>.

⁶ Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies (Feb. 24,

2016), <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

⁷ The multipliers reflecting the “cost-of-living adjustment” that OMB provides are rounded to five decimal places. NASA has used the OMB multipliers in calculating its civil penalty adjustments.

⁸ In rounding to the nearest dollar, NASA has rounded down where the digit immediately following the decimal point is less than 5 and has rounded up where the digit immediately following the decimal point is 5 or greater.

Law	Penalty description	Penalty amount as established or last adjusted under a provision other than the Inflation Adjustment Act	Year penalty established or last adjusted under a provision other than the Inflation Adjustment Act	OMB "cost-of-living adjustment" multiplier	New penalty amount	New penalty amount adjusted for 150% threshold
Program Fraud Civil Remedies Act of 1986.	Maximum Penalties for False Claims.	\$5,000	1986	2.15628	\$10,781	\$10,781
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101-121, sec. 319.	Minimum Penalty for use of appropriated funds to lobby or influence certain contracts.	10,000	1989	1.89361	18,936	18,936
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101-121, sec. 319.	Maximum Penalty for use of appropriated funds to lobby or influence certain contracts.	100,000	1989	1.89361	189,361	189,361
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101-121, sec. 319.	Minimum penalty for failure to report certain lobbying transactions.	10,000	1989	1.89361	18,936	18,936
Department of the Interior and Related Agencies Appropriations Act of 1989, Public Law 101-121, sec. 319.	Maximum penalty for failure to report certain lobbying transactions.	100,000	1989	1.89361	189,361	189,361

This rule codifies these civil penalty amounts by amending parts 1264 and 1271 of title 14 of the CFR.

IV. Legal Authority and Effective Date

NASA issues this rule under the Federal Civil Penalties Inflation Adjustment Act of 1990,⁹ as amended by the Debt Collection Improvement Act of 1996,¹⁰ and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,¹¹ which requires NASA to adjust the civil penalties within its jurisdiction for inflation according to a statutorily prescribed formula.

The Administrative Procedure Act (APA) generally requires an agency to publish a rule at least 30 days before its effective date.¹² This rule satisfies that requirement.

V. Request for Comment

Although notice and comment rulemaking procedures are not required, NASA invites comments on this notice. Commenters are specifically encouraged to identify any technical issues raised by the rule.

VI. Regulatory Requirements

Notice and Comment

Under the APA, notice and opportunity for public comment are not required if NASA finds that notice and public comment are impracticable, unnecessary, or contrary to the public interest.¹³ This interim final rule adjusts the civil penalty amounts within the NASA’s jurisdiction for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The amendments in this interim final rule are technical, and they merely apply the statutory method for adjusting civil penalty amounts. For these reasons, NASA has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Moreover, the statute expressly requires NASA to make these initial adjustments through an interim final rulemaking to be published by July 1, 2016,¹⁴ and OMB’s guidance confirms that agencies need not complete a notice-and-comment process before promulgating

the rule.¹⁵ Therefore, the amendments are adopted in final form.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis.¹⁶

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995,¹⁷ NASA reviewed this interim final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the interim final rule.

List of Subjects in 14 CFR Parts 1264 and 1271

Claims, Penalties, Lobbying.

For the reasons stated in the preamble, the National Aeronautics and Space Administration amends 14 CFR parts 1264 and 1271 as follows:

PART 1264—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL PENALTIES ACT OF 1986

- 1. The authority citation for part 1264 continues to read as follows:

⁹ Public Law 101-410, 104 Stat. 890 (1990).

¹⁰ Public Law 104-134, section 31001(s)(1), 110 Stat. 1321, 1321-373 (1996).

¹¹ Public Law 114-74, section 701, 129 Stat. 584, 599 (2015).

¹² See 5 U.S.C. 533(d).

¹³ 5 U.S.C. 533(b)(B).

¹⁴ Inflation Adjustment Action, section 4(b)(1)(A), codified at 28 U.S.C. 2461 note.

¹⁵ Memorandum from Shaun Donovan, Director, Office of Management and Budget, to the Heads of Executive Departments and Agencies 3 (Feb. 24, 2016), <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

¹⁶ 5 U.S.C. 603(a), 604(a).

¹⁷ 44 U.S.C. 3506-.

Authority: 31 U.S.C. 3809, 51 U.S.C. 20113(a).

§ 1264.102 [Amended]

■ 2. In § 1264.102, paragraphs (a) and (b), remove the number “\$5,000” and add in its place the number “\$10,781”.

PART 1271—NEW RESTRICTIONS ON LOBBYING

■ 3. The authority citation for part 1271 continues to read as follows:

Authority: Section 319, Pub. L. 101–121 (31 U.S.C. 1352); Pub. L. 97–258 (31 U.S.C. 6301 *et seq.*).

Subpart D—Penalties and Enforcement

§ 1271.400 [Amended]

■ 4. In § 1271.400:

■ a. In paragraphs (a) and (b), remove the words “not less than \$10,000 and not more than \$100,000” and add in their place the words “not less than \$18,936 and not more than \$189,361”; and

■ b. In paragraph (e), remove the two occurrences of “\$10,000” and add in their places “\$18,936” and remove “\$100,000” and add in its place “\$189,361”.

Appendix A to Part 1271 [Amended]

■ 6. In appendix A to part 1271, in paragraph following paragraph (3) and in the last paragraph of the appendix, remove the words “not less than \$10,000 and not more than \$100,000” and add in their place the words “not less than \$18,936 and not more than \$189,361”.

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2017–13209 Filed 6–23–17; 8:45 am]

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 5, 11, 16, 17, 18, 19, 20, 21, 48, 140, and 150

RIN 3038–AE42

Commission Delegated Authority Provisions and Technical Amendments

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (the “Commission” or “CFTC”) is adopting final rules to establish new and amend certain existing delegations of authority to Commission staff. The Commission is also adopting amendments to update

statutory authority citations and correct limited typographical and technical errors in certain rules.

DATES: This rule is effective June 26, 2017.

FOR FURTHER INFORMATION CONTACT:

David Van Wagner, Chief Counsel, Division of Market Oversight, (202) 418–5481, dvanwagner@cftc.gov; Jeanette Curtis, Special Counsel, Division of Market Oversight, (202) 418–5669, jcurtis@cftc.gov; Gretchen L. Lowe, Chief Counsel, Division of Enforcement, (202) 418–5379, glowe@cftc.gov; or Edward Wehner, IT Specialist, Office of Data and Technology, (202) 418–6764, ewehner@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Commission Delegations of Authority

The Commission is adopting final rules to establish new and amend certain existing delegations of authority to Commission staff. Previously, the Commission delegated, to the Director of the Division of Market Oversight (“DMO”), various authorities for implementing certain Commission regulations.¹ Many of these delegated authorities have been carried out by staff in DMO’s Surveillance Branch. However, as a result of the recent Commission organizational restructuring, which moved DMO’s Surveillance Branch to the Division of Enforcement (“DOE”), the Commission has completed a full review of DMO delegated authorities and decided to remove certain delegated authorities from the DMO Director, other division directors, and certain Commission staff. The Commission is delegating such authorities to the Director of DOE or the Director of the Office of Data and Technology (“ODT”). In addition, the Commission is adding new delegations of authority to certain of the part 48 provisions that govern the registration of Foreign Boards of Trade (“FBOT”).

B. Statutory Authority Citations and Technical Corrections

For certain regulations, the Commission is revising the statutory authority citations to reflect the most current citation. On July 21, 2010, President Obama signed the Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) into law.² Title VII of the Dodd-Frank Act amended

¹ 17 CFR 5.20(d), 11.2(a), 16.07, 18.03, 19.00(a)(3), 20.8, 21.05, 140.72(a), 140.73, 140.74, 140.97, 150.3(b), and 150.4(e) (Commission delegations of authority to the DMO Director prior to this final rule).

² Public Law 111–203, 124 Stat. 1376 (July 21, 2010).

provisions of the Commodity Exchange Act (“CEA”)³ to establish a comprehensive framework for the regulation of swaps and security-based swaps. However, according to the **Federal Register** drafting handbook, it is recommended that the Commission only list the current United States Code (“U.S.C.”) citation when it is available.⁴ As such, the Commission need only cite the Dodd-Frank Act as the amending statutory authority for each rule part until such amendments are codified in the U.S.C. Since the Dodd-Frank Act provisions have been codified in the U.S.C., the Commission is revising the citation authority preceding certain Commission regulations to reflect the current U.S.C. citations.

In addition, the Commission is amending certain of its regulations to revise a limited number of typographical and formatting errors, and to delete a duplicate regulation.

II. Amended Regulations

A. Part 5

Part 5 of the Commission’s regulations governs off-exchange foreign currency transactions. Section 5.20(d) covers Commission delegated authority to the DMO Director to make special calls for information on controlled accounts from retail foreign exchange dealers, futures commission merchants (“FCMs”) and introducing brokers (“IBs”), and to make special calls for information on open contracts in accounts carried or introduced by FCMs, IBs, and foreign brokers. The Commission is amending its delegation of authority in § 5.20(d) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 5 statutory authority citation.

B. Part 11

Part 11 of the Commission’s regulations establishes rules relating to investigations. Section 11.2(a) delegates authority to the DOE Director, the Director of the Division of Swap Dealer and Intermediary Oversight (“DSIO”), the Director of the Division of Clearing and Risk (“DCR”), the Director of DMO, the Chief Economist, and members of their staffs acting within the scope of their respective responsibilities, to

³ 7 U.S.C. 1 *et seq.* (2012).

⁴ See National Archives and Records Administration, Office of the Federal Register, Document Drafting Handbook, section 3.12 (Authority citations), 3–26 (May 2017 update, Revision 2, June 7, 2017).

conduct investigations in particular matters. The Commission has decided to delegate such investigatory authority to the DOE Director and members of Commission staff acting pursuant to the Director's authority and under the Director's direction to conduct investigations. The Commission is amending its delegation of authority in § 11.2(a) to remove the Chief Economist and the Directors of DSIO, DCR and DMO and their staff from its list of delegates. The Commission is also updating the part 11 statutory authority citation to reflect the correct numerical ordering of the statutory provisions cited.

C. Part 16

Part 16 of the Commission's regulations governs reports by designated contract markets and swap execution facilities. Section 16.07(a) delegates authority to the DMO Director to determine the form, manner and time of filing reports required in §§ 16.00(b) and 16.01(d). Section 16.07(b) delegates authority to the DMO Director to determine the format, coding structure and electronic data transmission procedures used by reporting markets pursuant to §§ 16.00(b)(1), 16.01(d)(1) and 16.06. The Commission is amending its delegations of authority in § 16.07(a) and (b) to remove the DMO Director from its list of delegates and to delegate such authority to the ODT Director, with the concurrence of the DMO Director, or such other employee or employees as the Directors each may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 16 statutory authority citation and updating the part 16 statutory authority citation to reflect the correct numerical ordering of the statutory provisions cited. The Commission is also amending the outline formatting of § 16.07.

D. Part 17

Part 17 of the Commission's regulations governs reports by reporting markets, futures commission merchants, clearing members, and foreign brokers. In § 17.03, the Commission is adding a delegation of authority, pursuant to § 17.01(e), to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time, to issue requests for Forms 102 and 71. The Commission is also making typographical corrections to the time formatting in § 17.02, and deleting the Dodd-Frank Act reference from the part 17 statutory authority citation.

E. Part 18

Part 18 of the Commission's regulations governs reports by certain traders. Section 18.03 governs Commission delegated authority to the DMO Director to issue special calls for certain reports and information to be furnished by traders, and to request information related to the maintenance of books and records. The Commission is amending its delegation of authority in § 18.03 to remove the DMO Director from its list of delegates for issuing special calls for information pursuant to §§ 18.00 and 18.05, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also amending its delegation of authority in § 18.03 to remove the DMO Director from its list of delegates for issuing special calls for information pursuant to § 18.04, and to delegate such authority to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is deleting the Dodd-Frank Act reference from the part 18 statutory authority citation.

F. Part 19

Part 19 of the Commission's regulations governs reports by persons holding bona fide hedge positions, and by merchants and dealers in cotton. Section 19.00(a)(3) governs Commission delegated authority to the DMO Director to issue special calls for Series '04 reports (cash market positions of large traders in cotton and grains). The Commission is amending its delegation of authority in § 19.00(a)(3) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 19 statutory authority citation.

G. Part 20

Part 20 of the Commission's regulations governs large trader reporting for physical commodity swaps. Section 20.8 governs Commission delegated authority to the DMO Director to: Issue special calls for certain forms, books and records; determine the form and manner of reporting; and determine compliance schedules. The Commission is amending its delegation of authority in § 20.8 to remove the DMO Director as its delegate for issuing § 20.6(d) special calls for books and records, and to

delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also amending its § 20.8 delegation of authority to remove the DMO Director as its delegate for issuing § 20.5 requests for 102S and 40S filings, and to delegate such authority to the ODT Director, in consultation with the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is amending its § 20.8 delegation of authority to remove the DMO Director as its delegate for determining the form and coding structure of reporting in § 20.7, and will delegate such authority to the ODT Director, with the concurrence of the DMO Director, or such other employee or employees as the Directors each may designate from time to time. Finally, the Commission is also making typographical corrections to the time formatting in § 20.5, and deleting the Dodd-Frank Act reference from the part 20 statutory authority citation.

H. Part 21

Part 21 of the Commission's regulations governs various types of Commission special calls. Section 21.05 particularly governs Commission delegated authority to the DMO Director to issue special calls for information on certain controlled accounts and open interest contracts in certain accounts. The Commission is amending its delegation of authority in § 21.05 to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 21 statutory authority citation.

I. Part 48

Part 48 of the Commission's regulations governs the registration of FBOTs. The Commission is amending the part 48 rules to add a new § 48.11 that addresses delegations of authority to DMO. Section 48.11 will address delegations with respect to the following provisions:

1. Section 48.7 governs FBOT requirements for registration. The Commission is delegating authority, pursuant to § 48.7, for the DMO Director and his designated staff to request additional information and documentation in connection with an application for registration.
2. Section 48.9 governs the revocation of an FBOT's registration. The Commission is delegating authority,

pursuant to § 48.9(a)(1) and (c), for the DMO Director and his designated staff to: (i) Notify an FBOT that, pursuant to § 48.9(a)(1), the registered FBOT or the clearing organization has failed to satisfy any registration requirements or conditions for registration; and (ii) pursuant to § 48.9(c), request that the FBOT file a written demonstration, containing such supporting data, information, and documents, in such form and manner and within such timeframe as the Commission may specify, that the foreign board of trade or clearing organization is in compliance with the registration requirements and/or conditions for registration.

3. Section 48.10 requires that FBOTs that wish to make additional contracts available to trade by members or participants located in the United States with direct access to the FBOT's trade-matching system must submit to the Commission a written request before offering the additional contracts in the U.S. The FBOT can offer the additional contracts for trading 10 business days after the Commission receives the FBOT's written request unless the Commission notifies the FBOT that additional time is needed to complete its review of policy or other issues pertinent to the additional contracts. The Commission is delegating authority, under § 48.10, for the DMO Director and his designated staff to, within the 10-day review period, notify an FBOT whether additional time is needed to complete its review of policy or other issues pertinent to the additional contracts, or that the contract can be made available for trading by direct access.

J. Part 140

Part 140 of the Commission's regulations governs organization, functions and procedures of the Commission. The Commission is making the following amendments to the part 140 regulations.

1. Section 140.72, pertaining to delegation of authority to disclose confidential information to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.

Currently, § 140.72 delegates authority directly to the various Commission Division directors and certain identified senior staff positions to disclose confidential information. The Commission is amending its delegation of authority in § 140.72(a) to delegate authority to Division directors and their designated staff members.

2. Section 140.73, pertaining to delegation of authority to disclose information to United States, states, and foreign government agencies and foreign futures authorities.

Currently, § 140.73 delegates authority directly to the various Commission Division directors and certain identified senior staff positions to disclose confidential information. The Commission is amending its delegation of authority in § 140.72(a) to delegate authority to Division directors and their designated staff members.

3. Section 140.74, pertaining to delegation of authority to issue special calls for series 03 reports and Form 40.

The Commission is amending § 140.74 to remove the delegation of authority to the DMO Director, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time, for issuing special calls for series 03 reports. The Commission is also amending § 140.74 to delete a duplicate rule provision regarding authority to issue special calls for Form 40.

4. Section 140.97, pertaining to delegation of authority regarding requests for classification of positions as bona fide hedging.

The Commission is amending § 140.97 to remove the delegation of authority to the DMO Director, and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time.

K. Part 150

Part 150 of the Commission's regulations governs limits on positions. Sections 150.3(b) and 150.4(e) govern Commission delegated authority to the DMO Director to issue calls for information related to claims of exemptions from positions limits, certain position, trading and business relationship information, and to determine the form, coding structure and transmission procedures for submitting data. The Commission is amending its special call delegation of authority in §§ 150.3(b) and 150.4(e) to remove the DMO Director from its list of delegates and to delegate such authority to the DOE Director, or such other employee or employees as the Director may designate from time to time. The Commission is also amending its form and manner delegation of authority in § 150.4(e) to remove the DMO Director from its list of delegates and to delegate such authority to the ODT Director, with the concurrence of the DOE Director, or such other employee or employees as the Directors

each may designate from time to time. The Commission is also deleting the Dodd-Frank Act reference from the part 150 statutory authority citation.

III. Administrative Compliance

A. Administrative Procedure Act

The Administrative Procedure Act ("APA")⁵ generally requires a Federal agency to publish notice of a proposed rulemaking in the **Federal Register** and to allow opportunity for public comment before promulgating a final rule.⁶ This requirement does not apply, however, to "rules of agency organization, procedure, or practice."⁷ This final rule makes conforming amendments to various Commission regulations to reflect the recent organizational restructuring at the Commission, including corresponding updates to Commission delegations of authority to staff, which changes fit squarely into the category of "rules of agency organization, procedure, or practice."⁸ This final rule also corrects typographical errors and outdated statutory references, which have no impact on substantive rights or obligations under the CEA and are entirely ministerial and procedural in nature. Therefore, this rulemaking is excepted from the public rulemaking provisions of the APA.⁹ Conforming amendments to certain delegations of authority to reflect organizational changes, updating of relevant statutory authority and other technical corrections, will not cause any party to undertake new or additional efforts to comply with the regulations as revised. This final rule shall become effective upon publication in the **Federal Register**.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the Commission to consider whether the regulations it adopts will have a significant economic impact on a substantial number of small entities.¹⁰ The Commission is obligated to conduct a regulatory flexibility analysis for any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of the APA.¹¹ However, this rulemaking is excepted from the public rulemaking provisions

⁵ 5 U.S.C. 551 *et seq.*

⁶ 5 U.S.C. 553.

⁷ 5 U.S.C. 553(b)(A). Notice or hearing is not required in these circumstances by the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*

⁸ *Id.*

⁹ 5 U.S.C. 553(b).

¹⁰ *See* 5 U.S.C. 601 *et seq.*

¹¹ 5 U.S.C. 601(2).

of the APA.¹² Accordingly, the Commission is not obligated to conduct a regulatory flexibility analysis for this rulemaking.

C. Paperwork Reduction Act

The Commission may not conduct or sponsor, and a respondent is not required to respond to, a collection of information contained in a rulemaking unless the information collection displays a currently valid control number issued by the Office of Management and Budget (“OMB”) pursuant to the Paperwork Reduction Act.¹³ This rulemaking contains no collection of information that obligates the Commission to obtain a control number from OMB.

D. Cost-Benefit Considerations

1. Introduction

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its actions before promulgating a regulation under the CEA or issuing certain orders.¹⁴ Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

The Commission is amending its delegations of authority in §§ 5.20(d), 11.2(a), 16.07, 18.03, 19.00(a)(3), 20.8, 21.05, 140.72(a), 140.73, 140.74, 140.97, 150.3(b) and 150.4(c), and in part 48. The Commission is also amending certain statutory citations in, and making limited technical and typographical corrections to parts 5, 11, 16, 18, 19, 20, 21, 140, and 150. For assessing whether and to what extent costs or benefits are likely to flow from the amendments, the Commission is using the CEA and related regulations that currently instruct market participants as to which delegated authorities may ask for and receive requested information. The proposed amendments do not change the status quo.

¹² 5 U.S.C. 553(b)(A) (“rules of agency organization, procedure, or practice”); 5 U.S.C. 553(b)(B) (“agency for good cause finds . . . that notice and public procedure thereon are . . . unnecessary . . .”).

¹³ See 44 U.S.C. 3501 *et seq.*

¹⁴ 7 U.S.C. 19(a).

2. Costs

There are no costs to the industry or the public associated with the amendments to certain Commission delegations of authority, regulation statutory citations, or typographical errors in the regulations.

3. Benefits

The Commission believes that market participants and the public will benefit from these ministerial rule amendments since the updated delegations of authority will reflect the Commission’s “mission to identify and prosecute violations of law and regulation” and “foster increased efficiencies through knowledge sharing and cross training under unified leadership; thus benefitting the Commission’s surveillance mission and enforcement responsibilities.”¹⁵ The amendments will also benefit market participants and the public by eliminating outdated statutory authority references in the regulation text and making limited technical and typographical corrections.

4. Section 15(a) Factors

Protection of market participants and the public. The Commission believes that correcting minor technical and typographical errors in certain parts of its rules and updating certain delegations of authority to accurately reflect recent organizational changes advances its mission to protect market participants and the public.

Efficiency, competitiveness, and financial integrity of futures markets. The Commission believes that the amendments will not materially affect the efficiency, competitiveness, and financial integrity of futures markets because the rule changes are ministerial and do not affect the operations of markets.

Price discovery. The Commission believes that the amendments will not materially affect the price discovery process because the rule changes are ministerial and do not affect the operations of markets.

Sound risk management practices. The Commission believes that the amendments will not materially affect sound risk management practices because the rule changes are ministerial and do not affect how market participants conduct risk management.

Other public interest considerations. The Commission has not identified any other public interest consideration.

¹⁵ See Remarks of Acting Chairman J. Christopher Giancarlo before the 42nd Annual International Futures Industry Conference in Boca Raton, FL, *CFTC: A New Direction Forward* (March 15, 2017) available at <http://www.cftc.gov/PressRoom/SpeechesTestimony/opagiancarlo-20>.

List of Subjects

17 CFR Part 5

Commodity futures, Consumer protection, Foreign currencies, Off-exchange transactions, Reporting and recordkeeping requirements, Securities, Trade practices.

17 CFR Part 11

Administrative practice and procedure, Investigations.

17 CFR Part 16

Contract markets, Reporting and recordkeeping requirements, Swap execution facilities.

17 CFR Part 17

Brokers, Clearing members, Foreign brokers, Futures commission merchants, Reporting and recordkeeping requirements, Reporting markets.

17 CFR Part 18

Reporting and recordkeeping requirements, Traders.

17 CFR Part 19

Bona fide hedge positions, Cotton, Grains, Merchants and dealers, Reporting and recordkeeping requirements.

17 CFR Part 20

Administrative practice and procedure, Large traders, Physical commodity swaps, Reporting and recordkeeping requirements.

17 CFR Part 21

Brokers, Reporting and recordkeeping requirements, Special calls.

17 CFR Part 48

Foreign boards of trade, Registration requirements, Reporting and recordkeeping requirements.

17 CFR Part 140

Authority delegations (government agencies), Conflicts of interest, Organization and functions (government agencies).

17 CFR Part 150

Cotton, Grains, Position limits.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR chapter I as set forth below:

PART 5—OFF-EXCHANGE FOREIGN CURRENCY TRANSACTIONS

■ 1. The authority citation for part 5 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, and 23.

■ 2. In § 5.20, revise paragraph (d) to read as follows:

§ 5.20 Special calls for account and transaction information.

* * * * *

(d) *Delegation of authority to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Enforcement.* The Commission hereby delegates, until the Commission orders otherwise, to the Director of the Division of Swap Dealer and Intermediary Oversight and the Director of the Division of Enforcement, or to the respective Director's designees, the authority set forth in this section to make special calls for information on controlled accounts from retail foreign exchange dealers, futures commission merchants and from introducing brokers, and to make special calls for information on open contracts in accounts carried or introduced by futures commission merchants, introducing brokers, and foreign brokers. Either Director may submit to the Commission for its consideration any matter that has been delegated pursuant to this section. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section to the Directors.

PART 11—RULES RELATING TO INVESTIGATIONS

■ 3. The authority citation for part 11 is revised to read as follows:

Authority: 7 U.S.C. 4a(j), 9, 12, 12a(5) and 15.

■ 4. In § 11.2, revise paragraph (a) to read as follows:

§ 11.2 Authority to conduct investigations.

(a) The Director of the Division of Enforcement and members of the Commission staff acting pursuant to his authority and under his direction may conduct such investigations as he deems appropriate to determine whether any persons have violated, are violating, or are about to violate the provisions of the Commodity Exchange Act, as amended, or the rules, regulations or orders adopted by the Commission pursuant to that Act, or, in accordance with the provisions of section 12(f) of the Act, whether any persons have violated, are violating or are about to violate the laws, rules or regulations relating to futures or options matters administered or enforced by a foreign futures authority, or whether an applicant for registration or designation meets the requisite statutory criteria. For this purpose, the Director may obtain evidence through voluntary statements

and submissions, through exercise of inspection powers over boards of trade, reporting traders, and persons required by law to register with the Commission, or when authorized by order of the Commission, through the issuance of subpoenas. The Director shall report to the Commission the results of his investigations and recommend to the Commission such enforcement action as he deems appropriate.

* * * * *

PART 16—REPORTS BY CONTRACT MARKETS AND SWAP EXECUTION FACILITIES

■ 5. The authority citation for part 16 is revised to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6g, 6i, 7, and 7b–3.

■ 6. Revise § 16.07 to read as follows:

§ 16.07 Delegation of authority to the Director of the Office of Data and Technology and to the Director of the Division of Market Oversight.

(a) The Commission hereby delegates, until the Commission orders otherwise, the authority set forth in paragraphs (b) and (c) of this section to the Director of the Office of Data and Technology, with the concurrence of the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time. The Commission hereby delegates, until the Commission orders otherwise, the authority set forth in paragraph (d) of this section to the Director of the Division of Market Oversight, to be exercised by such Director or by such other employee or employees of such Director as may be designated from time to time by the Director. The Directors may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this paragraph prohibits the Commission, at its election, from exercising the authority delegated in this paragraph.

(b) Pursuant to §§ 16.00(b) and 16.01(d), as applicable, the authority to, with the concurrence of the Director of the Division of Market Oversight or the Director's delegate, determine whether reporting markets must submit data in hard copy, and the time that such data may be submitted where the Director determines that a reporting market is unable to meet the requirements set forth in the regulations.

(c) Pursuant to §§ 16.00(b)(1), 16.01(d)(1), and 16.06, the authority to, with the concurrence of the Director of the Division Market Oversight or the Director's delegate, approve the format, coding structure and electronic data

transmission procedures used by reporting markets.

(d) Pursuant to § 16.02, the authority to determine the specific content of any daily trade and supporting data report, request that such reports be accompanied by data that identifies or facilitates the identification of each trader for each transaction or order included in a submitted trade and supporting data report, and establish the time for the submission of and the manner and format of such reports.

PART 17—REPORTS BY REPORTING MARKETS, FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND FOREIGN BROKERS

■ 7. The authority citation for part 17 is revised to read as follows:

Authority: 7 U.S.C. 2, 6a, 6c, 6d, 6f, 6g, 6i, 6t, 7, 7a, and 12a.

■ 8. In § 17.02, revise paragraphs (b)(2)(i) and (ii) and (c)(2)(i) and (ii) to read as follows:

§ 17.02 Form, manner and time of filing reports.

* * * * *

(b) * * *
(2) * * *

(i) The applicable reporting party shall submit a completed Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the special account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (b)(3) and (4) of this section. Such form shall include all required information, including the names of the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on the form, *provided that*, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (b)(2)(ii) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

(ii) With respect to the owner(s) and controller(s) of each trading account that is not an omnibus account, and that comprises a special account reported on Form 102, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. on the third business day following the date on which the special account becomes

reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (b)(3) and (4) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

* * * * *

- (c) * * *
(2) * * *

(i) The clearing member shall submit a completed Form 102 to the Commission no later than 9 a.m. on the business day following the date on which the volume threshold account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (c)(3) and (4) of this section. Such form shall include all required information, including the names of the owner(s) and controller(s) of each volume threshold account reported on the form that is not an omnibus account, provided that, with respect to such owners(s) and controller(s), information other than the names of such parties may be reported in accordance with the instructions and schedule set forth in paragraph (c)(2)(ii) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

(ii) With respect to the owner(s) and controller(s) of each volume threshold account reported on Form 102 that is not an omnibus account, information other than the names of such parties must be provided on Form 102 no later than 9 a.m. on the third business day following the date on which the volume threshold account becomes reportable, or on such other date as directed by special call of the Commission or its designee, and as periodically required thereafter by paragraphs (c)(3) and (4) of this section. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

* * * * *

- 9. In § 17.03, revise paragraphs (e), (f), and (g) and add paragraph (h) to read as follows:

§ 17.03 Delegation of authority to the Director of the Office of Data and Technology or the Director of the Division of Market Oversight.

* * * * *

(e) Pursuant to § 17.01(c), the authority shall be designated to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, to make special calls on Form 71 for omnibus volume threshold account originators and omnibus reportable sub-account originators information as set forth in § 17.01(c).

(f) Pursuant to § 17.01(e), the authority shall be designated to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, to request information required to be filed by futures commission merchants, clearing members, foreign brokers, and reporting markets as set forth in § 17.01.

(g) Pursuant to § 17.02(b)(4), the authority shall be designated to the Director of the Division of Market Oversight to determine the date on which each futures commission merchant, clearing member, or foreign broker shall update or otherwise resubmit every Form 102 that it has submitted to the Commission for each of its special accounts.

(h) Pursuant to § 17.02(c)(4), the authority shall be designated to the Director of the Division of Market Oversight to determine the date on which each clearing member shall update or otherwise resubmit every Form 102 that it has submitted to the Commission for each of its volume threshold accounts.

PART 18—REPORTS BY TRADERS

- 10. The authority citation for part 18 is revised to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 6t, 12a, and 19.

- 11. Revise § 18.03 to read as follows:

§ 18.03 Delegation of authority.

(a) The Commission hereby delegates, until the Commission orders otherwise, the authority to make special calls on traders for information as set forth in §§ 18.00 and 18.05 to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time.

(b) The Commission hereby delegates, until the Commission orders otherwise,

the authority to make special calls for information as set forth in § 18.04 to the Director of the Office of Data and Technology to be exercised by the Director, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time.

(c) The Directors of the Division of Enforcement and Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(d) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS AND DEALERS IN COTTON

- 12. The authority citation for part 19 is revised to read as follows:

Authority: 7 U.S.C. 6g(a), 6i, and 12a(5).

- 13. In § 19.00, revise paragraph (a)(3) to read as follows:

§ 19.00 General provisions.

(a) * * *

(3) All persons holding or controlling positions for future delivery that are reportable pursuant to § 15.00(p)(1) of this chapter who have received a special call for series '04 reports from the Commission or its designee. Filings in response to a special call shall be made within one business day of receipt of the special call unless otherwise specified in the call. For the purposes of this paragraph, the Commission hereby delegates to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, authority to issue calls for series '04 reports.

* * * * *

PART 20—LARGE TRADER REPORTING FOR PHYSICAL COMMODITY SWAPS

- 14. The authority citation for part 20 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6c, 6f, 6g, 6t, 12a, 19.

- 15. In § 20.5, revise paragraphs (a)(4) and (b) to read as follows:

§ 20.5 Series S filings.

(a) * * *

(4) Change updates. If any change causes the information filed by a clearing member or swap dealer on a Form 102 for a consolidated account to

no longer be accurate, then such clearing member or swap dealer shall file an updated Form 102 with the Commission no later than 9 a.m. on the business day after such change occurs, or on such other date as directed by special call of the Commission, *provided that*, a clearing member or swap dealer may stop providing change updates for a Form 102 that it has submitted to the Commission for any consolidated account upon notifying the Commission or its designee that the account in question is no longer reportable as a consolidated account and has not been reportable as a consolidated account for the past six months. Unless otherwise specified by the Commission or its designee, the stated time is Eastern Time for information concerning markets located in that time zone, and Central Time for information concerning all other markets.

* * * * *

(b) *40S filing.* Every person subject to books or records requirement under § 20.6 shall after a special call upon such person by the Commission file with the Commission a 40S filing at such time and place as directed in the call. A 40S filing shall consist of the submission of a Form 40, which shall be completed by such person as if any references to futures or option contracts were references to paired swaps or swaptions as defined in § 20.1.

■ 16. Revise § 20.8 to read as follows:

§ 20.8 Delegation of authority.

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority in § 20.6(d) for issuing a special call.

(b) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority in § 20.10 for determining the described compliance schedules.

(c) The Commission hereby delegates, until it orders otherwise, to the Director of the Office of Data and Technology, in consultation with the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, the authority:

(1) In § 20.5(a)(3) for issuing a special call for a 102S filing; and

(2) In § 20.5(b) for issuing a special call for a 40S filing.

(d) The Commission hereby delegates, until it orders otherwise, to the Director

of the Office of Data and Technology, with the concurrence of the Director of the Division of Market Oversight, or such other employee or employees as the Directors each may designate from time to time, the authority, in § 20.7, for providing instructions or determining the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(e) The Directors of the Division of Enforcement, Division of Market Oversight, and the Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(f) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

PART 21—SPECIAL CALLS

■ 17. The authority citation for part 21 is revised to read as follows:

Authority: 7 U.S.C. 1a, 2, 2a, 4, 6a, 6c, 6f, 6g, 6i, 6k, 6m, 6n, 7, 7a, 12a, 19 and 21.

■ 18. Revise § 21.05 to read as follows:

§ 21.05 Delegation of authority.

The Commission hereby delegates, until the Commission orders otherwise, the special call authority set forth in §§ 21.01 and 21.02 to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time. The Director of the Division of Enforcement may submit to the Commission for its consideration any matter which has been delegated in this paragraph. Nothing in this section shall be deemed to prohibit the Commission, at its election, from exercising the authority delegated in this section.

PART 48—REGISTRATION OF FOREIGN BOARDS OF TRADE

■ 19. The authority citation for part 48 continues to read as follows:

Authority: 7 U.S.C. 5, 6 and 12a, unless otherwise noted.

■ 20. Add § 48.11 to read as follows:

§ 48.11 Delegation of authority.

(a) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight, or such other employee or employees as the Director may designate from time to time, the authority:

(1) In § 48.7, to request additional information and documentation in connection with an application for registration;

(2) In § 48.9(a)(1), to notify a registered foreign board of trade that it or the clearing organization has failed to satisfy any registration requirements or conditions for registration;

(3) In § 48.9(c), to request that a registered foreign board of trade file with the Commission a written demonstration, containing such supporting data, information, and documents, in such form and manner and within such timeframe as the Commission may specify, that the foreign board of trade or clearing organization is in compliance with the registration requirements and/or conditions for registration; and

(4) In § 48.10, to notify a foreign board of trade whether additional time is needed for staff to complete its review of policy or other issues pertinent to the additional contracts, or that the contract can be made available for trading by direct access.

(b) The Director of the Division of Market Oversight may submit to the Commission for its consideration any matter which has been delegated in this section.

(c) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

■ 21. The authority citation for part 140 continues to read as follows:

Authority: 7 U.S.C. 2(a)(12), 12a, 13(c), 13(d), 13(e), and 16(b).

■ 22. In § 140.72, revise paragraph (a) to read as follows:

§ 140.72 Delegation of authority to disclose confidential information to a registered entity, swap execution facility, swap data repository, registered futures association or self-regulatory organization.

(a) Pursuant to the authority granted under sections 2(a)(11), 8a(5) and 8a(6) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the Executive Director, the Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Accountant, the General Counsel, the Director of the Division of Market Oversight, the Director of the Division of Enforcement, the Chief Economist of the Office of the Chief Economist, the Director of the Office of International Affairs, or such other employee or employees as the General Counsel, Directors, Chief Accountant or Chief Economist each may designate from

time to time, the authority to disclose to an official of any registered entity, swap execution facility, swap data repository, registered futures association, or self-regulatory organization as defined in section 3(a)(26) of the Securities Exchange Act of 1934, any information necessary or appropriate to effectuate the purposes of the Act, including, but not limited to, the full facts concerning any transaction or market operation, including the names of the parties thereto. This authority to disclose shall be based on a determination that the transaction or market operation disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, consumers, or investors or that disclosure is necessary or appropriate to effectuate the purposes of the Act.

* * * * *

■ 23. In § 140.73, revise paragraph (a) introductory text to read as follows:

§ 140.73 Delegation of authority to disclose information to United States, States, and foreign government agencies and foreign futures authorities.

(a) Pursuant to sections 2(a)(11), 8a(5) and 8(e) of the Act, the Commission hereby delegates, until such time as the Commission orders otherwise, to the General Counsel, the Director of the Division of Enforcement, the Director of the Division of Market Oversight, the Director of the Division of Swap Dealer and Intermediary Oversight, the Director of the Division of Clearing and Risk, the Chief Economist of the Office of the Chief Economist, the Director of the Office of International Affairs, or such other employee or employees as the General Counsel, Chief Economist or Directors listed in this section each may designate from time to time the authority to furnish information in the possession of the Commission obtained in connection with the administration of the Act, upon written request, to:

* * * * *

■ 24. Revise § 140.74 to read as follows:

§ 140.74 Delegation of authority to issue special calls for Series 03 Reports.

(a) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority to issue special calls for series 03 reports under § 18.00 of this chapter.

(b) The Director of the Division of Enforcement may submit any matter which has been delegated to the Director under this section to the Commission for its consideration.

(c) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Enforcement under paragraph (a) of this section.

■ 25. Revise § 140.97 to read as follows:

§ 140.97 Delegation of authority regarding requests for classification of positions as bona fide hedging.

(a) The Commodity Futures Trading Commission hereby delegates, until such time as the Commission orders otherwise, to the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, all functions reserved to the Commission in §§ 1.47 and 1.48 of this chapter.

(b) The Director of the Division of Enforcement may submit any matter which has been delegated to the Director under paragraph (a) of this section to the Commission for its consideration.

(c) Nothing in this section may prohibit the Commission, at its election, from exercising the authority delegated to the Director of the Division of Enforcement under paragraph (a) of this section.

PART 150—LIMITS ON POSITIONS

■ 26. The authority citation for part 150 is revised to read as follows:

Authority: 7 U.S.C. 6a, 6c, and 12a(5).

■ 27. In § 150.3, revise paragraph (b) to read as follows:

§ 150.3 Exemptions.

* * * * *

(b) *Call for information.* Upon call by the Commission or the Director of the Division of Enforcement, or such other employee or employees as the Director may designate from time to time, any person claiming an exemption from speculative position limits under this section must provide to the Commission or the Division of Enforcement such information as specified in the call relating to the positions owned or controlled by that person; trading done pursuant to the claimed exemption; the futures, options or cash market positions which support the claim of exemption; and the relevant business relationships supporting a claim of exemption.

■ 28. In § 150.4, revise paragraph (e) to read as follows:

§ 150.4 Aggregation of positions.

* * * * *

(e) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the

Division of Enforcement, or such other employee or employees as the Director may designate from time to time, the authority:

(i) In paragraph (b)(8)(iv) of this section to call for additional information from a person claiming the exemption in paragraph (b)(8) of this section.

(ii) In paragraph (c)(3) of this section to call for additional information from a person claiming an aggregation exemption under this section.

(2) The Commission hereby delegates, until it orders otherwise, to the Director of the Office of Data and Technology, with the concurrence of the Director of the Division of Enforcement, or such other employee or employees as the Directors each may designate from time to time, the authority in paragraph (d) of this section to provide instructions or determine the format, coding structure, and electronic data transmission procedures for submitting data records and any other information required under this part.

(3) The Directors of the Division of Enforcement and the Office of Data and Technology may submit to the Commission for its consideration any matter which has been delegated in this section.

(4) Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

Issued in Washington, DC, on June 20, 2017, by the Commission.

Christopher J. Kirkpatrick,
Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Commission Delegated Authority Provisions and Technical Amendments—Commission Voting Summary

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–13243 Filed 6–23–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2017–0223]

RIN 1625–AA08

Special Local Regulation; Zimovia Strait, Wrangell, AK

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation to enable vessel movement restrictions for certain waters of the Zimovia Strait. This action is necessary to provide for the safety of life on these navigable waters near Wrangell Harbor during power boat races on July 4, 2017. This regulation would prohibit persons and vessels from transiting through, mooring, or anchoring within the specified race area unless authorized by the Captain of the Port Southeast Alaska or a designated representative.

DATES: This rule is effective from 3 p.m. on July 4, 2017 through 7 p.m. on July 4, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0223 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email LT Kristi Sloane, Sector Juneau, Waterways Management Division, Coast Guard; telephone 907-463-2846, email D17-SMB-Sector-Juneau-WWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 § Section
 U.S.C. United States Code
 COTP Captain of the Port

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. The Wrangell Chamber of Commerce will be conducting power boat races from 3 p.m. to 7 p.m. on July 4, 2017 for the Wrangell 4th of July Celebration. The boat races will be taking place approximately 100 yards off of the city dock in Wrangell, AK. The event organizers did not finalize the location

of the power boat races in sufficient time for the Coast Guard to solicit public comments.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable for the reasons described above.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Commander, Seventeenth District has determined that potential risks of collision, allision, and wake damage associated with power boat racing will be a safety concern for any vessels (other than the participants) entering the race course. Boat races typically result in vessel and spectator congestion in the proximity of the race course. Vessel movement restrictions are necessary to ensure spectators remain an adequate distance from the specified race area thereby providing unencumbered access for emergency response craft in the event of a race-related emergency. This rule establishes a specified race area and ensure the safety of this marine event by prohibiting persons and vessel operators from entering, transiting or remaining within the designated race zone during times of enforcement.

IV. Discussion of the Rule

This rule establishes a special local regulation to restrict vessel movement within the race area from 3 p.m. to 7 p.m. on July 4, 2017 to include Wrangell Harbor entrance and an area extending north along the shoreline approximately 600 yards. No vessel or person would be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

E.O.s 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits 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. Executive Order 13771 ("Reducing Regulation and Controlling Regulatory Costs"), directs agencies to reduce regulation and control regulatory costs and provides that "for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process."

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed it.

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. Vessel traffic would be able to safely transit around the proposed race area which would impact a small designated area in Wrangell Harbor for 4 hours. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the race area, and the rule would allow vessels to seek permission to enter the race area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

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

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

listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule

will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of a special local regulation lasting 4 hours that would prohibit entry within 100 yards of the event area. It is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of Commandant Instruction M16475.ID. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C 1233.

■ 2. Add § 100.35T17-0223 to read as follows:

§ 100.35T17-0223 Special Local Regulation; Wrangell 4th of July Celebration Boat Races, Wrangell, AK.

(a) *Regulated area.* The following area is specified as a race area: All waters of Zimovia Straits, Wrangell, AK North of Wrangell Harbor entrance connecting the following points: 56°28.055 N.,

132°23.154 W., and 56°28.077 N., 132°23.074 W., until reaching the northwestern most end of Wrangell City pier at a line connecting the following points: 56°28.299 N., 132°23.454 W., and 56°28.276 N., 132°23.495 W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 100, the regulated area shall be closed immediately prior to, during and immediately after the event to all persons and vessels not participating in the event and authorized by the event sponsor.

(c) *Authorization.* All persons or vessels who desire to enter the designated race area created in this section while it is enforced must obtain permission from the on-scene patrol craft on VHF Ch 9.

(d) *Enforcement period.* This section will be enforced from 3 p.m. to 7 p.m. on July 4, 2017.

Dated: June 15, 2017.

M.F. McAllister,

Commander, RADM, U.S. Coast Guard, Seventeenth Coast Guard District.

[FR Doc. 2017-13208 Filed 6-23-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-0523]

Drawbridge Operation Regulation; Long Creek, Hempstead, 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 Loop Parkway Bridge across Long Creek, mile 0.7, at Hempstead, New York. This action is necessary in order to facilitate an annual fireworks display. The deviation allows the bridge to remain in the closed position for approximately two and one half hours.

DATES: This deviation is effective from 9:30 p.m. on July 8, 2017 to 11:59 p.m. on July 9, 2017.

ADDRESSES: The docket for this deviation, USCG-2017-0523 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 James M. Moore, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212-514-4334, email james.m.moore2@uscg.mil.

SUPPLEMENTARY INFORMATION: The Town of Hempstead Department of Public Safety submitted and the bridge owner, the New York State Department of Transportation, concurred with a temporary deviation request from the normal operating schedule to facilitate a public fireworks event.

The Loop Parkway Bridge, mile 0.7, across Long Creek, has a vertical clearance of 21 feet at mean high water and 23 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.799(f).

This temporary deviation will allow the Loop Parkway Bridge to remain closed from 9:30 p.m. through 11:59 p.m. on July 8, 2017 with a rain date of July 9, 2017. The waterway is used primarily by seasonal recreational vessels and occasional tug/barge traffic. Coordination with waterway users has indicated no objections to this short-term closure of the draw.

Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be able to open for emergencies. Additionally, there are alternate routes for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: June 20, 2017.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2017-13246 Filed 6-23-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0327]

RIN 1625-AA00

Safety Zone; Danvers River, Beverly, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the navigable waters within a 300-yard radius of the swing span portion of the Massachusetts Bay Transportation Authority (MBTA)/AMTRAK Bridge, at mile 0.05 on the Danvers River, between Salem and Beverly, Massachusetts. The safety zone is needed to protect personnel, vessels and the marine environment from potential hazards created during removal and replacement of the swing span portion of the MBTA Railroad Bridge. When enforced, this regulation prohibits entry of vessels or people into the safety zone unless authorized by the Captain of the Port (COTP) Boston or a designated representative.

DATES: This rule is effective without actual notice from June 26, 2017 through November 1, 2017. For the purposes of enforcement, actual notice will be used from June 20, 2017 through June 26, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2017-0327 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mark Cutter, Waterways Management Division, U.S. Coast Guard Sector Boston, telephone 617-223-4000, email Mark.E.Cutter@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MBTA Massachusetts Bay Transportation Authority
NAD 83 North American Datum 83
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On March 23, 2017, Sector Boston was made aware of a bridge rehabilitation project that includes the replacement of the swing span portion of MBTA Railroad Bridge, which spans the Danvers River in Beverly and Salem, Massachusetts. The COTP Boston has determined that the potential hazards associated with the bridge rehabilitation project will be a safety concern for anyone within the work area.

The project is scheduled to begin on June 5, 2017 and be completed by November 1, 2017. During this project, removal and replacement of the swing span will take place. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The safety zone will be enforced during different periods when work barges and gantry cranes will be placed in the navigable channel or when other hazards to navigation arise. The Coast Guard will issue a Broadcast Notice to Mariners via marine channel 16 (VHF-FM) 24 hours in advance to any period of enforcement or as soon as practicable in response to an emergency. If the project is completed prior to November 1, 2017, enforcement of the safety zone will be suspended and notice given via Broadcast Notice to Mariners.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because doing so would be impracticable and contrary to the public interest. The late finalization of project details did not give the Coast Guard enough time to publish an NPRM, take public comments, and issue a final rule before the construction work is set to begin. It would be impracticable and contrary to the public interest to delay promulgating this rule as it is necessary to protect the safety of the public and waterway users.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**.

Delaying the effective date of this rule would be impracticable and contrary to the public interest for the same reasons specified above.

III. Legal Authority and Need for Rule

The legal basis for this temporary rule is 33 U.S.C. 1231. The COTP Boston has determined that potential hazards associated with the bridge rehabilitation project starting on June 5, 2017 and continuing through November 1, 2017 will be a safety concern for anyone within the work zone. This rule is needed to protect personnel, vessels, and the marine environment within the safety zone while the bridge rehabilitation project is completed.

IV. Discussion of the Rule

This rule establishes a safety zone from June 5, 2017 through November 1, 2017. The safety zone will cover all navigable waters from surface to bottom of the Danvers River, MA within a 300-yard radius of the swing span portion of the Massachusetts Bay Transportation Authority (MBTA)/AMTRAK Bridge. The duration of the zone is intended to protect people, vessels, and the marine environment in these navigable waters during the bridge rehabilitation project. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The Coast Guard will notify the public and local mariners of this safety zone through appropriate means, which may include, but are not limited to, publication in the **Federal Register**, the Local Notice to Mariners, and Broadcast Notice to Mariners via marine Channel 16 (VHF-FM) in advance of any scheduled enforcement period. The regulatory text we are enforcing appears at the end of this document.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been

designated a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

The Coast Guard has determined that this rulemaking is not a significant regulatory action for the following reasons: (1) The safety zone only impacts a small designated area of the Danvers River, (2) the zone will only be enforced when work barges and gantry cranes will be placed in the navigable channel during removal and replacement of the swing span or if necessitated by an emergency, (3) persons or vessels desiring to enter the safety zone may do so with permission from the COTP Boston or a designated representative. The Coast Guard will notify the public of the enforcement of this rule via appropriate means, such as via Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for all of the reasons discussed in the REGULATORY PLANNING AND REVIEW Section, this rule will not have a significant economic impact on any vessel owner or operator.

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The

Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D,

which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves enforcing a temporary safety zone during the removal and replacement of the swing span MBTA Railroad Bridge, which spans the Danvers River in Beverly and Salem, Massachusetts. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) for Categorically Excluded Actions will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0327 to read as follows:

§ 165.T01–0327 Safety Zone—Massachusetts Bay Transportation Authority/AMTRAK Bridge—Danvers River, Beverly, MA.

(a) *Location.* The following area is a safety zone. All navigable waters of the Danvers River, MA within a 300-yard radius of the swing span portion of the Massachusetts Bay Transportation Authority (MBTA)/AMTRAK Bridge in position 42°32.355' N, 070°53.28' W (NAD 83).

(b) *Effective and enforcement period.* This section is effective on June 20, 2017, through November 1, 2017, but will only be enforced during removal and replacement of the swing span portion of the MBTA Railroad Bridge or other instances which may cause a hazard to navigation, when deemed necessary by the Captain of the Port (COTP), Boston.

(c) *Regulations.* When this safety zone is enforced, the regulations in paragraphs (c)(1) through (3) of this section, along with those contained in 33 CFR 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP) or the COTP's representatives. However, any vessel that is granted permission by the COTP or the COTP's representatives must proceed through the area with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or the COTP's representatives.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via Channel 16 (VHF-FM) or 617–223–5757 (Sector Boston Command Center).

(d) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232.

(e) *Notification.* Coast Guard Sector Boston will give notice through the Local Notice to Mariners and Broadcast Notice to Mariners for the purpose of enforcement of temporary safety zone. Sector Boston will also notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(f) *COTP representative.* The COTP's representative may be any Coast Guard commissioned, or petty officer or any federal, state, or local law enforcement officer who has been designated by the COTP to act on the COTP's behalf. The COTP's representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, a state or local law

enforcement vessel, or a location on shore.

C.C. Gelzer,
Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2017–13253 Filed 6–23–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0760; FRL–9963–70–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; CFR Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a request submitted by the Indiana Department of Environmental Management (IDEM) on December 13, 2016, to revise the Indiana state implementation plan (SIP). The submission revises and updates the Indiana Administrative Code (IAC) definition of “References to the Code of Federal Regulations,” from the 2013 edition to the 2015 edition.

DATES: This rule is effective on August 25, 2017, unless EPA receives adverse written comments by July 26, 2017. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0760 at <https://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What revision did the state request be incorporated into the SIP?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. What is the background for this action?

On May 25, 2016, IDEM published a “Notice of Public Information” in several newspapers, and on its Web site at <http://www.in.gov/idem/6777.htm>, providing a 30-day public comment period on the proposed revision to its SIP concerning update to the definition of “References to the Code of Federal Regulations.” A public hearing was held on August 10, 2016. IDEM did not receive any comments.

On December 13, 2016, IDEM submitted a request to revise the definition of “References to the Code of Federal Regulations” in SIP rule 326 IAC 1-1-3 to mean the 2015 edition of the Code of Federal Regulations (CFR).

II. What revision did the state request be incorporated into the SIP?

IDEM has requested that EPA approve the Indiana Administrative Code rule revision:

Rule 326 IAC 1-1-3, definition of “References to Code of Federal Regulations”.

IDEM updated the reference to the CFR in 326 IAC 1-1-3 from the 2013 edition to the 2015 edition. This is solely an administrative change that allows Indiana to reference a more current version of the CFR. By amending 326 IAC 1-1-3 to reference the 2015 version of the CFR, the provision in Title 326 of the IAC will be

consistent with the applicable CFR regulations as of July 30, 2015.

III. What action is EPA taking?

EPA is approving as a revision to the Indiana SIP an update of 326 IAC 1-1-3, “References to the Code of Federal Regulations.”

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective August 25, 2017 without further notice unless we receive relevant adverse written comments by July 26, 2017. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective August 25, 2017.

IV. 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 finalizing the incorporation by reference of the Indiana regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

V. 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 Clean Air 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 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 Order 12866 (58 FR 51735, October 4, 1993);
 - 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).
- This rule is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175, nor will it impose substantial direct costs on Tribal governments or preempt tribal law.
- The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action

published in the Proposed Rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 1, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52, is amended as follows:

EPA-APPROVED INDIANA REGULATIONS

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.*

■ 2. In § 52.770 the table in paragraph (c) is amended by revising the entry for 1–1–3 “References to the Code of Federal Regulations” under Article 1, Rule 1 “Provisions Applicable Throughout Title 326” to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
Article 1. General Provisions				
Rule 1. Provisions Applicable Throughout Title 326				
1–1–3 ...	References to the Code of Federal Regulations.	12/7/2016	6/26/2017, [insert Federal Register citation]	
* * * * *				

* * * * *
[FR Doc. 2017–13192 Filed 6–23–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 441

[EPA–HQ–OW–2014–0693; FRL–9957–10–OW]

RIN 2040–AF26

Effluent Limitations Guidelines and Standards for the Dental Category

Correction

In rule document 2017–12338, beginning on page 27154, in the issue of Wednesday, June 14, 2017, make the following correction:

§ 441.20 General definitions [Corrected]

On page 27177, in the second column, in the 18th line of paragraph (iii), “June 14, 2017” should read “June 14, 2027”.

[FR Doc. C1–2017–12338 Filed 6–23–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 100

[167A2100DD/AAKC001030/A0A501010.999900]

RIN 1093–AA20

Waiving Departmental Review of Appraisals and Valuations of Indian Property

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: In 2016, Congress passed the Indian Trust Asset Reform Act (ITARA),

which requires the Secretary of the Interior to establish and publish in the **Federal Register** minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property. This rule establishes the minimum qualifications and implements provisions of ITARA that require the Secretary to accept appraisals and valuations without additional review or approval under certain circumstances.

DATES: This rule is effective on July 26, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Office of Regulatory Affairs and Collaborative Action—Indian Affairs at *elizabeth.appel@bia.gov* or (202) 273–4680.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Summary of Final Rule
- III. Responses to Comments
- IV. Procedural Requirements
 - A. Regulatory Planning and Review (E.O. 12866)

B. Regulatory Flexibility Act
 C. Small Business Regulatory Enforcement Fairness Act
 D. Unfunded Mandates Reform Act
 E. Takings (E.O. 12630)
 F. Federalism (E.O. 13132)
 G. Civil Justice Reform (E.O. 12988)
 H. Consultation With Indian Tribes (E.O. 13175)
 I. Paperwork Reduction Act
 J. National Environmental Policy Act
 K. Effects on the Energy Supply (E.O. 13211)
 L. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

I. Background

On June 22, 2016, the Indian Trust Asset Reform Act, Public Law 114–178, was signed into law. Title III of the Act requires the Department of the Interior (Interior) to establish minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property and allow an appraisal or valuation by a qualified person to be considered final without being reviewed or approved by Interior.

On September 22, 2016, Interior published a proposed rule (81 FR 65319) to implement ITARA and requested public comments for 60 days. This final rule implements ITARA and responds to the comments received on the proposed rule. This rule establishes the minimum qualifications for individuals to prepare appraisals and valuations of Indian trust property and allows an appraisal or valuation by a qualified appraiser to be considered final without being reviewed or approved by Interior.

The Act also requires appraisals and valuations of Indian trust property to be administered by a single administrative entity within Interior. This rule is finalized under the Office of the Secretary within the Department of the Interior to allow for flexibility if another entity or agency within Interior is designated the single entity to administer appraisals and valuations of Indian trust property.

II. Summary of Final Rule

This rule establishes a new Code of Federal Regulations (CFR) part to establish the minimum qualifications for appraisers, employed by or under contract with an Indian tribe or individual Indian, to become qualified appraisers who may prepare an appraisal or valuation of Indian property that will, in certain circumstances, be accepted by the Department without further review or approval. The final rule clarifies that, because the Department is not reviewing and approving the appraisal or valuation, it is not liable for any

deficiency or inaccuracy in the appraisal or valuation.

Subpart A, General Provisions, describes the purpose of the regulation, and provides the standard Paperwork Reduction Act compliance statement. The terms are defined to include, in the context of this regulation, any property that the U.S. Government holds in trust or restricted status for an Indian tribe or individual Indian, to include not just land, but also natural resources or other assets. Other important terms include “appraisal,” “valuation,” and “qualified appraiser.” Consistent with the statutory direction, the purpose of the regulations is written broadly, to include appraisals or valuations of any Indian trust property, including:

- Appraisals and valuations of real property;
- Appraisals and valuations of timber, minerals, or other property to the extent they contribute to the value of the whole property (for use in appraisals and valuations of real property); and
- Appraisals and valuations of timber, minerals, or other property separate from appraisals and valuations of real property.

Subpart B, Appraiser Qualifications, establishes the minimum qualifications an appraiser must meet to be considered a “qualified appraiser” and establishes that the Secretary must verify that the appraiser meets those minimum qualifications.

This subpart requires that the verification information be submitted contemporaneously with the appraisal or valuation so that the Secretary can verify that the appraiser is a qualified appraiser at that point in time.

Subpart C, Appraisals and Valuations, notes that some transactions requiring Secretarial approval under titles 25 and 43 of the Code of Federal Regulations (*e.g.*, 25 CFR part 162, Leases and Permits; 25 CFR part 169, Rights-of-Way on Indian Land) require the submission of appraisals and valuations to the Department. This subpart also sets out the circumstances in which the Department will forego review and approval of the appraisal or valuation. The rule requires submission of the appraisal or valuation to the Department regardless of whether the Department will be reviewing and approving the appraisal or valuation. This requirement is included because the Department must use the results of the appraisal or valuation in completing the transaction requiring Secretarial approval.

The rule requires the Department to forego review and approval of the appraisal or valuation and consider the

appraisal or valuation final if three conditions are met: (1) The appraisal or valuation was completed by a qualified appraiser; (2) the Indian tribe or individual Indian expressed their intent to waive Departmental review and approval; and (3) no owner of any interest in the Indian property objects to the use of the appraisal or valuation without Departmental review and approval. The first condition is clearly required by ITARA. The second condition is implied by ITARA. The number of individual Indian owners of fractionated tracts that must express their intent to waive Departmental review and approval, under the second condition, would depend upon the underlying title 43 or title 25 requirements. For example, if the underlying transaction is a right-of-way, then the owners of a majority of the interests in the tract must express their intent to waive Departmental review and approval, consistent with the general consent requirements in 25 CFR part 169. The third condition, that no Indian property owner objects, is necessary to address situations where one or more owners of the tract still want Departmental review and approval of the appraisal or valuation, consistent with our trust responsibility to all owners of the Indian trust property.

This subpart exempts certain transactions, thereby requiring Departmental review of the appraisal or valuation. The exempted transactions include transactions under any legislation expressly requiring the Department to review and approve an appraisal or valuation, such as the Land Buy Back Program under the Claims Resolution Act of 2010 (Pub. L. 111–291), and purchase at probate under 43 CFR part 30, because the judge will not be in a position to verify an appraiser’s qualifications. The Department will also review any appraisal for an acquisition by the United States.

III. Responses to Comments

A. General Support for the Rule

Several tribes stated their support of the ITARA provision to eliminate the current requirement for Office of Appraisal Services review to reduce delays. One tribe noted the importance of the Department accepting and approving, without further review or delay, any appraisal or valuation that complies with the appraiser’s qualification standards and is satisfactory to the Indian property owner. Another tribe stated its support for the minimum qualifications for appraisal services.

Response: This rule allows the Department to carry out Congress's specific direction in ITARA that the Department should not review or approve appraisals submitted by qualified appraisers.

B. Minimum Qualifications for Appraisers

One tribe stated that the qualifications for individuals to prepare appraisals and valuations of Indian property should be the same that apply to professional appraisers in the private sector.

Response: The Department agrees with this comment and has strived to match the requirements for qualified appraisers to those requirements currently in place for its own appraisers and contracted appraisers.

One tribe stated the procedures should require: (1) Departmental approval of appraisers who satisfy minimum qualifications; (2) Departmental review within a specified period with a default of automatic approval; (3) minimum requirements for qualifications of review appraisers.

Response: This rule establishes minimum qualifications for appraisers conducting appraisals that do not need Departmental review. The Department will review the appraiser's qualifications to determine whether the appraiser meets the minimum qualifications when the appraisal is submitted. The tribe's request for a Departmental review of the appraiser's qualifications within a specified period, with a default of automatic approval, is not necessary because the process of ensuring an appraiser meets the minimal qualifications is intended to be less burdensome and faster than a review of the appraisal.

One commenter stated that the rule's minimum qualifications for appraisers should be more stringent and the rule should require appraisals to be performed by a multidisciplinary group of experts who: (1) Meet all the criteria in the rule; (2) have completed a mandatory valuation ethics training course; and (3) have collaborated with Native American groups to better understand the cultural value of the lands in question. This commenter stated that the appraisal must account for cultural values of those with sacred ties to the ecosystems and lands. The commenter reasoned that the process of assigning value to an area is subjective, and using the knowledge and methodologies of a diverse group of experts and stakeholders would prevent a single individual from the power to assign a monetary value to sacred land.

Response: The final rule does not incorporate the commenter's suggestions because an appraisal or valuation is, by definition, the opinion as to a property's value of a single person qualified to give such an opinion, rather than, as suggested by the commenter, the opinion of a multi-disciplinary team. The final rule's requirements for State licensure, good standing, and compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) address the commenter's other concerns.

The Appraisal Institute stated that requiring generally accepted standards in the appraiser qualification criteria would enhance credibility and reliability of the appraisals being performed.

Response: Section 100.200 of the rule requires qualified appraisers to meet USPAP rules and provisions applicable to appraisers, which are generally accepted standards; therefore, no change to the final rule is necessary in response to this comment.

1. State Licensing as a Qualification

Several tribes strongly objected to relying on State licensing for appraisers and a determination of good standing by State regulatory agencies, and asserted that the rule should instead rely on tribal licensing and require compliance with tribal laws and regulations.

Response: Under the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 3331 *et seq.*, each U.S. State or territory has a real estate appraiser regulatory agency that is responsible for licensing and certifying real estate appraisers and supervising their appraisal-related activities, as required by Federal law. The Appraisal Subcommittee of the Federal Financial Institutions Examination Council has oversight authority over the States and The Appraisal Foundation to ensure the minimum qualifying criteria to license and certify real estate appraisers are implemented and that appraisers are held to a professional set of ethical standards. The final rule does not require compliance with tribal appraiser certification in lieu of State certification because, currently, State certification programs are the industry standard under FIRREA. In fact, the Department is unaware of a currently operating tribal appraiser certification program and requires State certification of its own appraisers and contractor appraisers. Tribes are welcome to adopt their own standards for appraisers; however, for the Department to accept the appraisal or valuation without further review, it would have to review

the tribe's standards contemporaneously with the appraisal. In other words, only the State license and standards allow the Department to accept an appraisal without further review at this time.

The DOI Self-Governance Advisory Committee and several tribes stated that tribes should be permitted to adopt their own standards consistent with USPAP and Federal law to meet the unique needs tribal Nations have in assuming appraisal responsibilities.

Response: This rule provides that it will accept an appraisal or valuation without Departmental review only if the appraiser is a "qualified appraiser," meaning, among other things, that the appraiser has a Certified General Appraiser license in the State in which the property is located, and complies with USPAP provisions applicable to appraisers. Tribes are welcome to adopt their own standards for appraisers; however, for the Department to accept the appraisal or valuation without further review, it would have to review the tribe's standards contemporaneously with the appraiser qualifications that are being submitted with the appraisal under this part.

A tribal member suggested that tribes should have their own appraisal process so they don't have to pay \$2,500 for an appraisal that reveals a property value of much less.

Response: This rule will allow for the use of qualified appraisers at whatever cost they are available. To the extent the commenter is addressing the regulation's requirement to use appraisers qualified to conduct commercial appraisals even where the property may only require qualifications to conduct a residential appraisal, it is important to keep in mind that this rule does not require such appraiser qualifications in all instances. Rather, this rule requires those heightened appraiser qualifications only if the appraisal is being submitted for Departmental acceptance without further Departmental review.

2. General Appraiser Certification as a Qualification

One tribe stated that not all appraisers have the General Appraiser certification (*e.g.*, residential appraisers), and that it is an additional burden to require it because it is hard to find appraisers on reservations and will be even harder to find appraisers with the General Appraiser certification. This tribe stated that, instead, the type of land being appraised should drive the qualifications for the appraiser. Likewise, another tribe stated that the use of a "Certified General Appraiser" in certain geographic areas, for example

in the State of Oklahoma, would be futile and suggests instead requiring use of a “licensed appraiser.” Alternatively, the tribe suggests adding that the requirement for a Certified General Appraiser be waived if the tribe has made diligent efforts but has been unable to procure the services of a Certified General Appraiser.

Response: The General Appraiser license is required for a “qualified appraiser” because these are appraisers that can submit any appraisal without further Departmental review or approval. If an appraiser has a license specific to residential appraisals, the appraiser may conduct its residential appraisals under the license, but the Department must review the appraisal to ensure that the appraisal is within the scope of the appraiser’s license.

3. Qualification for Specialty Appraisals

A tribe stated that the appraiser should have expertise in valuation of resources involved in the appraisal. Likewise, the Indian Land Tenure Foundation noted that the appraiser performing specialty appraisals (timber and minerals) must have demonstrated the specialized skills.

Response: Section 100.200(a)(3) requires compliance with USPAP competency requirements applicable to the type of property being appraised or valued, including competency in timber and mineral valuations if applicable to the subject property.

A tribal commenter stated that the rule should require appraisers to have an understanding of general Federal Indian law and special obligations under tribe-specific relationships.

Response: The rule does not impose the requirement for appraisers to have expertise in Federal Indian law or tribal relationships because this expertise is not necessary to conduct an accurate appraisal and, if required, would likely narrow the universe of qualified appraisers to an untenable supply level.

4. Other Certifications

A tribal member suggested requiring appraisers to be certified under the Certified Federal Surveyor Program from the Bureau of Land Management.

Response: The final rule does not incorporate this suggestion because the Certified Federal Surveyor program applies to surveyors, rather than appraisers.

5. Professional Designation of Appraisers

The Appraisal Institute urged the Department to include in the minimum qualifications for appraisers recognition of professional designations from

nationally recognized appraisal organizations that confer competency-based designations. The commenter suggested that a professional designation is necessary to ensure appraisers have experience with appraisal review because the Department will not be reviewing the appraiser’s appraisals. The Appraisal Institute stated that eliminating Departmental review of the appraisal dramatically increases risks and likened the practice to performing accounting functions without any audit processes.

Response: The final rule does not impose the additional requirement requested by the commenter for professional designation from a nationally recognized appraisal organization because the rule already requires qualified appraisers to have experience with appraisal review, as demonstrated by a State-issued appraisal license, good standing with the State appraiser regulatory agency, and compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) rules, including competency provisions. See 43 CFR 100.200. The additional requirement is unnecessary and the Department does not require this designation for its own contractors conducting appraisals.

6. Database of Qualified Appraisers

A tribe suggested having appraisers register online for searchability by those who would like to hire them to do appraisals and valuations.

Response: The Appraisal Subcommittee has an online, searchable database of appraisers, and most State appraisal boards have searchable databases of appraisers licensed by that State.

7. Review of an Appraiser’s Minimum Qualifications

One tribe stated that periodic review of qualifications should be required as standards and experience with individual appraisers change over time.

Response: The rule requires the appraiser to submit qualifications with each appraisal to allow for Department’s review of the appraiser’s qualifications.

B. Appraisals

A tribal member stated that there is a fundamental misunderstanding as to what an appraisal is: Specifically, that an appraisal is not equivalent to value; rather, it is an expert opinion to inform the owners (the beneficiary) and trustee as to what somebody’s opinion of fair market value is.

Response: The Department agrees with this comment.

1. Differentiating Appraisals From Valuations

A tribal member asked whether an appraisal and a valuation are different, and whether either evaluates tribal rights such as water rights or gathering rights for medicine.

Response: The final rule defines “appraisal” and “valuation” slightly differently; however, whether either evaluates tribal water rights or other rights will be determined by the statute and regulations authorizing the transaction rather than this regulation.

Another tribal member stated that allotted land makes up most of the workload for appraisals, but under ILCA, only an “estimate of value” rather than an appraisal, is needed for a gift, sale, or exchange. He suggested instead defining what an “estimate of value” is.

Response: This rule is establishing minimum qualifications for appraisers who may complete appraisals that the Department will rely upon without further review. The rule’s definition of “valuation” could include the “estimate of value” mentioned by the commenter. If that “estimate of value” is prepared by an appraiser who meets the minimum qualifications of this rule, then the Department would accept the estimate of value without further review.

2. Appraisal Standards

Several tribes recommended that any appraisal or valuation of Indian property be in accordance with authority in title 25 of the CFR, appraisal standards in the current edition of USPAP, and use of appraisal industry-recognized valuation methods and techniques.

Response: This rule does not establish appraisal standards. The standards for appraisals or valuations of Indian property are already set out in memoranda of understanding that govern tribes with a self-governance compact or contract.

Several tribes suggested requiring adherence to the Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA) if the transaction is to the United States.

Response: The final rule, at § 301(b)(2), clarifies that transactions transferring Indian property to the United States where the UASFLA applies are exempt from this rule.

The Appraisal Institute stated that the proposed regulations should include a requirement that the appraisal or valuation reflect market value (as opposed to another value, such as “use value”) because market value is most appropriate to determine “just

compensation” for a public use and otherwise because the standards have long been held as fair, reasonable, and just by Federal and local governments as the basis for Federal land acquisitions, land leases, rights-of-way, and other dispositions or uses.

Response: This rule does not establish appraisal standards. The statute and regulations governing the particular transaction would dictate the standard for value to be used in the appraisal. To make the purpose of this new CFR part more transparent, the final rule updates the title of the CFR part from “Appraisals and Valuations of Indian Property” to “Waiving Departmental Review of Appraisals and Valuations of Indian Property.” Likewise, the final rule updates the subtitle C heading to “Appraisals and Valuations; Departmental Review and Waivers.”

One commenter stated that there is no rule that could guarantee a credible appraisal because the client may dictate conditions and instructions to an appraiser that affects the result, so the appraisal review serves as a check and ensures the client’s instructions adequately support approval for the conveyance.

Response: The Department agrees with this comment. In ITARA, Congress allowed for reliance on an appraisal without Departmental review of the appraisal.

One tribe stated requirements for formal appraisals for transactions for negotiated sales involving informed consent of owners should be clarified.

Response: This suggestion is outside the scope of the authority Congress granted for rulemaking in ITARA. This rule does not specifically address requirements for appraisals regarding negotiated sales; this rule establishes the minimum qualifications for an appraiser in those situations where the appraisal of Indian property will not be subject to Departmental review.

C. Process for Requesting Waiver of Departmental Review of Appraisal

The Indian Land Tenure Foundation stated that a waiver of Departmental review should come after the appraisal is complete and not in the submission of the appraisal request.

Response: The Department agrees; § 100.203 requires submission of the request for waiver of Departmental review to accompany the appraisal.

The Foundation also stated that the practice of requiring the appraiser to attach a certificate of qualifications to each appraisal is not a burden and should be required.

Response: The Department agrees; the person or entity submitting the

appraisal has the option to waive Departmental review or not. If the submitter chooses to seek a waiver of Departmental review, then a certificate of the appraiser’s qualifications must be included.

D. Applicability of the Rule

The American Gas Association, Interstate Gas Association of American, and the Utilities Group stated that ITARA was limited to those transactions where statutes expressly require an appraisal or valuation (such as the Indian Land Consolidation Act) and should not apply to all potential transactions under titles 25 and 43 (*e.g.*, rights-of-way and renewals). These commenters pointed out that Section 305 of ITARA [25 U.S.C. 5635(c)(2)] applies only to those Indian land transactions “for which an appraisal or valuation is required,” while proposed § 100.300 would require an appraisal or valuation for all transactions requiring Secretarial analysis and approval under titles 25 and 43 of the CFR. The gas associations suggested addressing this by revising §§ 100.300 and 100.301 to state that appraisals and valuations must be submitted for transactions “requiring appraisals as part of their authorization statute” and where “an appraisal or valuation of the property is expressly required by the statute authorization the transaction.” These commenters stated that the automatic approval does not serve either tribes’ or applicants’ interest in transactions under statutes other than those specifically requiring an appraisal, for example, where Congress already addressed the standard and process for valuation by requiring Secretarial approval of just compensation.

Response: ITARA does not discuss when an appraisal or valuation is required and this rulemaking does not affect whether a particular transaction requires an appraisal or valuation. The final rule does, however, refine § 100.300 to clarify that appraisals and valuations are not required for all transactions requiring Secretarial approval under titles 25 and 43 of the CFR.

Several utilities and utility associations expressed concerns about the effect of the rule on projects and rights-of-way that serve the public’s energy needs. Some stated that the rule should not apply to rights-of-way transactions because those transactions have their own statutory scheme. Some also stated that the rule conflicts with existing statutes governing rights-of-way across Indian land, and specifically the statutory requirement for “the payment of such compensation as the Secretary

of the Interior shall determine to be just,” because the rule would allow an appraisal to be deemed final without the Secretary assuring just compensation. *See* 25 U.S.C. 325.

Response: As discussed above, the statute and regulations governing the particular transaction determine whether an appraisal or valuation is required for that transaction. The Secretary may use an appraisal or a valuation as a tool for determining whether there is “just compensation” under the cited statute. For rights-of-way, the regulations at 25 CFR part 169 establish how the Secretary determines whether there is “just compensation” and provides for use of an appraisal or valuation as a tool for that determination under certain circumstances. This rule merely allows for the use of an appraisal or valuation without Departmental review of the appraisal or valuation under ITARA (as opposed to Departmental review of whether there is “just compensation”).

Several of these utility group commenters stated that, if the rule does apply to rights-of-way transactions, then the rule should require a fair market value as just compensation for rights-of-way and renewals to public entities and utilities that benefit the public interest. Commenters stated that allowing above-market valuations would allow tribes, without monitoring by the Secretary, to attempt to take advantage of the public interest by exploiting the public entities’ and utilities’ presence on Federal trust land. One commenter likewise stated its concern that the rule will permit tribes to demand in excess of fair market value for renewals of rights-of-way for public entities and public utilities that benefit the public interest. The commenter stated that it made investments in infrastructure in reliance on use of fair market value as the standard for the rights-of-way and renewals under the right-of-way statutory framework requiring just compensation to be fair market value.

Response: These comments are beyond the scope of this rulemaking because this rulemaking addresses only appraiser qualifications for appraisals to be submitted and used without Departmental approval. This rulemaking does not address the standard for the underlying transaction. The statute and regulations governing the particular transaction determine whether fair market value or another standard is required.

E. Other Comments

One tribe opposed the provision in the preamble and discussed at tribal consultation sessions that would have

stated that the Department is not liable for approving transactions based on appraisals submitted by a qualified appraisal. The tribe's opposition is to the apparent diminishment of the Federal trust responsibility. This tribe suggested Federal tort claims coverage or some other protection is appropriate to meet the trust responsibility, even where the tribe operates the program under self-governance. Another tribe stated there should be a presumption of Department liability for inaccurate appraisals unless the Department disapproved the appraisal.

Response: The final rule, at section 304, adds regulatory text to explicitly state the Department's position that it cannot be liable for any deficiency or inaccuracy in the appraisal or valuation in those cases in which the tribe or individual Indian waives Departmental review and approval of the appraisal or valuation. A disclaimer of liability was discussed in the preamble to the proposed rule to inform individuals and entities who elect to forego Departmental review (as authorized by ITARA and this rule) that they are assuming any risks associated with their reliance upon the appraisal or valuation. It would be unreasonable to impose liability on the Department for appraisals the Department did not prepare and was specifically prohibited from reviewing at the direction of the individual or entity submitting it. The trust responsibility does not require that the Government act contrary to law, *i.e.*, to review an appraisal or valuation we are specifically prohibited from reviewing. When an individual or entity chooses to waive Departmental review of the submission, that individual should not expect to be able to obtain relief from the Department for any negative consequences stemming from their use of that appraisal or valuation.

A tribal member suggested having an online training program for appraisers.

Response: This comment is outside the scope of this rulemaking, but the Department suggests checking with the State for any appraiser training programs.

A utilities group and gas associations stated their belief that the rule is a major rule under 5 U.S.C. 804(2) and a significant regulatory action under E.O. 12866. These commenters stated that a cost-benefit analysis is required because the rule: (1) Will result in a major increase in the costs of rights-of-way for state and local governments and public utilities, which will adversely affect industry and millions of consumers and taxpayers nationwide; and (2) will have an aggregate effect of over \$100 million on the economy because of staggering

renewal rates and the thousands of miles of rights-of-way across the nation. One gas company commenter also noted the escalating costs of rights-of-way through Indian lands and that the rule exacerbates the issue by failing to make clear that fair market value is the appropriate standard for appraising and valuing rights-of-way for public entities and utilities.

Response: This rule is not a major rule under 5 U.S.C. 804(2) or a significant regulatory action under E.O. 12866 because the rule addresses only whether the Department will review the appraiser's qualifications or will review each individual appraisal. The contents or use of any particular appraisal or group of appraisals for a particular type of transaction is speculative and beyond the scope of this regulation.

One commenter stated that if the proposed rule violates a treaty, then it should not go into effect.

Response: The Department is unaware of the rule violating any treaty.

A few commenters noted there has been, and will be, an increase in the demand for appraisals due to the Land Buy-Back Program and the purchase at probate provision.

Response: While these commenters may be correct regarding the demand for appraisals, this rule exempts appraisals conducted under the Land Buy-Back Program and the purchase at probate provisions of the American Indian Probate Reform Act of 2004.

One tribe stated that development and use of mass appraisal systems and use of qualified third-party appraisers should be encouraged because there is a delay in Departmental review and approval of appraisals that has resulted in lost opportunities and repetitive appraisals because their longevity is limited.

Response: The portion of the comment regarding mass appraisal systems is outside the scope of this rulemaking. This rule allows the use of qualified third-party appraisers.

A tribal attorney stated that the rule should add a requirement to allow beneficiaries to view the work papers in appraisal reports.

Response: This suggestion is outside the scope of the authority Congress granted for rulemaking in ITARA. Further, the Department was unable to identify legal authority to require the release of information under the control of the appraiser-client relationship.

A tribal attorney stated that the rule should include language that appraisals will not expire.

Response: This suggestion is outside the scope of the authority Congress granted for rulemaking in ITARA.

A tribal member suggested a central Web site for value of the land.

Response: This suggestion is outside the scope of the authority Congress granted for rulemaking in ITARA and may pose Privacy Act issues.

IV. Procedural Requirements

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

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

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

B. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not change current funding requirements and any economic effects on small entities (*e.g.*, the cost to obtain an appraiser license) would be incurred as part of their normal cost of doing business.

C. Small Business Regulatory Enforcement Fairness Act

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

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

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

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or

the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

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

F. Federalism (E.O. 13132)

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

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

This rule complies with the requirements of E.O. 12988. Specifically, this rule: (a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in E.O. 13175 and have identified substantial direct effects on federally recognized Indian tribes that will result from this rulemaking. Tribes may be substantially and directly affected by this rulemaking because it allows for the submission of appraisals for transactions involving Indian property without Departmental review and approval. As such, the Department consulted with tribes on this rule as part of the consultation sessions addressing

ITARA and hosted listening sessions with Indian tribes and trust beneficiaries at:

- August 17, 2016—Listening session at the Indian Land Workgroup Group Symposium, Green Bay, Wisconsin
- August 22, 2016—Tribal consultation in Albuquerque, New Mexico
- August 26, 2016—Tribal consultation in Minneapolis, Minnesota
- August 29, 2016—Tribal consultation in Seattle, Washington
- August 31, 2016—Tribal consultation in Billings, Montana
- September 7, 2016—Tribal consultation in Tulsa, Oklahoma
- September 9, 2016—Tribal consultation in Sioux Falls, South Dakota
- September 12, 2016—Tribal consultation in Palm Springs, California
- September 19, 2016—Tribal consultation by teleconference
- September 29, 2016—Tribal consultation in Window Rock, Arizona
- October 4, 2016—Tribal consultation in Rapid City, South Dakota

These dates and locations were announced in the **Federal Register**. See 81 FR 47176 (July 20, 2016), as corrected by 81 FR 51210 (August 3, 2016). The "Responses to Comments" section above summarizes comments received on the rule and how this final rule addresses those comments.

I. Paperwork Reduction Act

This rule contains an information collection that requires approval by OMB. The Department is seeking approval of a new information collection and a revision to an existing regulation, as follows.

OMB Control Number: 1076–0188.

Title: Appraisals & Valuations of Indian Property, 43 CFR 100.

Brief Description of Collection: The Department is proposing to establish minimum qualifications for appraisers of Indian property that require the submission of the appraiser's qualifications to the Department for verification. Submission of the appraisal or valuation itself is already authorized by other OMB Control Numbers under the associated 43 CFR or 25 CFR part (for example, the submission of appraisals for leasing of Indian land is included in the lease information collection authorized by OMB Control Number 1076–0181).

Type of Review: New collection.

Respondents: Individuals and Private Sector.

Obligation to Respond: To Obtain or Retain a Benefit.

Number of Respondents: 155.
Number of Responses: 465
Frequency of Response: 3 per year, on average.

Estimated Time per Response: One hour.

Estimated Total Annual Hour Burden: 465 hours.

Estimated Total Annual Non-Hour Cost Burden: \$0.

A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number.

J. National Environmental Policy Act

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

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

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

L. E.O. 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not an E.O. 13771 regulatory action because it imposes no more than *de minimis* costs.

List of Subjects in 43 CFR Part 100

Indians, Indians—claims, Indians—lands, Mineral resources.

For the reasons given in the preamble, the Department of the Interior amends 43 CFR subtitle A, by adding part 100 to read as follows:

Title 43—Public Lands; Interior

Subtitle A—Office of the Secretary of the Interior

Department of the Interior

PART 100—WAIVING DEPARTMENTAL REVIEW OF APPRAISALS AND VALUATIONS OF INDIAN PROPERTY

Subpart A—General Provisions

Sec.

100.100 What terms should I know for this part?

100.101 What is the purpose of this part?

100.102 Does this part apply to me?

100.103 How does the Paperwork Reduction Act affect this part?

Subpart B—Appraiser Qualifications

100.200 What are the minimum qualifications for qualified appraisers?

100.201 Does a qualified appraiser have authority to conduct appraisals or valuations of any type of Indian property?

100.202 Will the Secretary verify the appraiser's qualifications?

100.203 What must the Tribe or individual Indian submit to the Secretary for verification of the appraiser's qualifications?

100.204 When must the Tribe or individual Indian submit a package for Secretarial verification of appraiser qualifications?

Subpart C—Appraisals and Valuations; Departmental Review and Waivers

100.300 Must I submit an appraisal or valuation to the Department?

100.301 Will the Department review and approve my appraisal or valuation?

100.302 May I request Departmental review of an appraisal even if a qualified appraiser completed the appraisal or valuation?

100.303 What happens if the Indian Tribe or individual Indian does not agree with the submitted appraisal or valuation?

100.304 Is the Department liable if it approves a transaction for Indian property based on an appraisal or valuation prepared by a qualified appraiser?

Authority: 5 U.S.C. 301; Pub. L. 114–178.

Subpart A—General Provisions

§ 100.100 What terms I should know for this part?

Appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Appraiser means one who is expected to perform an appraisal or valuation competently and in a manner that is independent, impartial, and objective.

Indian means:

(1) Any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner as of October 27, 2004, of a trust or restricted interest in land;

(2) Any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; or

(3) With respect to the inheritance and ownership of trust or restricted land in the State of California under 25 U.S.C. 2206, any person described in paragraph (1) or (2) of this definition or any person who owns a trust or

restricted interest in a parcel of such land in that State.

Indian property means trust property or restricted property.

Indian tribe means an Indian tribe under section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

Land Buy-Back Program for Tribal Nations means the program implementing the land consolidation provisions of the settlement agreement in *Cobell v. Salazar*, No. 1:96CV01285–JR (D.D.C.), as confirmed by Congress in the Claims Resolution Act of 2010 (Pub. L. 111–291).

Qualified appraiser means an appraiser that is authorized to prepare an appraisal or valuation of Indian property because he or she meets the minimum qualifications of this part.

Qualifications statement means a written overview of an appraiser's education, professional history and job qualifications, providing an indication of an appraiser's competency to perform specific types of assignments. The qualifications may include information regarding education (degrees and educational institutions or programs); professional affiliations, designations, certifications, and licenses; work experience (including companies or organizations, the dates of employment, job titles and duties, and any service as an expert witness); awards and publications; types of properties appraised; types of appraisal and valuation assignments; and clients.

Restricted property means lands, natural resources, or other assets owned by Indian tribes or individual Indians that can only be alienated or encumbered with the approval of the United States because of limitations contained in the conveyance instrument, or limitations in Federal law.

Secretary means the Secretary of the Interior or an authorized representative.

Trust property means lands, natural resources, or other assets held by the United States in trust for Indian tribes or individual Indians.

Us/we/our means the bureau, agency, or entity within the Department of the Interior that administers appraisals and valuations of Indian property.

Valuation means all other valuation methods or a market analysis, such as a general description of market trends, values, or benchmarks, prepared by a qualified appraiser.

§ 100.101 What is the purpose of this part?

This part describes the minimum qualifications for appraisers, employed by or under contract with an Indian tribe or individual Indian, to become

qualified appraisers who may prepare an appraisal or valuation of Indian property that will be accepted by the Department without further review or approval when the Indian tribe or individual Indian waives Departmental review and approval.

§ 100.102 Does this part apply to me?

This part applies to anyone preparing or relying upon an appraisal or valuation of Indian property.

§ 100.103 How does the Paperwork Reduction Act affect this part?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0188. Response is required to obtain a benefit.

Subpart B—Appraiser Qualifications

§ 100.200 What are the minimum qualifications for qualified appraisers?

(a) An appraiser must meet the following minimum qualifications to be a qualified appraiser under this part:

(1) The appraiser must hold a current Certified General Appraiser license in the State in which the property appraised or valued is located;

(2) The appraiser must be in good standing with the appraiser regulatory agency of the State in which the property appraised or valued is located; and

(3) The appraiser must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) rules and provisions applicable to appraisers (including but not limited to Competency requirements applicable to the type of property being appraised or valued and Ethics requirements). This includes competency in timber and mineral valuations if applicable to the subject property.

§ 100.201 Does a qualified appraiser have the authority to conduct appraisals or valuations of any type of Indian property?

All qualified appraisers of Indian property must meet the Competency requirements of USPAP for the type of property being appraised or valued. Competency can be demonstrated by previous completed assignments on the type of properties being appraised, additional education or training in specific property types, or membership and/or professional designation by a related professional appraisal association or group.

§ 100.202 Will the Secretary verify the appraiser's qualifications?

The Secretary will verify the appraiser's qualifications to determine

whether the appraiser meets the requirements of § 100.200.

§ 100.203 What must the tribe or individual Indian submit to the Secretary for a verification of the appraiser's qualifications?

The tribe or individual Indian must submit the following with the appraisal or valuation:

(a) A copy of the appraiser's current Certified General Appraiser license;

(b) A copy of the appraiser's qualifications statement;

(c) The appraiser's self-certification that the appraiser meets the criteria in § 100.200; and

(d) If the property contains natural resource elements that contribute to the value of the property, such as timber or minerals, a list of the appraiser's additional qualifications for the specific type of property being valued in the appraisal report.

§ 100.204 When must the tribe or individual Indian submit a package for Secretarial verification of appraiser qualifications?

The tribe or individual Indian must submit the package of appraiser qualifications to the Secretary with the appraisal or valuation.

Subpart C—Appraisals and Valuations; Departmental Review and Waivers

§ 100.300 Must I submit an appraisal or valuation to the Department?

Appraisals and valuations of Indian property must be submitted to us if relied upon or required for transactions requiring Secretarial approval under titles 25 and 43 of the CFR (other than those under the Federal Land Policy and Management Act).

§ 100.301 Will the Department review and approve my appraisal or valuation?

(a) The Department will not review the appraisal or valuation of Indian property and the appraisal or valuation will be considered final as long as:

(1) The submission acknowledges the intent of the Indian tribe or individual Indian to waive Departmental review and approval;

(2) The appraisal or valuation was completed by a qualified appraiser meeting the requirements of this part; and

(3) No owner of any interest in the Indian property objects to use of the appraisal or valuation without Departmental review and approval.

(b) The Department must review and approve the appraisal or valuation if:

(1) Any of the criteria in paragraph (a) of this section are not met; or

(2) The appraisal or valuation was submitted for:

(i) Purchase at probate under 43 CFR part 30;

(ii) The Land Buy-Back Program for Tribal Nations;

(iii) An acquisition by the United States to which the Uniform Appraisal Standards for Federal Land Acquisitions applies; or

(iv) Specific legislation requiring the Department to review and approve an appraisal or valuation.

§ 100.302 May I request Departmental review of an appraisal even if a qualified appraiser completed the appraisal or valuation?

If you do not specifically request waiver of Departmental review and approval under § 100.300(a)(1), the Department will review the appraisal or valuation.

§ 100.303 What happens if the Indian tribe or individual Indian does not agree with the appraisal or valuation prepared by their qualified appraiser?

If the Indian tribe or individual Indian does not agree with the appraisal or valuation prepared by their qualified appraiser, the Indian tribe or individual Indian should not submit the appraisal or valuation under this part.

§ 100.304 Is the Department liable if it approves a transaction for Indian property based on an appraisal or valuation prepared by a qualified appraiser?

The Department is not liable for any deficient or inaccurate appraisal or valuation provided by the tribe or individual Indian that it did not review or approve, even if the Department approved a transaction for Indian property (including but not limited to a lease, grant, sale, or purchase) based on the appraisal or valuation.

Dated: June 20, 2017.

James E. Cason,
Associate Deputy Secretary.

[FR Doc. 2017-13191 Filed 6-23-17; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 151117999-6370-01]

RIN 0648-XF355

Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions #1 Through #4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces four inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from Cape Falcon, OR, to Point Arena, CA.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through July 11, 2017.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2016-0007, by any one 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-2016-0007, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-6349.

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).

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2016 annual management measures for ocean salmon fisheries (81 FR 26157, May 2, 2016), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, beginning May 1, 2016, and 2017 salmon fisheries opening earlier than May 1, 2017. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409).

Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife (CDFW) and Oregon Department of Fish and Wildlife (ODFW).

Management of the salmon fisheries is generally divided into two geographic areas: North of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affected fisheries south of Cape Falcon. Within the south of Cape Falcon area, the Klamath Management Zone (KMZ) extends from Humbug Mountain, OR, to Humboldt South Jetty, CA, and is divided at the Oregon/California border into the Oregon KMZ to the north and California KMZ to the south. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #1

Description of action: Inseason action #1 modified the commercial salmon fishery from Cape Falcon, OR, to Humbug Mountain, OR, previously scheduled to open March 15, 2017, to remain closed through April 14, 2017.

Effective dates: Inseason action #1 took effect on March 15, 2017, and remained in effect until superseded by inseason action #4 on April 15, 2017.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the Klamath River fall Chinook stock (KRFC). The Council's Salmon Technical Team (STT) presented stock abundance forecasts for 2017. On the basis of these forecasts, the Regional Administrator (RA) determined that fisheries south of Cape Falcon, OR, will be constrained in 2017 to comply with the harvest control rule for KRFC, specified in the Pacific Coast Salmon Fishery Management Plan (FMP). Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #1 occurred on March 12, 2017. Participants in this consultation were staff from NMFS, CDFW, ODFW, and Council staff.

Inseason Action #2

Description of action: Inseason action #2 modified the commercial salmon fishery from Humbug Mountain, OR, to the Oregon/California Border (Oregon KMZ), previously scheduled to open March 15, 2017, to remain closed through April 30, 2017.

Effective dates: Inseason action #2 took effect on March 15, 2017, and remained in effect through April 30, 2017.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the KRFC. The STT presented stock abundance forecasts for 2017. On the basis of these forecasts, the RA determined that fisheries south of Cape Falcon, OR, will be constrained in 2017 to comply with the harvest control rule for KRFC, specified in the FMP. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #2 occurred on March 12, 2017. Participants in this consultation were staff from NMFS, CDFW, ODFW, and Council staff.

Inseason Action #3

Description of action: Inseason action #3 cancelled the commercial salmon fishery from Horse Mountain, CA, to Point Arena, CA (Fort Bragg management area), previously scheduled to open April 16–30, 2017.

Effective dates: Inseason action #3 took effect on April 16, 2017, and remained in effect through April 30, 2017.

Reason and authorization for the action: The purpose of this action was to conserve fishery impacts on the KRFC. The STT presented stock abundance forecasts for 2017. On the basis of these forecasts, the RA determined that fisheries south of Cape Falcon, OR, will be constrained in 2017 to comply with the harvest control rule for KRFC, specified in the FMP. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #3 occurred on March 12, 2017. Participants in this consultation were staff from NMFS, CDFW, ODFW, and Council staff.

Inseason Action #4

Description of action: Inseason action #4 modified the commercial salmon fishery from Cape Falcon, OR, to Humbug Mountain, OR. Under inseason

action #1, above, this fishery, which was previously scheduled to open March 15, 2017, was closed through April 14, 2017. Under inseason action #4, the management area was divided at Florence South Jetty, OR, into two management areas; the fishery from Florence South Jetty, OR, to Humbug Mountain, OR, which remained closed through April 30, 2017; and the fishery from Cape Falcon, OR, to Florence South Jetty, OR, which opened April 15 through April 30, 2017, with the same landing requirements and gear restrictions as announced in the 2016 management measures (81 FR 26157, May 2, 2016).

Effective dates: Inseason action #4 superseded inseason action #1 on April 15, 2017, and remained in effect through April 30, 2017.

Reason and authorization for the action: The purpose of this action was to manage fishery impacts on KRFC while allowing access to more abundant stocks. On the basis of salmon abundance forecasts, the RA determined that fisheries south of Cape Falcon, OR, will be constrained in 2017 to comply with the harvest control rule for KRFC, specified in the FMP. Inseason actions to modify quotas and/or fishing seasons are authorized by 50 CFR 660.409(b)(1)(i); inseason actions to modify boundaries, including landing boundaries, and establish closed areas are authorized by 50 CFR 660.409(b)(1)(v).

Consultation date and participants: Consultation on inseason action #4 occurred on April 10, 2017. Participants in this consultation were staff from NMFS, CDFW, ODFW, and Council staff.

All other restrictions and regulations remained in effect as announced for the 2016 ocean salmon fisheries and 2017 salmon fisheries opening prior to May 1, 2017 (81 FR 26157, May 2, 2016) and as modified by prior inseason actions.

The RA determined that the best available information indicated that Chinook salmon abundance forecasts and expected fishery effort supported the above inseason actions recommended by the states of Oregon and California. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the action was effective, by telephone hotline numbers 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (81 FR 26157, May 25, 2016), the FMP, and regulations implementing the FMP, 50 CFR 660.409 and 660.411.

Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon catch and effort projections were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, ensuring that conservation objectives and Endangered Species Act consultation standards are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C.

553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the FMP and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: June 21, 2017.

Emily H. Menashes,

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

[FR Doc. 2017-13307 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 82, No. 121

Monday, June 26, 2017

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA-2017-0586; Notice No. 33-17-01-SC]

Special Conditions: Safran Aircraft Engines, Silvercrest-2 SC-2D; Rated Takeoff Thrust at High Ambient Temperature

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Safran Aircraft Engines (SAE), Silvercrest-2 SC-2D engine model. This engine will have a novel or unusual design feature associated with an additional takeoff rating that increases the exhaust gas temperature (EGT) limit to maintain takeoff thrust in certain high ambient temperature conditions for a maximum accumulated usage of 20 minutes in any one flight. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before July 6, 2017.

Certification of the Silvercrest-2 SC-2D engine model is currently scheduled for August 2018. The substance of these special conditions has been subject to the notice and public comment procedure. Therefore, because a delay would significantly affect the applicant's certification of the engine, we are shortening the public comment period from 45 days to 10 days.

ADDRESSES: Send comments identified by docket number [FAA-2017-0586] using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery of Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 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.transportation.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 Room in 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: Tara Fitzgerald, ANE-112, Engine and Propeller Directorate, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts, 01803-5213; telephone (781) 238-7130; facsimile (781) 238-7199; email Tara.Fitzgerald@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any

recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this special condition, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On April 19, 2011, SNECMA, now known as SAE, applied for a type certificate for the Silvercrest-2 SC-2D engine model. On April 30, 2014, SAE requested an extension to their original type certificate application, which the FAA granted through June 30, 2015. On May 26, 2015, SAE requested another extension to their type certificate application, which the FAA granted through September 30, 2018.

SAE proposed an additional takeoff rating to maintain takeoff thrust in certain high ambient temperature conditions with all engines operating (AEO) for the Silvercrest-2 SC-2D engine model. Therefore, the Silvercrest-2 SC-2D engine model would have two different takeoff ratings. The first rating corresponds with the rated takeoff thrust of the engine. The second takeoff rating maintains the takeoff thrust in certain high ambient temperature conditions. This additional takeoff rating is named "Rated Takeoff Thrust at High Ambient Temperature" (Rated TOTHT). The Rated TOTHT is an approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation for a maximum usage of 20 minutes in any one flight.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, SAE must show that the Silvercrest-2 SC-2D meets the applicable provisions of 14 CFR part 33, as amended by

Amendments 33–1 through 33–34 in effect on the date of application.

If the FAA finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Silvercrest-2 SC–2D engine model, because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to complying with the applicable product airworthiness regulations and the requirements of the special conditions, the Silvercrest-2 SC–2D engine model must comply with the fuel venting and exhaust emission requirements of 14 CFR part 34.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Silvercrest-2 SC–2D engine model will incorporate a novel or unusual design feature, referred to as “Rated TOTTHAT”. This additional takeoff rating increases the EGT limit to maintain takeoff thrust in certain high ambient temperature conditions for a maximum of 20 minutes in any one flight.

Discussion

The Rated TOTTHAT is designed for use during takeoff in specified high altitudes and high ambient temperature conditions to maintain thrust during takeoff for a maximum of 20 minutes in any one flight. These proposed special conditions contain additional mandatory post-flight inspection and maintenance action requirements associated with any use of the Rated TOTTHAT. These requirements add a rating definition in part 1.1 and mandate mandatory inspections in the instructions for continued airworthiness (ICA); instructions for installing and operating the engine; engine rating and operating limitations; instrument connection; and endurance testing.

The current requirements of the endurance test under § 33.87 represent a typical airplane flight profile and the severity of the takeoff rating. Therefore, the endurance test under § 33.87 covers normal, all-engines-operating takeoff conditions for which the engine control

system limits the engine to the takeoff thrust rating. It is intended to represent the airplane flight profile during takeoff under specified ambient temperatures for a time until the mandatory inspection and maintenance actions can be performed.

These proposed special conditions require additional test cycles that include at least a 150 hours of engine operation as specified in § 33.87(a), to demonstrate the engine is capable of performing the Rated TOTTHAT rating during AEO conditions without disassembly or modification.

The associated engine deterioration, after use of the Rated TOTTHAT, is not known without the intervening mandatory inspections in these special conditions. These mandatory inspections ensure the engine will continue to comply with its certification basis, which includes these proposed special conditions, after any use of the Rated TOTTHAT. The applicant is expected to assess the deterioration from use of the Rated TOTTHAT. The airworthiness limitations section (ALS) must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the Rated TOTTHAT.

These requirements maintain a level of safety equivalent to the level intended by the applicable airworthiness standards in effect on the date of application.

Applicability

As discussed above, these proposed special conditions are applicable to the Silvercrest-2 SC–2D engine model. Should SAE apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only the Rated TOTTHAT features on the Silvercrest-2 SC–2D engine model. It is not a rule of general applicability and applies only to SAE, who requested FAA approval of this engine feature.

List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the FAA proposes, the following special conditions as part of

the type certification basis for SAE, Silvercrest-2 SC–2D engine model.

1. Part 1 Definition

“Rated Take-off Thrust at High Ambient Temperature” (Rated TOTTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine during takeoff operation. Use is limited to two periods, no longer than 10 minutes each under one engine inoperative (OEI) conditions or 5 minutes each under AEO conditions in any one flight for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTTHAT is used must be followed by mandatory inspection and maintenance actions.

2. Part 33 Requirements

In addition to the airworthiness standards in 14 CFR part 33, effective February 1, 1965, amendments 33–1 through 33–34 applicable to the engine and the Rated TOTTHAT, the following special conditions apply:

(a) Section 33.4, Instructions for Continued Airworthiness.

(1) The ALS must prescribe the mandatory post-flight inspections and maintenance actions associated with any use of the Rated TOTTHAT.

(2) The applicant must validate the adequacy of the inspections and maintenance actions required under paragraph 2(a)(1) of these special conditions.

(3) The applicant must establish an in-service engine evaluation program to ensure the continued adequacy of the instructions for mandatory post-flight inspections and maintenance actions prescribed under paragraph 2(a)(1) of these special conditions, and of the data for thrust assurance procedures required by paragraph 2(b)(2) of these special conditions. The program must include service engine tests or equivalent service engine test experience on engines of similar design and evaluations of service usage of the Rated TOTTHAT.

(b) Section 33.5, Instruction manual for installing and operating the engine.

(1) Installation Instructions:

(i) The applicant must identify the means, or provisions for means, provided in compliance with the requirements of paragraph 2(e) of these special conditions.

(ii) The applicant must specify that the engine thrust control system automatically resets the thrust on the operating engine to the Rated TOTTHAT level when one engine fails during

takeoff at specified altitudes and temperatures.

(iii) The applicant must specify that the Rated TOTHAT is available by manual crew selection at specified altitudes and temperatures in AEO conditions.

(2) Operating Instructions: The applicant must provide data on engine performance characteristics and variability to enable the airplane manufacturer to establish airplane thrust assurance procedures.

(c) Section 33.7, Engine ratings and operating limitations.

(1) Rated TOTHAT and the associated operating limitations are established as follows:

(i) The thrust is the same as the engine takeoff rated thrust with extended flat rating corner point.

(ii) The rotational speed limits are the same as those associated with the engine takeoff rated thrust.

(iii) The applicant must establish a gas temperature steady-state limit and, if necessary, a transient gas over temperature limit for which the duration is no longer than 30 seconds.

(iv) The use is limited to two periods of no longer than 10 minutes each under OEI conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTHAT is used must be followed by mandatory inspections and maintenance actions prescribed by paragraph 2(a)(1) of these special conditions.

(2) The applicant must propose language to include in the type certificate data sheet specified in § 21.41 for the following:

(i) Rated TOTHAT and associated limitations.

(ii) As required by § 33.5(b), Operating instructions, include a note stating that "Rated Takeoff Thrust at High Ambient Temperature (Rated TOTHAT) means the approved engine thrust developed under specified altitudes and temperatures within the operating limitations established for the engine. Use is limited to two periods, no longer than 10 minutes each under OEI conditions or 5 minutes each under AEO conditions in any one flight, for a maximum accumulated usage of 20 minutes in any one flight. Each flight where the Rated TOTHAT is used must be followed by mandatory inspection and maintenance actions."

(iii) As required by § 33.5(b), Operating instructions, include a note stating that the engine thrust control system automatically resets the thrust on the operating engine to the Rated TOTHAT level when one engine fails

during takeoff at specified altitudes and temperatures, and the Rated TOTHAT is available by manual selection when all engines are operational during takeoff at specified altitudes and temperatures.

(d) Section 33.28, Engine Control Systems.

The engine must incorporate a means, or a provision for a means, for automatic availability and automatic control of the Rated TOTHAT under OEI conditions and must permit manual activation of the Rated TOTHAT under AEO conditions.

(e) Section 33.29, Instrument connection.

The engine must:

(1) Have means, or provisions for means, to alert the pilot when the Rated TOTHAT is in use, when the event begins and when the time interval expires.

(2) Have means, or provision for means, which cannot be reset in flight, to:

(i) Automatically record each use and duration of the Rated TOTHAT, and

(ii) Alert maintenance personnel that the engine has been operated at the Rated TOTHAT and permit retrieval of recorded data.

(3) Have means, or provision for means, to enable routine verification of the proper operation of the means in paragraph 2(e)(1) and (e)(2) of these special conditions.

(f) Section 33.85(b), Calibration tests.

The applicant must base the calibration test on the thrust check at the end of the endurance test required by § 33.87 of these special conditions.

(g) Section 33.87, Endurance test.

(1) In addition to the applicable requirements of § 33.87(a):

(i) The § 33.87 endurance test must be modified as follows:

(A) Modify the thirty minute test cycle at the rated takeoff thrust in § 33.87(b)(2)(ii) to run one minute at rated takeoff thrust, followed by five minutes at the Rated TOTHAT, followed by the rated takeoff thrust for the remaining twenty-four minutes.

(B) The modified thirty minute period described above in paragraph 2(g)(1)(i)(A) must be repeated ten times in cycles 16 through 25 of the § 33.87 endurance test.

(2) After completion of the tests required by § 33.87(b), as modified in paragraph 2(g)(1)(i) above, and without intervening disassembly, except as needed to replace those parts described as consumables in the ICA, the applicant must conduct the following test sequence for a total time of not less than 120 minutes:

(i) Ten minutes at Rated TOTHAT.

(ii) Eighty-eight minutes at rated maximum continuous thrust.

(iii) One minute at 50 percent of rated takeoff thrust.

(iv) Ten minutes at Rated TOTHAT.

(v) Ten minutes at rated maximum continuous thrust.

(vi) One minute at flight idle.

(3) The test sequence of §§ 33.87(b)(1) through (b)(6) of these special conditions must be run continuously. If a stop occurs during these tests, the interrupted sequence must be repeated unless the applicant shows that the severity of the test would not be reduced if the current tests were continued.

(4) Where the engine characteristics are such that acceleration to the Rated TOTHAT results in a transient over temperature in excess of the steady-state temperature limit identified in paragraph 2(c)(1)(iii) of these special conditions, the transient gas overtemperature must be applied to each acceleration to the Rated TOTHAT of the test sequence in paragraph 2(g)(2) of these special conditions.

(h) Section 33.93, Teardown inspection.

The applicant must perform the teardown inspection required by § 33.93(a), after completing the endurance test prescribed by § 33.87 of these special conditions.

(i) Section 33.201, Design and test requirements for Early ETOPS eligibility.

In addition to the requirements of § 33.201(c)(1), the simulated ETOPS mission cyclic endurance test must include two cycles of 10 minute duration, each at the Rated TOTHAT; one before the last diversion cycle and one at the end of the ETOPS test.

Issued in Burlington, Massachusetts, on June 14, 2017.

Carlos A. Pestana,

Acting Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017-13305 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. FAA-2017-0537; Notice No. 33-17-02-SC]

Special Conditions: General Electric Company, GE9X Engine Models; Endurance Test Special Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the General Electric turbofan engine models GE9X-105B1A, -105B1A1, -105B1A2, -105B1A3, -102B1A, -102B1A1, -102B1A2, -102B1A3, and -93B1A. These engine models will be referred to as “GE9X” in these special conditions. The engines will have a novel or unusual design features associated with the engine design. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before August 10, 2017.

ADDRESSES: Send comments identified by docket number FAA-2017-0537 using any of the following methods:

- *Federal eRegulations Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12-140, West Building Ground Floor, Washington, DC, 20590-0001.

- *Hand Delivery 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 www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at 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: Dorina Mihail, ANE-111, Engine and Propeller Directorate, Aircraft Certification Service, 1200 District Avenue, Burlington, Massachusetts,

01803-5213; telephone (781) 238-7153; facsimile (781) 238-7199; email Dorina.Mihail@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to participate in this rulemaking by sending written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposed special conditions, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Proprietary or Confidential Business Information: Commenters should not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD-ROM, mark the outside of the disk or CD-ROM, and identify electronically within the disk or CD-ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

Background

On January 29, 2016, General Electric Company (GE) applied for type certificate application for GE’s GE9X turbofan engine models. The GE9X engine models are high-bypass-ratio engines that incorporate novel and unusual design features. The GE9X engine models incorporate new technologies such that it cannot run the endurance test conditions prescribed in § 33.87 without significant test-enabling modifications, making the test vehicle non-representative of the proposed type design. An alternative endurance test cycle has been developed that provides a level of safety equivalent with that intended by § 33.87. The proposed alternate endurance test provides the test conditions that allow the engine to be run in type design configuration and demonstrate engine operability and durability as well as systems functionality to a level intended by the current § 33.87 rule.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, GE must show that the GE9X engine models meet the applicable provisions of part 33, as amended by Amendments 33-1 through 33-34.

If the FAA finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the GE9X engine models because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the engine model for which they are issued. Should the type certificate for that engine model be amended later to include any other engine models that incorporate the same or similar novel or unusual design features, the special conditions would also apply to the other engine models under § 21.101.

In addition to complying with the applicable product airworthiness regulations and special conditions, the GE9X engine models must comply with the fuel venting and exhaust emission requirements of 14 CFR part 34.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The GE9X engine models will incorporate the following novel or unusual design features: Technological advances that reduce noise and emissions while improving fuel

efficiency and increasing thrust, when compared to previous similar certificated GE engine models.

The GE9X series engine type design incorporates new technologies such that it cannot run the endurance test conditions prescribed in § 33.87 without significant test-enabling modifications, making the test vehicle non-representative of the proposed type design. The modifications needed to run the § 33.87 endurance test have become increasingly complex over time, and reconciling the test results to the proposed type design has also become increasingly difficult.

For past certifications, GE has shown that the proposed engine design, as modified, still represented the durability and operating characteristics of the intended type design but the modifications needed to the GE9X engine model to run the § 33.87 endurance test cannot be reconciled and would affect the test outcome.

Discussion

These proposed special conditions provide the necessary conditions for verification of engine-level and component-level effects as intended by the current § 33.87 endurance test. The special conditions include a demonstration for the oil, fuel, air bleed, and accessory drive systems as required in the current § 33.87 endurance test.

The level of severity is provided by an engine test demonstration at the gas path limiting temperature and at shaft speed redlines and at the most extreme shaft speeds as determined through a critical point analysis (CPA). In addition, times on condition and cycle counts were developed to allow additional challenges to the new and novel features that would not have been as challenged by the current § 33.87 test schedule. The alternate test demonstrates no potential safety issue will develop while operating in service.

The proposed cycles dwell time duration reflect that GE9X does not have a 10-minute OEI extension for the takeoff rating.

The special conditions for § 33.4 and § 33.29 are added to support an equivalent compliance by means of mandatory inspections prescribed in paragraph (b)(3) of the § 33.87 special conditions.

These special condition requirements maintain a level of safety equivalent to the level intended by the applicable airworthiness standards in effect on the date of application.

Applicability

As discussed above, the proposed special conditions are applicable to the

GE9X engine model(s). Should GE apply at a later date for a change to the type certificate to include another model on the same type certificate incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on the GE9X turbofan engine models. It is not a rule of general applicability and applies only to GE, who requested FAA approval of this engine feature.

List of Subjects in 14 CFR Part 33

Aircraft, Engines, Aviation Safety, Reporting and Recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

■ Accordingly, the FAA proposes the following special conditions as part of the type certification basis for the GE9X engine models: GE9X–105B1A, –105B1A1, –105B1A2, –105B1A3, –102B1A, –102B1A1, –102B1A2, –102B1A3, and –93B1A.

PART 33—REQUIREMENTS

§ 33.4 Instructions for Continued Airworthiness.

(a) The Airworthiness Limitations section must prescribe the mandatory post-flight inspections and maintenance actions associated with any exceedance required by § 33.87, paragraph (b)(3), of these special conditions.

§ 33.29 Instrument connection.

(a) The engine must have means, or provisions for means, to automatically record and alert maintenance personnel for each occurrence of any exceedance required by § 33.87 paragraph (b)(3), of these special conditions.

§ 33.87 Endurance Test.

(a) General: The applicant must show that the endurance test schedule in combination with any prescribed mandatory actions provide an equivalent level of severity and demonstration of durability and operability as that intended by § 33.87(a) and (b) for a turbofan engine. When showing that the level of durability is equivalent with that intended by the rule, the applicant must consider the damage accumulated during the test for the limiting damage mechanisms for components and engine systems, up to and including the

applicable limitations declared in the Type Certificate Data Sheets (TCDS). The test cycle content must create conditions in the engine for a sufficient amount of time to demonstrate no potential safety issue will develop from the limiting damage mechanisms while operating in service. The following minimum requirements apply:

(1) The tests in paragraphs (b), (c), and (d) of these special conditions, for total cumulative and dwell time duration between ground idle and the takeoff thrust prescribed in these special conditions. The test cycle durations must include all maximums allowed in the TCDS and expected service operation.

(2) Requirements of § 33.87(a)(1), (2), (4), and (6) applicable to turbofan engines.

(3) Requirements of § 33.87(a)(3) applicable to the temperature of external surfaces of the engine, if limited.

(4) Testing for maximum air bleed must be at least equal with the prescribed test required in § 33.87(a)(5). However, for these cycles, the thrust or the rotor shaft rotational speed may be less than 100 percent of the value associated with the particular operation being tested if the FAA finds that the validity of the endurance test is not compromised.

(5) Testing for engine fuel, oil, and hydraulic fluid pressure and oil temperature must be at least equal with the prescribed test required in § 33.87(a)(7).

(6) If the number of occurrences of either transient rotor shaft overspeed or transient gas over temperature is not limited, at least 155 accelerations must be made at the limiting overspeed or over temperature. If the number of occurrences is limited, that number of accelerations must be made at the limiting overspeed or over temperature.

(7) One hundred starts must be made, of which 25 starts must be preceded by at least a two-hour engine shutdown. There must be at least 10 false engine starts, pausing for the applicant's specified minimum fuel drainage time, before attempting a normal start. There must be at least 10 normal restarts with not longer than 15 minutes since engine shutdown. The remaining starts may be made after completing the endurance testing prescribed by these special conditions.

(8) Unless otherwise specified (*i.e.* (d)(2)), for accelerations from ground idle to takeoff, the throttle must be moved in not more than one second, except that, if different regimes of control operations are incorporated necessitating scheduling of the thrust-control lever motion in going from one

extreme position to the other, a longer period of time is acceptable, but not more than two seconds.

(i) When operating with max oil temperatures the throttle movement may be 'stair-stepped' to allow for oil temperature stabilization for durations greater than two seconds.

(9) The applicant must validate any analytical methods used for compliance with these special conditions. Validation includes the ability to accurately predict an outcome applicable to the engine being tested.

(10) The applicant must perform the endurance test on an engine that substantially conforms to its type design. Modifications may be made as needed to achieve test conditions and/or engine operating conditions representative of the type design.

(b) Conduct the endurance test at or above the declared shaft speeds and gas temperatures limits, and at or above conditions representative of critical points (speeds, temperatures, rated thrust) in the operating envelope.

(1) Conduct the endurance test at or above the rated takeoff thrust and rated maximum continuous thrust and with the associated limits for rotor speeds and gas temperature (redlines), as follows:

(i) Either rotor speed or gas temperature, or concurrent rotor speed and gas temperature if analysis indicates a combination of redline operational conditions is possible to occur in service, must be at least 100 percent of the values associated with the engine rating being tested.

(ii) The cumulative test time duration and number of cycles must be representative of the rotor speed and gas temperature excursions to redlines that can be expected to occur in between overhauls.

(iii) The time durations for each takeoff or maximum continuous segment must include all maximums allowed in the TCDS and expected service operation and must include the following cycles:

(A) At least one (1) takeoff cycle of 5 minutes time duration at the low pressure rotor speed limit and gas temperature limit (redlines).

(B) At least one (1) takeoff cycle of 5 minutes time duration at the high pressure rotor speed limit and gas temperature limit (redlines).

(C) In lieu of the separate cycles specified in paragraphs (A) and (B) of this section, the applicant may run the low pressure and high pressure rotor speeds and gas temperature limits (redlines) in the same cycle. However in this case, the applicant must run at least

2 cycles of 5 minutes time duration each.

(2) Conduct the endurance test at or above the rated takeoff thrust and the rated maximum continuous thrust with rotor speeds at or above those determined by a critical point analysis (CPA) and with gas temperature redline conditions as follows:

(i) The applicant must determine through a CPA the highest rotor shaft rotational speeds (CPA speeds) expected to occur for each rotor shaft system within the declared operating envelope. The CPA must be conducted for the takeoff and maximum continuous rated thrust and must consider the declared operating envelope, engine deterioration, engine-to-engine variability, and any other applicable variables that can cause the engine to operate at the extremes of its performance ratings.

(ii) Except as provided in paragraph (b)(3)(ii) of these special conditions, conduct a cyclic test between ground idle and combined takeoff and maximum continuous thrust ratings, as follows:

(A) Eighteen hours and forty five minutes (18.75 hours) cumulated time duration at or above the rated takeoff thrust, the gas temperature limit for takeoff (redline), and the CPA rotor speeds for takeoff determined per paragraph (b)(2)(i) of these special conditions.

(B) Forty five (45) hours cumulated time duration at or above the rated maximum continuous thrust, the gas temperature limit for maximum continuous (redline), and the CPA rotor speeds for maximum continuous determined per paragraph (b)(2)(i) of these special conditions.

(C) The time durations for each takeoff or maximum continuous segments must include all maximums allowed in the TCDS and expected service operation, and must include at least one maximum continuous cycle of 30 minutes run continuously.

(3) If the cyclic shaft speed excursions specified in paragraphs (b)(1) or (b)(2) of these special conditions cannot be demonstrated in the test, then an alternative equivalent with the rule intent must be provided. Alternatives may include alternate means of test demonstration, mandatory actions, or other means found acceptable to the FAA. The applicant must prescribe a mandatory action plan for engine operation between the shaft speeds demonstrated for a minimum of cumulated 18.75 hours at or above rated takeoff and 45 hours at or above rated maximum continuous, respectively, and

the declared speed limits (redlines), as follows:

(i) Prescribe post-event actions or operating limitations acceptable to the FAA for operation below the declared speed limits (redlines) and above the CPA speeds.

(ii) If the test required by (b)(2)(ii) of these special conditions can only be accomplished at a rotor shaft speed lower than the CPA speed, prescribe post-event actions or operating limitations acceptable to the FAA for operation below that CPA speed and above the value demonstrated during the test.

(c) Conduct the endurance test at the incremental cruise thrust that must be at least equal with the prescribed test required in § 33.87(b)(4). The 25 incremental test cycles must be uniformly distributed throughout the entire endurance test.

(d) Conduct at least 300 cycles between ground idle and combined takeoff and maximum continuous thrust, as follows:

(1) Each cycle to include acceleration to or above rated takeoff thrust, deceleration from takeoff to ground idle, followed by 5 to 15 seconds at ground idle, acceleration to or above rated maximum continuous thrust, and deceleration to ground idle.

(2) The throttle movement from ground idle to rated takeoff or maximum continuous thrust and from rated takeoff thrust to ground idle should be not more than one (1) second, except that, if different regimes of control operations are incorporated necessitating scheduling of the thrust-control lever motion in going from one extreme position to the other, a longer period of time is acceptable, but not more than two seconds. The throttle move from rated maximum continuous thrust to ground idle should not be more than five (5) seconds.

(3) The time durations for each cycle associated with either takeoff or maximum continuous thrust segments must include all maximums allowed in the TCDS and expected service operation, and must include the following cycles:

(i) Three (3) cycles of 5 minutes each and one (1) cycle of 10 minutes at the takeoff thrust.

(ii) Three (3) cycles of 30 minutes each at the maximum continuous thrust.

Issued in Burlington, Massachusetts, on June 1, 2017.

Carlos A. Pestana,

Acting Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017-13210 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2016-9378; Airspace
Docket No. 16-ASW-16]

**Proposed Amendment, Revocation,
and Establishment of Class D and E
Airspace; Enid Vance AFB, OK; Enid
Woodring Municipal Airport, OK; Enid,
OK; and Vance AFB, OK**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking
(NPRM).

SUMMARY: This action proposes to:
Remove Class D airspace for Enid
Woodring Municipal Airport, OK, and
Enid Vance AFB, OK; establish Class D
airspace for Enid Woodring Regional
Airport, Enid, OK, and Vance AFB,
Vance AFB, OK; amend Class E airspace
designated as a surface area for Enid
Woodring Regional Airport; establish
Class E airspace designated as a surface
area for Vance AFB; remove Class E
airspace designated as an extension of
Class D and E surface area at Enid
Woodring Municipal Airport, OK, and
Enid Vance AFB, OK; establish Class E
airspace designated as an extension of
Class D and E surface area at Enid
Woodring Regional Airport and Vance
AFB; and amend Class E airspace
extending upward from 700 feet above
the surface at Enid Woodring Regional
Airport. Due to the differing operating
hours of the two airports, the airspace
descriptions would be separated for
safety and management of instrument
flight rules (IFR) operations at these
airports. Also, airspace redesign is
necessary to accommodate new
standard instrument approach
procedures (SIAPS) at Woodring
Regional Airport.

DATES: Comments must be received on
or before August 10, 2017.

ADDRESSES: Send comments on this
proposal to the U.S. Department of
Transportation, Docket Operations,
West Building Ground Floor, Room
W12-140, 1200 New Jersey Avenue SE.,
Washington, DC 20590; telephone (202)
366-9826, or 1-800-647-5527. You
must identify FAA Docket No. FAA-
2016-9378; Airspace Docket No. 16-
ASW-16, at the beginning of your
comments. You may also submit
comments through the Internet at <http://www.regulations.gov>. You may review
the public docket containing the
proposal, any comments received, and
any final disposition in person in the
Dockets Office between 9:00 a.m. and

5:00 p.m., Monday through Friday,
except Federal holidays.

FAA Order 7400.11A, Airspace
Designations and Reporting Points, and
subsequent amendments can be viewed
online at http://www.faa.gov/air_traffic/publications/. For further information,
you can contact the Airspace Policy
Group, Federal Aviation
Administration, 800 Independence
Avenue SW., Washington, DC, 20591;
telephone: (202) 267-8783. The Order is
also available for inspection at the
National Archives and Records
Administration (NARA). For
information on the availability of FAA
Order 7400.11A at NARA, call (202)
741-6030, or go to http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.

FAA Order 7400.11, Airspace
Designations and Reporting Points, is
published yearly and effective on
September 15.

FOR FURTHER INFORMATION CONTACT:
Jeffrey Claypool, Federal Aviation
Administration, Operations Support
Group, Central Service Center, 10101
Hillwood Parkway, Fort Worth, TX
76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules
regarding aviation safety is found in
Title 49 of the United States Code.
Subtitle I, Section 106 describes the
authority of the FAA Administrator.
Subtitle VII, Aviation Programs,
describes in more detail the scope of the
agency's authority. This rulemaking is
promulgated under the authority
described in Subtitle VII, Part, A,
Subpart I, Section 40103. Under that
section, the FAA is charged with
prescribing regulations to assign the use
of airspace necessary to ensure the
safety of aircraft and the efficient use of
airspace. This regulation is within the
scope of that authority as it would
amend Class D and E airspace in the
Enid, OK, area.

Comments Invited

Interested parties are invited to
participate in this proposed rulemaking
by submitting such written data, views,
or arguments, as they may desire.
Comments that provide the factual basis
supporting the views and suggestions
presented are particularly helpful in
developing reasoned regulatory
decisions on the proposal. Comments
are specifically invited on the overall
regulatory, aeronautical, economic,
environmental, and energy-related
aspects of the proposal.

Communications should identify both
docket numbers and be submitted in
triplicate to the address listed above.
Commenters wishing the FAA to
acknowledge receipt of their comments
on this notice must submit with those
comments a self-addressed, stamped
postcard on which the following
statement is made: "Comments to
Docket No. FAA-2016-9378/Airspace
Docket No. 16-ASW-16." The postcard
will be date/time stamped and returned
to the commenter.

All communications received before
the specified closing date for comments
will be considered before taking action
on the proposed rule. The proposal
contained in this notice may be changed
in light of the comments received. A
report summarizing each substantive
public contact with FAA personnel
concerned with this rulemaking will be
filed in the docket.

Availability of NPRMs

An electronic copy of this document
may be downloaded through the
Internet at <http://www.regulations.gov>.
Recently published rulemaking
documents can also be accessed through
the FAA's Web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket
containing the proposal, any comments
received, and any final disposition in
person in the Dockets Office (see the
ADDRESSES section for the address and
phone number) between 9:00 a.m. and
5:00 p.m., Monday through Friday,
except federal holidays. An informal
docket may also be examined during
normal business hours at the Federal
Aviation Administration, Air Traffic
Organization, Central Service Center,
Operations Support Group, 10101
Hillwood Parkway, Fort Worth, TX
76177.

**Availability and Summary of
Documents for Incorporation by
Reference**

This document proposes to amend
FAA Order 7400.11A, Airspace
Designations and Reporting Points,
dated August 3, 2016, and effective
September 15, 2016. FAA Order
7400.11A is publicly available as listed
in the **ADDRESSES** section of this
document. FAA Order 7400.11A lists
Class A, B, C, D, and E airspace areas,
air traffic service routes, and reporting
points.

The Proposal

The FAA is proposing an amendment
to Title 14 Code of Federal Regulations
(14 CFR) part 71 by:

Removing Class D airspace at Enid Woodring Municipal Airport, OK;
Removing Class D airspace at Enid Vance AFB, OK;

Establishing Class D airspace at Enid Woodring Regional Airport, Enid, OK, within a 4.5-mile radius of the airport;¹

Establishing Class D airspace at Vance AFB, Vance AFB, OK, within a 5.1-mile radius of the airport;

Amending Class E airspace designated as a surface area within a 4.5-mile radius (increased from a 4.1-mile radius) of Enid Woodring Regional Airport, Enid, OK, removing the portion within a 5.1-mile radius of Vance AFB, and removing Vance AFB from the airspace description;

Establishing Class E airspace designated as a surface area within a 5.1 mile radius of Vance AFB, Vance AFB, OK;

Removing Class E airspace designated as an extension to Class D or E surface area at Enid Vance AFB, OK;

Removing Class E airspace designated as an extension to Class D or E surface area at Enid Woodring Municipal Airport, OK;

Establishing Class E airspace designated as an extension to Class D or E surface area at Enid Woodring Regional Airport, Enid, OK, with a segment each side of the VOR/DME extending from the 4.5-mile radius of the airport to 7 miles north and 7 miles south of the airport;

Establishing Class E airspace designated as an extension to Class D or E surface area at Vance AFB, Vance AFB, OK, with a segment each side of the Vance VORTAC extending from the 5.1-mile radius to 6.1 miles south of the airport; and

Amending Class E airspace extending upward from 700 feet above the surface at Enid, OK, within a 7-mile radius (increasing from a 6.6-mile radius) of Woodring Regional Airport, removing the Woodring VOR/DME extensions, and updating the name of the airport to coincide with the FAA's aeronautical database.

The FAA determined that due to the differing operating hours of the two airports, the airspace descriptions should be separated for safety and management of IFR operations at these airports. Also, after an airspace review of the Woodring Regional Airport, the FAA found airspace redesign necessary at Enid Woodring Regional Airport to

accommodate new SIAPs at the airport and for the safety and management of IFR operations at these airports. The part-time NOTAM information would be included in the airspace descriptions for the new airspace and would be retained in the legal descriptions for the amended airspace.

Class D and E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (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); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASW OK D Enid Woodring Municipal Airport, OK [Removed]

* * * * *

ASW OK D Enid Vance AFB, OK [Removed]

* * * * *

ASW OK D Enid, OK [New]

Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)

That airspace extending upward from the surface to and including 3,800 feet within a 4.5-mile radius of Enid Woodring Regional Airport, excluding that portion of airspace west of long. 97°51'01" W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

ASW OK D Vance AFB, OK [New]

Vance AFB, OK
(Lat. 36°20'22" N., long. 97°55'02" W.)
Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)

That airspace extending upward from the surface to and including 3,800 feet within a 5.1-mile radius of Vance AFB excluding that portion east of long. 97°51'01" W., and excluding within a 4.5-mile radius of Enid Woodring Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6002 Class E Airspace Designated as a Surface Area.

* * * * *

ASW OK E2 Enid, OK [Amended]

Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)

That airspace within a 4.5-mile radius of Enid Woodring Regional Airport excluding that portion of airspace west of long. 97°51'01" W. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

¹ This Class D airspace would replace the Class D airspace at Enid Woodring Municipal Airport that is being proposed for removal in this action. This proposal would increase the existing 4.1-mile radius around the airport to a 4.5-mile radius. The part-time NOTAM language is included in the new legal description.

ASW OK E2 Vance AFB, OK [New]

Vance AFB, OK
(Lat. 36°20'22" N., long. 97°55'02" W.)
Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)

That airspace within a 5.1-mile radius of Vance AFB excluding that portion east of the long. 97°51'01" W., and excluding within a 4.5-mile radius of Enid Woodring Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to Class D or Class E Surface Areas.

* * * * *

ASW OK E4 Enid Vance AFB, OK [Removed]

ASW OK E4 Enid Woodring Municipal Airport, OK [Removed]

* * * * *

ASW OK E4 Enid, OK [New]

Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)
Woodring VOR/DME
(Lat. 36°22'26" N., long. 97°47'17" W.)

That airspace extending upward from the surface within 2.4 miles each side of the 347° radial of the Woodring VOR/DME extending from the 4.5-mile radius of the airport to 7 miles north of the airport, and within 2.4 miles each side of the 177° radial of the Woodring VOR/DME extending from the 4.5-mile radius of the airport to 7 miles south of the airport.

* * * * *

ASW OK E4 Vance AFB, OK [New]

Vance AFB, OK
(Lat. 36°20'22" N., long. 97°55'02" W.)
Vance VORTAC
(Lat. 36°20'42" N., long. 97°55'06" W.)

That airspace extending upward from the surface within 1.3 miles each side of the 188° radial of the Vance VORTAC extending from the 5.1-mile radius of Vance AFB to 6.1 miles south of the airport.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW OK E5 Enid, OK [Amended]

Vance AFB, OK
(Lat. 36°20'22" N., long. 97°55'02" W.)
Enid Woodring Regional Airport, OK
(Lat. 36°22'33" N., long. 97°47'22" W.)

That airspace extending upward from 700 feet above the surface within 8.7 miles east and west of Vance AFB extending to 15.2 miles north and south of Vance AFB, and that airspace extending upward from 700 feet above the surface within a 7-mile radius of Enid Woodring Regional Airport.

Issued in Fort Worth, Texas, on June 19, 2017.

Walter Tweedy,
*Acting Manager, Operations Support Group,
ATO Central Service Center.*

[FR Doc. 2017-13184 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2017-0400]

RIN 1625-AA00

Safety Zone, Delaware River; Pipe-Removal

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish temporary safety zones in portions of Billingsport Range, on the Delaware River, to facilitate the removal of existing pipelines along the river bed of the Federal Navigation Channel. The safety zones would be established for the waters of Billingsport Range, on the Delaware River, in the vicinity of working vessels and associated equipment. At times the working vessels and equipment may be in close proximity or impede the navigation channel. This regulation is necessary to provide for the safety of life on navigable waters of the Delaware River, in the vicinity of pipeline-removal operations, and is intended to protect mariners from the associated hazards.

DATES: Comments and related material must be received by the Coast Guard on or before July 11, 2017.

ADDRESSES: You may submit comments identified by docket number USCG-2017-0400 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or if email Petty Officer Amanda Boone, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271-4889, email Amanda.N.Boone@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

- CFR Code of Federal Regulations
- DHS Department of Homeland Security
- E.O. Executive order
- FR Federal Register
- Pub. L. Public Law
- § Section
- U.S.C. United States Code
- COTP Captain of the Port

II. Background, Purpose, and Legal Basis

Paulsboro Natural Gas Pipeline Company and Buckeye Partners, L.P. notified the Coast Guard that removal of portions of old natural gas pipelines will need to be conducted in compliance with the Army Corps of Engineers request for removal due to the upcoming widening and deepening of the Delaware River, main navigational channel, in which the depth of the channel will be taken to 45 feet. The Captain of the Port Delaware Bay has determined that potential hazards associated with the pipe-removal operational would be a safety concern for anyone within a 150-yard radius of the working vessels.

The Coast Guard is proposing to issue this rule under authority in 33 U.S.C. 1231; 33 CFR 1.05-1 and 160.5; and Department of Homeland Security Delegation No. 0170.1. The Captain of the Port, Delaware Bay, has determined that potential hazards associated with pipe-removal operations, beginning on or about July 29, 2017, will be a safety concern for vessels attempting to transit the Delaware River, along Billingsport Range. This rule is needed to protect personnel, vessels, and the marine environment on the navigable waters within the safety zone while removal of the pipeline is being conducted.

III. Discussion of Proposed Rule

The Coast Guard Captain of the Port is proposing to establish temporary safety zones on portions of the Delaware River on or about July 29, 2017, until October 31, 2017, unless cancelled earlier by the Captain of the Port, to facilitate the removal of existing pipeline on the river bed of the Delaware River, along the Billingsport Range.

With plans to widen the commercial shipping channel in the Delaware River, the U.S. Army Corp of Engineers (ACOE) has requested both Paulsboro Natural Gas Pipeline Company, LLC (PBF) and Buckeye Partners, L.P. (BPL) modify their existing pipelines across the river that could cause hazards to mariners in the expanded shipping channel. This specifically pertains to PBF's 8" natural gas pipeline and BPL's 10" and 12" pipelines that run adjacent

to Philadelphia International Airport to the Paulsboro Refinery. Due to the hazards related to underwater pipe-removal operations, safety zones will be established on the Delaware River waters within 150 yards of the working vessel(s) and related equipment.

The proposed safety zones will be established for the duration of the pipe-removal operation. Vessels that desire to enter or transit through the safety zones will be required to contact working vessels on VHF-FM marine band channel 13 or 16, at least 1 hour prior to arrival.

Entry into, transiting, or anchoring within the safety zones is prohibited unless vessels obtain permission from the Captain of the Port or make satisfactory passing arrangements with the working vessels on scene per this rule and the Rules of the Road (33 CFR subchapter E).

The Captain of the Port will implement and terminate the safety zone once all pipelines have been recovered and removal operations are completed. Notice of the implementation and the termination of the safety zone will be made in accordance with 33 CFR 165.7.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the safety zones. Although this regulation will restrict access to regulated areas, the effect of this rule will not be significant because vessels may be permitted to transit through the safety zone with the permission of the Captain of the Port or make satisfactory passing arrangements with the working

vessels on scene in accordance with this rule and the Rules of the Road (33 CFR subchapter E). Extensive notification of the safety zone to the maritime public will be made via maritime advisories to allow mariners to alter their plans accordingly.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone which is limited in size and duration. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant

environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

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

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact the person named in the **FOR FURTHER INFORMATION CONTACT** section, above.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–0400, to read as follows:

§ 165.T05–0400 Safety Zone, Delaware River; Pipe-laying

(a) *Location.* The following areas are safety zones: Includes all waters in Billingsport Range, on the Delaware River, within 150 yards of the working vessels and related equipment conducting pipe-removal operations.

(b) *Definitions.* (1) The Captain of the Port means the Commander Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(2) *Designated representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Delaware Bay, to assist with the enforcement of a safety zone described in paragraph (a) of this section.

(c) *Regulations:* The general safety zone regulations found in subpart C of this part apply to the safety zones created by this section. (1) The Captain of the Port will implement and terminate the safety zones once all pipelines have been removed and operations are completed. Notice of the implementation and the termination of the safety zone will be made in accordance with § 165.7.

(2) Entry into, transiting, or anchoring within the safety zones is prohibited unless vessels obtain permission from the Captain of the Port (COTP) or make satisfactory passing arrangements, via VHF–FM marine band channel 13 or 16, with the working vessel on scene per this rule and the Rules of the Road (33 CFR subchapter E).

(3) To request permission to enter a safety zone, the Captain of the Port's representative can be contacted via VHF–FM channel 16. Vessels granted permission to enter and transit through a safety zone must do so in accordance with the directions provided by the Captain of the Port or designated representative. No person or vessel may enter or remain in a safety zone without permission from the Captain of the Port. All persons and vessels within a safety

zone shall obey the directions or orders of the Captain of the Port or their designated representative.

(4) At least one side of the main navigational channel will be kept clear for safe passage of vessels in the vicinity of the safety zone. At no time will the main navigational channel be closed to vessel traffic. Vessels that desire to enter or transit through a safety zone shall contact the working vessels on scene on VHF–FM marine band channel 13 or 16, at least 1 hour prior to arrival.

(5) This section applies to all vessels that intend to transit through a safety zone except vessels that are engaged in the following operations: Enforcement of laws; service of aids to navigation, and emergency response.

(d) *Enforcement.* These safety zones will be enforced with actual notice by the U.S. Coast Guard representatives on scene, as well as other methods listed in 33 CFR 165.7.

Dated: June 20, 2017.

Benjamin A. Cooper,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2017–13247 Filed 6–23–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0541]

RIN 1625–AA00

Safety Zone; Nights in Venice Fireworks, Beach Thorofare, Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone on the waters of Beach Thorofare in Ocean City, NJ on July 22, 2017. The safety zone will restrict vessel traffic from operating on a portion of Beach Thorofare while a fireworks event is taking place. This safety zone is necessary to protect the public, spectators and vessels from the hazards associated with a fireworks display. The safety zone restricts vessels from transiting the zone during the effective period, unless authorized by the Captain of the Port Delaware Bay or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before July 11, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–

2017–0541 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or if email Petty Officer Amanda Boone, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271–4889, email Amanda.N.Boone@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
 DHS Department of Homeland Security
 E.O. Executive order
 FR Federal Register
 Pub. L. Public Law
 § Section
 U.S.C. United States Code
 COTP Captain of the Port

II. Background, Purpose, and Legal Basis

On June 8, 2017 the Coast Guard was notified of Ocean City Nights in Venice fireworks event scheduled for July 22, 2017. The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Delaware Bay has determined that a temporary safety zone is necessary to provide safety on navigable waters during the fireworks event, and to enhance safety of the public, spectators and vessels.

III. Discussion of Proposed Rule

On July 22, 2017 a fireworks display event will take place on the waters of Beach Thorofare in Ocean City, NJ. The Coast Guard is establishing a temporary safety zone in a portion of the waterway known as Beach Thorofare in Ocean City, NJ to ensure the safety of persons, vessels and the public during the event. The safety zone includes all navigable waters of Beach Thorofare within a 600 foot radius of the fireworks launch platform in approximate position 39°17'23" N., 074°34'31" W. near Ocean City, NJ. The fireworks displays are expected to occur between 9:30 p.m. and 10:30 p.m. In order to coordinate the safe movement of vessels within the area and to ensure that the area is clear of unauthorized persons and vessels before, during, and immediately after the fireworks launch, this zone will be enforced from 9:30 p.m. to 11:30 p.m.

Access to this safety zone will be restricted during the specified date and time period. Only vessels or persons specifically authorized by the Captain of

the Port Delaware Bay or designated representative may enter or remain in the regulated area.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This safety zone will impact the waters affected by this rule from 9:30 p.m. to 11:30 p.m. on July 22, 2017, during a time of day when commercial and recreational vessels traffic is normally low. Notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly. Notifications will be updated as necessary, to keep the maritime community informed of the status of the safety zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this rule will not have a significant

economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone which is limited in size and duration. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

applies, and provide a reason for each suggestion or recommendation.

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

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacyNotice>.

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

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

- 2. Add § 165.T05–0541 to read as follows:

§ 165.T05–0541 Safety Zone; Nights in Venice Fireworks, Beach Thorofare, Ocean City, NJ.

(a) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel and or on board another Federal, State, or local law enforcement vessel assisting the Captain of the Port, Delaware Bay with enforcement of the safety zone.

(b) *Location.* The following area is a safety zone: All the waters of Beach Thorofare within a 600 foot radius of the fireworks launch platform in

approximate position 39°17'W23" N., 074°34'W31" W. near Ocean City, NJ.

(c) Regulations.

(1) The general safety zone regulations found in § 165.23 apply to the safety zone created by this temporary section.

(2) Under the general safety zone regulations in § 165.23, persons may not enter the safety zone described in paragraph (b) of this section unless authorized by the COTP or the COTP's designated representative.

(3) To request permission to enter the safety zone, contact the COTP or the COTP's representative on marine band radio VHF–FM channel 16 (156.8 MHz). All persons and vessels in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Effective and enforcement period:* This section will be enforced from 9:30 p.m. to 11:30 p.m. on July 22, 2017.

Benjamin A. Cooper,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2017–13206 Filed 6–23–17; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 350

[Docket No. 17–CRB–0013 RM]

Proceedings of the Copyright Royalty Board; Violation of Standards of Conduct

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Royalty Judges seek reply comments regarding a proposed new Copyright Royalty Board rule that would authorize the Judges to bar, either temporarily or permanently, certain individuals and entities from participating in proceedings before the Judges.

DATES: Comments are due no later than July 26, 2017.

ADDRESSES: The proposed rule is posted on the agency's Web site (www.loc.gov/crb) and at Regulations.gov (www.regulations.gov). Interested parties may submit comments via the Copyright Royalty Board's electronic filing system, eCRB, at <https://app.crb.gov>. Commenters must register to use the system prior to filing comments. Those who choose not to submit comments electronically should see How to Submit Comments in the

SUPPLEMENTARY INFORMATION section below for online and physical addresses and further instructions.

FOR FURTHER INFORMATION CONTACT: Anita Blaine, Program Specialist, at (202) 707-7658 or crb@loc.gov.

SUPPLEMENTARY INFORMATION: On April 20, 2017, the Copyright Royalty Judges (Judges) published a notice in the *Federal Register* seeking comments on a proposed rule that would authorize the Judges to bar, either temporarily or permanently, certain individuals and entities from participating in proceedings before the Judges.¹ In response to the notice, the Judges received five comments, including two joint comments, from people and entities that regularly participate in proceedings before the Judges.² The comments and the proposal are available on the CRB Web site and in eCRB.

While some of the comments were supportive of the proposal or certain aspects of it, others were critical and raised a number of issues with the proposal, including the scope of the proposal, potential abuses of the proposed provisions, the Constitutionality of some of the proposed provisions, and whether the proposal is even necessary. The Judges seek reply comments responding directly to issues that commenters raised regarding the proposal. While the Judges will review and consider all comments they receive on the proposal, they request that commenters limit their comments at this point to issues that other commenters raised in the initial round of comments, including ways to address criticisms that some commenters raised with respect to the proposal. Some commenters that criticized the proposal suggested alternative language that might remedy perceived shortfalls in the Judges' proposal. The Judges request comments

on those proposals, or welcome alternative suggestions the Judges might adopt to address those perceived shortfalls, including the pros and cons of choosing any proposed alternative approach. In light of some of the negative comments, the Judges also seek comment on whether, on balance, the remedies currently available to the Judges for addressing ethical lapses of participants and counsel are adequate or preferable to the remedial rule the Judges proposed. In particular, the Judges seek detailed comments regarding the incidents to which the Judges referred in the notice proposing the provision (or others that commenters are aware of to which the Judges did not refer) and how remedies currently available were used to address those incidents and whether or not the extant remedies (e.g., discovery sanctions or loss of the presumption of validity regarding claims) adequately addressed those incidents or whether gaps in the current remedial framework might lead to future incidents that could compromise public confidence in the CRB ratemaking and royalty distribution system.

Solicitation of Comments

The Judges seek reply comments on the proposed new rule that respond to comments that the Judges received in response to the initial notice of proposed rulemaking.

How To Submit Comments

Interested members of the public must submit comments to only one of the following addresses. If not submitting online, commenters must submit an original of their comments, five paper copies, and an electronic version in searchable PDF format on a CD.

Online: <https://app.crb.gov> or <http://www.regulations.gov>; or

U.S. mail: Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or Overnight service (only USPS Express Mail is acceptable): Copyright Royalty Board, P.O. Box 70977, Washington, DC 20024-0977; or

Commercial courier: Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE., Washington, DC 20559-6000. Deliver to: Congressional Courier Acceptance Site, 2nd Street NE., and D Street NE., Washington, DC; or

Hand delivery: Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE., Washington, DC 20559-6000.

Dated: June 21, 2017.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

[FR Doc. 2017-13277 Filed 6-23-17; 8:45 am]

BILLING CODE 1410-72-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0760; FRL-9963-69 Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; CFR Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a request submitted by the Indiana Department of Environmental Management on December 13, 2016, to revise the Indiana state implementation plan (SIP). The submission revises and updates the Indiana Administrative Code definition of "References," from the 2013 edition to the 2015 edition.

DATES: Comments must be received on or before July 26, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0760 at <https://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

¹ 82 FR 18601.

² The Judges received a joint comment from a group referring to itself as "The Allocation Phase Parties," which are Program Suppliers, Joint Sports Claimants, Commercial Television Claimants, Public Broadcasting Service, Settling Devotional Claimants, Canadian Claimants Group, and National Public Radio. The Judges also received a joint comment from a group referring to itself as Music Community Participants, which are SoundExchange, Inc., the Recording Industry Association of America, Inc., the American Association of Independent Music, the American Federation of Musicians of the United States and Canada, the Screen Actors Guild—American Federation of Television and Radio Artists, the Alliance of Artists and Recording Companies, Inc., and the National Music Publishers' Association. The Judges also received comments from Raul Galaz and from Worldwide Subsidy Group, LLC, dba Independent Producers Group. The Judges also received a comment from David Powell.

making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, hatten.charles@epa.gov.

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the Indiana's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule.

EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule, and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: June 1, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017-13193 Filed 6-23-17; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 160413329-7546-02]

RIN 0648-XE571

Endangered and Threatened Wildlife and Plants; Proposed Endangered Listing Determination for the Taiwanese Humpback Dolphin Under the Endangered Species Act (ESA)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: We, NMFS, have completed a comprehensive status review under the Endangered Species Act (ESA) for the Taiwanese humpback dolphin (*Sousa chinensis taiwanensis*) in response to a petition from Animal Welfare Institute, Center for Biological Diversity, and WildEarth Guardians to list the species. Based on the best scientific and commercial information available, including the draft status review report (Whittaker and Young, 2017), and taking into consideration insufficient efforts being made to protect the species, we have determined that the Taiwanese humpback dolphin has a high risk of extinction throughout its range and warrants listing as an endangered species.

DATES: Comments on this proposed rule must be received by August 25, 2017. Public hearing requests must be requested by August 10, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0041, by either of the following methods:

- **Electronic Submissions:** Submit all electronic comments via the Federal eRulemaking Portal. Go to www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2016-0041, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Chelsey Young, NMFS Office of Protected Resources (F/PR3), 1315 East West Highway, Silver Spring, MD 20910, USA. Attention: Taiwanese humpback dolphin proposed rule.

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).

You can find the petition, status review report, **Federal Register** notices, and the list of references electronically on our Web site at <http://www.fisheries.noaa.gov/pr/species/>

mammals/dolphins/indo-pacific-humpback-dolphin.html. You may also receive a copy by submitting a request to the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, Attention: Taiwanese humpback dolphin proposed rule.

FOR FURTHER INFORMATION CONTACT:

Chelsey Young, NMFS, Office of Protected Resources, (301) 427-8403.

SUPPLEMENTARY INFORMATION:

Background

On March 9, 2016, we received a petition from the Animal Welfare Institute, Center for Biological Diversity and WildEarth Guardians to list the Taiwanese humpback dolphin (*S. chinensis taiwanensis*) as threatened or endangered under the ESA throughout its range. This population of humpback dolphin was previously considered for ESA listing as the Eastern Taiwan Strait distinct population segment (DPS) of the Indo-Pacific humpback dolphin (*Sousa chinensis*); however, we determined that the population was not eligible for listing as a DPS in our 12-month finding (79 FR 74954; December 16, 2014) because it did not meet all the necessary criteria under the DPS Policy (61 FR 4722; February 7, 1996). Specifically, we determined that while the Eastern Taiwan Strait population was "discrete," the population did not qualify as "significant." The second petition asserted that new scientific and taxonomic information demonstrates that the Taiwanese humpback dolphin is actually a subspecies, and stated that NMFS must reconsider the subspecies for ESA listing. On May 12, 2016, we published a positive 90-day finding for the Taiwanese humpback dolphin (81 FR 29515), announcing that the petition presented substantial scientific or commercial information indicating the petitioned action of listing the subspecies may be warranted, and explaining the basis for those findings. We also announced the initiation of a status review of the subspecies, as required by section 4(b)(3)(A) of the ESA, and requested information to inform the agency's decision on whether the species warranted listing as endangered or threatened under the ESA.

Listing Species Under the Endangered Species Act

We are responsible for determining whether species are threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). To make this determination, we first consider whether a group of organisms

constitutes a “species” under section 3 of the ESA, then whether the status of the species qualifies it for listing as either threatened or endangered. Section 3 of the ESA defines species to include “any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.” On February 7, 1996, NMFS and the U.S. Fish and Wildlife Service (USFWS; together, the Services) adopted a policy describing what constitutes a DPS of a taxonomic species (61 FR 4722). The joint DPS policy identified two elements that must be considered when identifying a DPS: (1) The discreteness of the population segment in relation to the remainder of the species (or subspecies) to which it belongs; and (2) the significance of the population segment to the remainder of the species (or subspecies) to which it belongs.

Section 3 of the ESA defines an endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range” and a threatened species as one “which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” Thus, in the context of the ESA, the Services interpret an “endangered species” to be one that is presently at risk of extinction. A “threatened species,” on the other hand, is not currently at risk of extinction, but is likely to become so in the foreseeable future. In other words, a key statutory difference between a threatened and endangered species is the timing of when a species may be in danger of extinction, either now (endangered) or in the foreseeable future (threatened). The statute also requires us to determine whether any species is endangered or threatened as a result of any of the following five factors: the present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence (ESA, section 4(a)(1)(A)–(E)). Section 4(b)(1)(A) of the ESA requires us to make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and after taking into account efforts being made by any State or foreign nation or political subdivision thereof to protect the species.

Status Review

The status review for the Taiwanese humpback dolphin was completed by NMFS staff from the Office of Protected Resources. To complete the status review, we compiled the best available data and information on the subspecies’ biology, ecology, life history, threats, and conservation status by examining the petition and cited references, and by conducting a comprehensive literature search and review. We also considered information submitted to us in response to our petition finding. The draft status review report was subjected to independent peer review as required by the Office of Management and Budget Final Information Quality Bulletin for Peer Review (M–05–03; December 16, 2004). The draft status review report was peer reviewed by three independent specialists selected from the academic and scientific community, with expertise in cetacean biology, conservation and management, and specific knowledge of the Taiwanese humpback dolphin. The peer reviewers were asked to evaluate the adequacy, appropriateness, and application of data used in the draft status review report as well as the findings made in the “Assessment of Extinction Risk” section of the report. All peer reviewer comments were addressed prior to finalizing the draft status review report.

We subsequently reviewed the status review report, and its cited references, and we believe the status review report, upon which this proposed rule is based, provides the best available scientific and commercial information on the Taiwanese humpback dolphin. Much of the information discussed below on the dolphin’s biology, distribution, abundance, threats, and extinction risk is attributable to the status review report. However, we have independently applied the statutory provisions of the ESA, including evaluation of the factors set forth in section 4(a)(1)(A)–(E), our regulations regarding listing determinations, and our DPS policy in making the 12-month finding determination. The draft status review report (cited as Whittaker and Young 2017) is available on our Web site (see ADDRESSES section). In the sections below, we provide information from the report regarding threats to and the status of the Taiwanese humpback dolphin.

Description, Life History, and Ecology of the Petitioned Species

Species Description

The Taiwanese humpback dolphin (*Sousa chinensis taiwanensis*) is a recently recognized subspecies of the

Indo-Pacific humpback dolphin (*Sousa chinensis*; Wang *et al.*, 2015). *Sousa chinensis* is a broadly distributed species within the family Delphinidae and order Cetartiodactyla, whereas the Taiwanese subspecies occurs in a restricted area of shallow waters off the western coast of Taiwan. The subspecies of *Sousa chinensis* occurring in the Eastern Taiwan Strait—*Sousa chinensis taiwanensis* (herein referred to as the Taiwanese humpback dolphin) was first described in 2002 during an exploratory survey of coastal waters off western Taiwan (Wang *et al.*, 2004b). Prior to coastal surveys, there were few records mentioning the species in this region, save two strandings, a few photographs, and anecdotal reports (Wang, 2004). Since the first survey in 2002, researchers have confirmed their year-round presence in the Eastern Taiwan Strait (Wang and Yang, 2011).

In terms of distinctive physical characteristics, the Indo-Pacific humpback dolphin is generally easy to distinguish from other dolphin species in its range. In general, the Indo-Pacific humpback dolphin is medium-sized, up to 2.8 m in length, and weighs 250–280 kg (Ross *et al.*, 1994). It is characterized by a robust body, long distinct beak, short dorsal fin atop a wide dorsal hump, and round-tipped broad flippers and flukes (Jefferson and Karczmarski, 2001). The base of the fin measures 5–10 percent of the body length, and slopes gradually into the surface of the body; this differs from individuals in the western portion of the range, which have a larger hump that comprises about 30 percent of body width, and forms the base of an even smaller dorsal fin (Ross *et al.*, 1994).

When young, humpback dolphins appear dark grey with no or few light-colored spots, and transform to mostly white (appearing pinkish) as dark spots decrease with age. However, the developmental transformation of pigment differs between Taiwanese and Chinese humpback dolphin populations, and the spotting intensity on the dorsal fin of the Taiwanese population is significantly greater than that in other nearby populations in the Pearl River estuary (PRE) or Jiulong River estuaries of the Chinese mainland (Wang *et al.*, 2008). In fact, Wang *et al.* (2008) concluded that these differences in pigmentation can be used to reliably distinguish the Taiwanese humpback dolphin from other nearby populations, and Wang *et al.* (2015) further confirmed that Taiwanese humpback dolphins were “clearly diagnosable from those of mainland China under the most commonly accepted 75 percent rule for subspecies delimitation, with 94

percent of one group being separable from 99 percent of the other.” Based on this information, as well as additional evidence of geographical isolation and behavioral differences, the authors concluded that the Taiwanese humpback dolphin qualifies as a subspecies, and revised the taxonomy of *Sousa chinensis* to include two subspecies: The Taiwanese humpback dolphin (*S. chinensis taiwanensis*) and the Chinese humpback dolphin (*S. chinensis chinensis*) (Wang *et al.*, 2015). Because of the new information as presented in Wang *et al.* (2015), the Taxonomy Committee of the Society for Marine Mammalogy officially revised its list of marine mammal taxonomy to recognize the Taiwanese humpback dolphin as a subspecies (Committee on Taxonomy, 2016).

Range, Distribution and Habitat Use

The Taiwanese humpback dolphin has a very restricted range, residing in the shallow coastal waters of central western Taiwan throughout the year (Wang *et al.*, 2007a; Wang *et al.*, 2016), with no evidence of seasonal movements (Wang and Yang, 2011; Wang *et al.*, 2016). Although the total distribution of the dolphin covers approximately 750 km², the subspecies’ core distribution encompasses approximately 512 km² of coastal waters, from estuarine waters of the Houlong and Jhonggang rivers in the north, to waters of Waishanding Jhou to the south (Wang *et al.*, 2016). This equates to a linear distance of approximately 170 km. However, the main concentration of the population occurs between the Tongsaio River estuary and Taisi, which encompasses the estuaries of the Dadu and Jhushuei rivers, the two largest river systems in western Taiwan (Wang *et al.*, 2007a). Typically, the Taiwanese humpback dolphin is found within 3 km from the shore (Dares *et al.*, 2014; Wang *et al.*, 2016).

Rarely, individuals have been sighted and strandings have occurred in near-shore habitat to the north and south of its current confirmed habitat; some of these incidents are viewed as evidence that the historical range of the population extended farther than its current range (Dungan *et al.*, 2011). However, two specific anomalous sightings are considered incidences of vagrancy, involving sick or dying animals. All but two sightings have occurred in shallow water, less than 20 m, and as shallow as 1.5 m. The only two sightings that occurred in water deeper than 20 m occurred in habitat where dredging had occurred (Wang *et al.*, 2007b). In fact, the Taiwanese

humpback dolphin is thought to be geographically isolated from mainland Chinese populations, with water depth being the primary factor dictating their separation. The Taiwan Strait is 140–200 km wide, and consists of large expanses of water 50–70 m deep (the Wuchi and Kuanyin depressions). Despite extensive surveys, Taiwanese humpback dolphins have never been observed in water deeper than 30 m. As noted previously, the majority of sightings have been made in waters less than 20 m deep, but individuals have been known to cross deep (>30 m) shipping channels in inshore waters that have been dredged (Dares *et al.*, 2014). Thus, deep water is thought to be the specific barrier limiting exchange with Chinese mainland populations (Jefferson and Karczmarski, 2001). *Sousa* species in general have limited mobility, and restriction to shallow, near-shore estuarine habitats is a significant barrier to movement (Karczmarski *et al.*, 1997; Hung and Jefferson, 2004). Thus, confirmed present habitat constitutes a narrow region along the coast, which is affected by high human population density and extensive industrial development (Ross *et al.*, 2010; Karczmarski *et al.*, 2016; Wang *et al.*, 2016).

Overall, water depth and the subspecies’ need for access to inshore, estuarine waters, as well as the estuarine distribution of prey species, are likely the main factors underpinning habitat use and distribution of Taiwanese humpback dolphins (Dares *et al.*, 2014; Wang *et al.*, 2016). The input of freshwater to the habitat is thought to be important in sustaining estuarine productivity, and thus supporting the availability of prey for the dolphin (Jefferson, 2000). Across the Taiwanese humpback dolphin habitat, bottom substrate consists of soft sloping muddy sediment with elevated nutrient inputs primarily influenced by river deposition (Sheehy, 2010). These nutrient inputs support high primary production, which fuels upper trophic levels contributing to the dolphin’s source of food. Thus, the characteristics defining distribution and habitat use of the Taiwanese humpback dolphin are similar to those of other humpback dolphin populations (Dares *et al.*, 2014).

Diet and Feeding

Information on this Taiwanese humpback dolphin’s foraging behavior and specific diet is limited, but the dolphins seem to have an opportunistic diet comprised primarily of estuarine fish (*e.g.*, sciaenids, mugilids, congrid, clupeoids), and either do not or rarely feed on cephalopods and crustaceans

(Wang *et al.*, 2016). While the subspecies does not seem to show the same attraction to fishing vessels as the nearby Pearl River estuary (PRE) population, some evidence (*e.g.*, net entanglements and observations of individuals feeding around and behind set gillnets and trawl nets, respectively) indicate that Taiwanese humpback dolphins may opportunistically feed in proximity to deployed fishing gear (Slooten *et al.*, 2013; Wang *et al.*, 2016). As is common to the species as a whole, the Taiwanese subspecies uses echolocation and passive listening to find its prey.

Reproduction and Growth

Little is known about the life history and reproduction of the Taiwanese humpback dolphin, and estimating life history parameters for the subspecies has proven difficult due to the lack of carcasses available for study (Wang *et al.*, 2016). A recent analysis of life history patterns for individuals in the PRE population may offer an appropriate proxy for understanding life history of the Taiwanese humpback dolphin, as the PRE population similarly inhabits estuarine and freshwater-influenced environments affected by comparable threats of pollution, as well as industrial development and fishing activity (Jefferson *et al.*, 2012). Additionally, life history traits of the PRE population are similar to the South African population, suggesting that some general assumptions of productivity can be gathered, even on the genus-level (Jefferson and Karczmarski, 2001; Jefferson *et al.*, 2012). However, it should be noted that environmental factors (*e.g.*, food availability, habitat status) may affect important rates of reproduction and generation time in different populations, and thus comparisons should be regarded with some caution.

Maximum longevity for PRE and South African populations is 39 and 40 years, respectively (Jefferson *et al.*, 2012; Jefferson and Karczmarski, 2001); therefore, we assume that the Taiwanese humpback dolphin experiences a similar life expectancy. Likewise, we also expect the Taiwanese humpback dolphin to have an age at sexual maturity for females similar to that for the PRE and South African populations (12–14 years). In general, it has been assumed that the Taiwanese subspecies experiences long calving intervals, between 3 and 5 years (Jefferson *et al.*, 2012). A recent study on the reproductive parameters of the Taiwanese humpback dolphin confirmed this assumption, and

estimated the mean calving interval (defined as the period between the estimated birth months of two successive calves) to be 3.26 years \pm SD 1.23 years (Chang *et al.*, 2016). However, it is important to note that the results of this study are based on only 4 years of data; therefore, females with potentially longer calving intervals would not have been observed or recorded. Taiwanese humpback dolphin births occur throughout the year, but decrease in late summer and through mid-winter, with 69 percent of the estimated months of birth occurring in spring and summer (Chang *et al.*, 2016). In terms of survival, between 1 and 3 calves survive annually to the age of 1-year (mean = 2.75), with survival of calves declining across the initial 3 years of life, from 0.778 (at 6 months) to 0.667 (at 1 year), and from 0.573 to 0.563 at ages of 2 and 3 years, respectively (Chang *et al.*, 2016). Chang *et al.* (2016) hypothesized that the relatively low calf survival observed in the Taiwanese humpback dolphin population is more likely due to anthropogenic factors (*e.g.*, fisheries interactions and habitat destruction) than natural causes. Overall, the Taiwanese humpback dolphin is likely long-lived, slow to mature, and has low recruitment rates and long calving intervals. These life history parameters indicate slow population growth, which contributes to a limited capacity for the subspecies to exhibit resilience to anthropogenic stressors (Chang *et al.*, 2016).

Population Structure

No genetic data exist for the Taiwanese humpback dolphin; therefore, the genetic connectivity within the population cannot be directly assessed. However, in such a small population, social behavior and habitat connectivity may provide clues to the connectivity of the population as a whole. In general, humpback dolphin (*Sousa* spp.) populations are known for having generally weak, fluctuating associations in 'fission-fusion' societies (*i.e.*, social groups that change in size and composition as time passes and individuals move throughout the environment; Dungan, 2016; Wang *et al.*, 2016; Dungan, 2012; Jefferson, 2000). However, a recent study of association patterns in Taiwanese humpback dolphins found that the Taiwanese subspecies exhibits stronger, persistent relationships among individuals, particularly among cohorts of mother-calf pairs (Dungan *et al.*, 2016), with a unique level of stability in the population compared to other humpback dolphin populations (Wang

et al., 2016). This high social cohesion is most likely related to cooperative calf rearing, wherein raising offspring with the assistance of peers or kin can increase offspring survivorship and thereby increase the fitness of the population (Dungan *et al.*, 2016). This behavior is thought to be an adaptive response to the dolphin's degraded, geographically restricted environment (which makes it difficult for mothers to support offspring on their own), and to their small population size (which has likely increased the relatedness of individuals) (Dungan, 2011). Calves and their inferred mothers seem to have central positions in the social network, which suggests that mother-calf pairs may be the key underlying factor for overall network structure (Dungan *et al.*, 2016). Given the subspecies' unique cohesive social network, persisting associations, and the reliance on cooperative rearing behaviors of mother-calf groups for reproductive fitness and survival, disruption of these social patterns could have significant ramifications regarding the dolphin's ability to reproduce as well as calf survivorship (Dungan *et al.*, 2016), which is already reportedly low (Chang *et al.*, 2016).

Population Abundance and Trends

There are only two formal estimates of abundance for the Taiwanese humpback dolphin. The first study estimated a population size of 99 individuals (coefficient of variation (CV) = 52 percent, 95 percent confidence interval (CI) = 37–266) based on surveys that used line transects to count animals from 2002 to 2004 (Wang *et al.*, 2007b). A new estimate of population abundance with data collected between 2007 and 2010 using mark-recapture methods of photo identification allowed for higher-precision measurements (Wang *et al.*, 2012). Yearly population estimates from this study ranged from 54 to 74 individuals in 2009 and 2010, respectively (CV varied from 4 percent to 13 percent); these estimates were 25 to 45 percent lower than those from 2002–2004 (Wang *et al.*, 2012). Carrying capacity for the Taiwanese humpback dolphin has been estimated at 250 individuals (which was set higher than the highest point estimate abundance from Wang *et al.* (2012)), as extrapolated from the mean density estimate for the population (Araújo *et al.*, 2014); this estimate suggests that the population abundance has been reduced from historical levels.

An analysis of potential biological removal (PBR), which, under the Marine Mammal Protection Act (MMPA), is a measure of the maximum number of

individuals that can be removed from a population without depleting it (Wade, 1998), was conducted to assess the sustainability and stability of the Taiwanese humpback dolphin in the face of present threats, and their projected future trends (Slooten *et al.*, 2013). Using the most current abundance estimate, and assuming that the Taiwanese humpback dolphin population is a closed and discrete population based on information provided in Wang *et al.* (2012), Slooten *et al.* (2013) assessed the number of individuals in the population that may be lost due to occurrences other than natural mortality and still allow for population stability and recovery. The authors calculated that a sustainable population could withstand no more than one human-caused dolphin death every 7 to 7.6 years. Thus, even a single human-caused mortality per year would exceed the PBR by a factor of seven (Slooten *et al.*, 2013). Their assessment took into account all non-natural mortality including fishing, pollution, vessel strikes, habitat destruction, and other human activities, and determined that current removal of individuals from the population exceeds the PBR necessary for population stability which would prevent decline, support natural population growth, and allow for improved status (Slooten *et al.*, 2013). Given the population's mortality rate of 1.5 percent (Wang *et al.*, 2012), current rates of population decline are likely unsustainable.

An extremely low population size estimate (fewer than 100 individuals) is well supported by current available data, and recent population viability analyses (PVA) suggest that the population is declining due to the synergistic effects of habitat degradation and detrimental fishing interactions (Araújo *et al.*, 2014; Huang *et al.*, 2014). Araújo *et al.* (2014) modeled population trajectory over 100 years using demographic factors alongside different levels of mortality attributed to bycatch, and loss of carrying capacity due to habitat loss/degradation. The model predicted a high probability of ongoing population decline under all scenarios. For instance, population size was predicted to be smaller than the initial size in more than 76 percent of all model runs, with the final population size predicted to be <1 individual (*i.e.*, extinction) in 66 percent of all model runs (Araújo *et al.*, 2014). Another PVA was performed by using an individual-based model to account for parametric uncertainty and demographic stochasticity (Huang *et al.*, 2014). Although this model showed wide

variation in population growth estimates (ranging from a significant decline of -0.113 to a moderate increase of 0.0317), the end result for the subspecies was still an overall decline, with 69.4 percent of simulations predicting a population decline of greater than 25 percent within one generation (*i.e.*, 22 years) and the majority of simulations (54 percent) predicting local extinction within 100 years (Huang *et al.*, 2014).

Overall, although the two PVA studies differed in their findings with regard to the relative importance of bycatch and habitat loss threats, both assessments concluded that the subspecies is in serious danger of going extinct (Wang *et al.*, 2016). Ultimately, strong evidence suggests that the Taiwanese humpback dolphin population size is critically small, and rates of decline are high and likely unsustainable. Further, it is clear that loss of only a single individual within the population per year would substantially reduce population growth rate and is thus unsustainable (Dungan *et al.*, 2011, Slooten *et al.*, 2013)

Assessment of Extinction Risk

The ESA (section 3) defines an endangered species as “any species which is in danger of extinction throughout all or a significant portion of its range.” A threatened species is defined as “any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.” Neither we nor the USFWS have developed formal policy guidance about how to interpret the definitions of threatened and endangered with respect to what it means to be “in danger of extinction.” We consider the best available information and apply professional judgment in evaluating the level of risk faced by a species in deciding whether the species is threatened or endangered. We evaluate demographic risks, such as low abundance and productivity, and threats to the species, including those related to the factors specified in ESA section 4(a)(1)(A)–(E).

For purposes of assessing extinction risk for the Taiwanese humpback dolphin, we reviewed the best available information on the species and evaluated the overall risk of extinction facing the Taiwanese humpback dolphin, now and in the foreseeable future. The term “foreseeable future” was discussed qualitatively in the status review report and defined as the timeframe over which threats could be projected with a reasonable amount of confidence. After considering the life history of the Taiwanese humpback

dolphin, availability of data, and types of threats, we determined that a reasonable foreseeable future should extend over several decades (>50 years). The foreseeable future timeframe is also a function of the reliability of available data regarding the identified threats and extends only as far as the data allow for making reasonable predictions about the species’ response to those threats. Given the Taiwanese humpback dolphin’s life history traits, including longevity estimated to be upwards of 40 years, estimated maturity range of 12–14 years, low reproductive rates and long calving intervals of >3 years, it would likely take more than a few decades (*i.e.*, multiple generations) for any management actions to be realized and reflected in population abundance indices. Similarly, the impact of present threats to the subspecies could be realized in the form of noticeable population declines within this time frame, as demonstrated by the very low PBR estimate for the dolphin and current mortality rate of 1.5 percent. As the main operative threats to the subspecies include habitat destruction and entanglement in fishing gear, this time frame would allow for reliable predictions regarding the impact of current levels of fishery-related mortality and the previously discussed impacts of habitat destruction as a result of land reclamation and other activities on the biological status of the Taiwanese humpback dolphin.

In determining the extinction risk of a species (and in this case, a subspecies), it is important to consider both the demographic risks facing the species as well as current and potential threats that may affect the species’ status. To this end, a demographic risk analysis was conducted for the Taiwanese humpback dolphin. A demographic risk analysis is an assessment of the manifestation of past threats that have contributed to the species’ current status and informs the consideration of the biological response of the species to present and future threats. This analysis evaluated the population viability characteristics and trends available for the dolphin, such as abundance, growth rate/productivity, spatial structure and connectivity, and diversity, to determine the potential risks these demographic factors pose to the subspecies. The information from this demographic risk analysis was considered alongside the information previously presented on threats to the subspecies, including those related to the factors specified by the ESA section 4(a)(1)(A)–(E) (and summarized in a separate Threats Assessment section

below) and used to determine an overall risk of extinction for the Taiwanese humpback dolphin. Thus, scientific conclusions about the overall risk of extinction faced by the Taiwanese humpback dolphin under present conditions and in the foreseeable future are based on our evaluation of the subspecies’ demographic risks and section 4(a)(1) threat factors. Our assessment of overall extinction risk considered the likelihood and contribution of each particular factor, synergies among contributing factors, and the cumulative impact of all demographic risks and threats on the subspecies.

Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into consideration those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect the species. Therefore, prior to making a listing determination, we also assess such protective efforts to determine if they are adequate to mitigate the existing threats.

Evaluation of Demographic Risks

Abundance

We identified the critically low population abundance of the Taiwanese humpback dolphin as the demographic factor contributing most heavily to the subspecies’ risk of extinction. With fewer than 100 individuals and low productivity, even a single human-caused mortality per year is expected to negatively impact the subspecies’ continued viability. For example, current annual mortality is estimated at 1.5 percent (Wang *et al.*, 2012) and recent PVAs, which model future scenarios taking into account increasing threats of fishing and habitat loss, confirm the unsustainable decline of the population (Araújo *et al.*, 2014; Huang and Karczmarski, 2014; Huang *et al.*, 2014). In fact, both available PVA assessments conclude that the subspecies is in danger of going extinct (Wang *et al.*, 2016). Overall, the small and declining population size of the Taiwanese humpback dolphin contributes to a high risk of extinction, which is compounded by a variety of ongoing threats to the population and its habitat.

Growth Rate/Productivity

The Taiwanese humpback dolphin is associated with a slow rate of reproduction, long calving intervals, low recruitment rates and a long period of female-calf association. A recent study on the reproductive parameters of

the Taiwanese humpback dolphin indicates low calf survival rate and fecundity (Chang *et al.*, 2016). For the Taiwanese humpback dolphin, low fecundity is likely caused by current threats of habitat contamination, stress, and prey disruption (Chang *et al.*, 2016). As such, ongoing exposure to pollution and stress derived from interactions with anthropogenic activity may act to further reduce reproductive rates of this subspecies in the future. Trends of decreasing reproductive rate are likely to prevent the population's adaptability to stress and impede its ability to increase population levels, even if mitigation efforts are made to address other threats such as bycatch and habitat destruction. Overall, the Taiwanese humpback dolphin's reproductive rate may be expected to decrease over time without efforts to mitigate habitat contamination and stress due to anthropogenic activity occurring throughout the population's range. For the Taiwanese humpback dolphin, a low rate of reproduction and fecundity now, and likely reductions in those rates in the future, contribute to a high risk of extinction.

Spatial Structure/Connectivity

As previously discussed, genetic data are not available for the Taiwanese humpback dolphin; therefore, the genetic connectivity within the population cannot be directly assessed. In such a small population, however, social behavior and habitat connectivity may provide clues to the connectivity of the population as a whole. For the Taiwanese humpback dolphin, habitat includes a very narrow strip of near shore waters. Analysis of social behavior of the population has revealed significant and high levels of interconnectedness and gregarious behavior across this habitat range (Dungan, 2011; Dungan *et al.*, 2016). The population is not subdivided into smaller social groups, as is the case for larger mainland Chinese populations (Dungan, 2011). Rather, the Taiwanese humpback dolphin exhibits high social cohesion relating to its strong population isolation, low abundance, confined geographic distribution, and anthropogenic stressors that have diminished the biological productivity of Taiwan's west coast over the last ~60 years (Dungan *et al.*, 2016; Dungan, 2011). As such, the subspecies' social structure may be unusual relative to other *S. chinensis* populations in that individual dolphins appear to be using stronger, longer-lasting relationships in order to cope with these environmental and demographic differences (Dungan *et al.*, 2016).

As previously discussed, the high social cohesion observed in the Taiwanese humpback dolphin is most likely related to cooperative calf rearing; this behavior is thought to be an adaptive response to the dolphin's degraded, geographically restricted environment (which makes it difficult for mothers to support offspring on their own), and to their small population size (which has likely increased the relatedness of individuals) (Dungan, 2011). The social structure of this small population may be disrupted by several factors. For instance, damming of freshwater input or construction and land reclamation preventing the transit of individuals across its near shore range may lead to genetic and social fragmentation. Currently, the direct impact of habitat alteration on the genetic and social connectivity of the Taiwanese humpback dolphin is based on limited data. Disruption of social structure through mortality or habitat fragmentation may hinder the transfer of information and destabilize the community structure that aids in the adaptability of the small population in the future. Current threats to habitat, fishing entanglement, and direct mortality continue to increase, and may disrupt the social stability and physical connectivity among individuals of the subspecies, particularly through the deaths of breeding females. However, the extent to which these effects directly impact the connectivity of the small and isolated population remains uncertain. Based on the narrow habitat range and isolated nature of the population, with high within-population connectivity, continued alteration and fragmentation of this connectivity due to increasingly constricted habitat may hinder its future ability to adapt to threats, and, therefore, contributes moderately to the subspecies' risk of extinction.

Diversity

While data do not exist to address the genetic diversity of the Taiwanese humpback dolphin, there are several reasons to believe that diversity is reduced in the subspecies. First, with fewer than 100 and possibly fewer than 75 individuals in this reproductively isolated subspecies (which is well below the minimum population size (*i.e.*, at least 250 individuals) required for marine mammals to resist stochastic genetic diversity loss (Huang *et al.*, 2014)), the gene pool may be experiencing critical bottlenecks. Next, social structure is highly connected in the population. This suggests that genetic substructure within the population does not exist, and diversification within the population is

not supported by current environmental or behavioral mechanisms. Low diversity may contribute to low capacity for the population to adapt to changes in the marine environment projected in future climate scenarios. The combination of low diversity and small population size most likely increases the population's vulnerability to current and increasing threats. Insufficient data are available to directly determine the effect of small population size on the genetic diversity of the population. However, although insufficient data are available, evidence from abundance and social structure suggest that diversity is likely low, and may contribute moderately to the extinction risk of the subspecies.

Summary of Factors Affecting the Taiwanese Humpback Dolphin

As described above, section 4(a)(1) of the ESA and NMFS' implementing regulations (50 CFR 424.11(c)) state that we must determine whether a species (or in this case, a subspecies) is endangered or threatened because of any one or a combination of the following factors: The present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting its continued existence. We evaluated whether and the extent to which each of the foregoing factors contributed to the overall extinction risk of the Taiwanese humpback dolphin. We summarize information regarding each of these threats below according to the factors specified in section 4(a)(1) of the ESA. The best available information indicates that habitat destruction, modification, or curtailment of the subspecies' habitat or range (*e.g.*, land reclamation, fresh water diversion, and pollution) and other natural or manmade factors (*e.g.*, bycatch and fisheries entanglement and vessel strikes) contribute significantly to the subspecies' risk of extinction. We also determined that the inadequacy of existing regulatory mechanisms to control these threats is also contributing significantly to the dolphin's extinction risk. We determined that overutilization for commercial, recreational, scientific or educational purposes, disease, or predation are not operative threats on the species, although we do recognize that these threats may act synergistically with the more high-risk threats. See Whittaker and Young (2017) for additional discussion of all ESA section 4(a)(1) threat categories.

Destruction, Modification, or Curtailment of the Species Habitat or Range

As previously discussed in the *Range, Distribution and Habitat Use* section of this proposed rule, the Taiwanese humpback dolphin is an obligatory shallow water inshore species known for its restricted distribution and narrow habitat selectivity; thus, degradation of coastal habitats can have significant consequences for the subspecies, including impacts to persistence and distribution of the subspecies (Karczmarski *et al.*, 2016). Like many estuarine habitats, that of the Taiwanese humpback dolphin is negatively impacted by highly concentrated human activity. In fact, out of Taiwan's human population of 23 million, approximately 90 percent live in counties bordering the west coast of Taiwan, and thus abutting the Taiwanese humpback dolphin's habitat (Ross *et al.*, 2010). In addition to high population density, the coastal region is associated with persistent industrial development, land reclamation, and freshwater diversion, all of which destroy and degrade estuarine habitat upon which the Taiwanese humpback dolphin depends (Sheehy, 2009; Thamarasi, 2014). Below, we discuss several factors that may be contributing to the destruction, modification, or curtailment of the Taiwanese humpback dolphin's habitat and/or range, including coastal development/land reclamation, freshwater diversion, and contaminants/pollutants.

Land reclamation due to industrial activity and coastal development contributes to widespread loss and degradation of Taiwanese humpback dolphin habitat. Over the past three decades, the west coast of Taiwan has undergone large alterations of coastal environments due to embankment, land reclamation, coastal construction, and shoreline development, including the construction of break-walls and dredging activities. These activities have increased over the last 50 years and are expected to continue into the future, largely unchecked (Wang *et al.*, 2004a; Wang *et al.*, 2007a; Karczmarski *et al.*, 2016). In fact, recent studies have documented extensive loss of native estuarine habitat across the Taiwanese humpback dolphin's range. For example, from 1995 to 2007, actions taken to control for erosion and flooding, as well as the expansion of structures such as fishing ports, power plants, and other public facilities, resulted in a 20 percent decline in natural coastline within the Taiwanese

humpback dolphin's habitat (Wang *et al.*, 2016).

Another study estimated that land reclamation activities since 1972 have destroyed over 222 km² of habitat along the western coast of Taiwan, equating to 23 percent and 40 percent of dolphin habitat and foraging habitat, respectively (Karczmarski *et al.*, 2016). However, the authors note that this is likely an underestimation of true impacts, as the study only considered habitat loss due to land reclamation and did not account for other impacts to the dolphin's habitat (Karczmarski *et al.*, 2016). Results of this study indicate that the dolphin likely had a continuous distribution prior to any land reclamation activities, whereas the subspecies' current distribution appears fragmented into two zones separated by an area of potential avoidance. Therefore, Karczmarski *et al.* (2016) concluded that the current discontinuous distribution of Taiwanese humpback dolphins is likely due to varying levels of habitat degradation rather than "natural patchiness of their environment."

In contrast, Dares *et al.* (2017) found that Taiwanese humpback dolphins exhibited temporal and spatial variation in mean densities across their range, and that dolphin density was not directly linked to any environmental factors (*e.g.*, depth, sea surface temperature, salinity, and proximity to the nearest source of fresh water). In fact, all metrics analyzed in the study, including dolphin sightings, dolphin density, and mother-calf pairs, were higher in waters adjacent to major reclamation projects as compared to more natural waters where major reclamation activities had not occurred. Unlike other cetacean species, Taiwanese humpback dolphins are confined to a relatively small amount of suitable habitat and restricted to shallow estuarine waters; therefore, the dolphins do not have the option to relocate to other areas when high quality habitats are degraded or lost to reclamation activities (Dares *et al.*, 2017). Therefore, the authors conclude that "rather than a real preference for waters adjacent to reclaimed coastlines" the patterns observed in the study are likely because the locations of these large construction sites and activities are in close proximity to the two largest estuaries in the range of the subspecies (Dares *et al.*, 2017).

Despite the differences in distribution and habitat use observed in these recent studies, the large elimination of suitable habitat negatively affects the Taiwanese humpback dolphin in several ways. First, habitat fragmentation due to high

levels of industrial development may reduce connectivity among estuaries along the narrowly distributed range of the population. This can physically limit the ability of individuals to associate with each other, which could have detrimental impacts on the dolphin's reproductive output and calf survivorship, particularly given the subspecies' high social cohesion and dependence on cooperative calf-rearing behaviors (Dungan *et al.*, 2016). Next, waste discharge from industrial activity leads to water and sediment contamination. Given the extremely limited availability of suitable habitat for the dolphin, use of lower quality habitat near coastal developments because of land reclamation can also expose the dolphins to areas of higher effluent discharge and pollutants (Dares *et al.*, 2017). Finally, dredging and hydraulic sand fill methods used frequently for industrial land reclamation in the area not only encroach upon limited habitat, but also have the potential to disrupt the distribution of vital prey species of the population (Ross *et al.*, 2010; Dungan *et al.*, 2011).

In addition to land reclamation, freshwater diversion likely has significant impacts to the Taiwanese humpback dolphin, as the subspecies is dependent upon freshwater inflow to support the productivity and ecosystem health of its estuarine habitat. This habitat need of freshwater inflow for the Taiwanese humpback dolphin is similar to that shown for the PRE population of humpback dolphins in mainland China, where freshwater inflow has been shown to support steady estuarine ecosystem production upon which the dolphin relies for prey (Jefferson and Hung, 2004). This freshwater flow is drastically reduced by dams, flood control, and river diversions related to industrial development and diversion for agricultural and municipal purposes (Dungan *et al.*, 2011). In Taiwan, freshwater flow from all major rivers to estuaries has decreased by as much as 80 percent due to anthropogenic diversion (Ross *et al.*, 2010). Landsat data also show a drastic reduction and weakening of annual discharge from major rivers along Taiwan's west coast since 1972, as indicated by the reduced width of the channel and alluvial fans at river mouths (Karczmarski *et al.*, 2016). Dams are already in place for many rivers in Western Taiwan, and have resulted in widespread loss of estuarine mudflat habitat, which is vital to Taiwanese humpback dolphin foraging and productivity. For example, the Coshui (Juoshuei) River that once

supplied sediment to the Waisanding sand bar has been diverted and restricted by the Formosa Petrochemical Corporation plant, resulting in shifts and shrinking of the sand bar (Chen, 2006). Taiwanese dams and their total capacity have increased exponentially over the past century, resulting in significant loss and alteration of natural estuarine systems. Finally, pollution and habitat contamination pose a threat to the health of long-lived species such as the humpback dolphin. Due to concentrated industrial and human activity, high levels of pollution are discharged into the habitat of the Taiwanese humpback dolphin (Wang *et al.*, 2007a). The sources of these pollutants include marine boat repair, fish processing, fueling stations, ship dumping, pipeline leakage, municipal and residential waste, industrial effluent, and livestock runoff (Ross *et al.*, 2010). The discharge of toxic pollutants into coastal waters of Taiwan is largely unregulated. For instance, an estimated 740,000 tons of waste oil from boats enters the marine environment in Taiwan each year (Wang *et al.*, 2007b). In addition, over 70 percent of wastewater is discharged into river systems untreated, and subsequently runs off into near shore estuarine habitat (Chen *et al.*, 2007). Particularly damaging are persistent organic, heavy metal, and trace metal pollutants which negatively interact with cetacean development and reproduction and are associated with carcinogenic and teratogenic properties (Reijnders, 2003; Ramu *et al.*, 2005). These toxins have been found to accumulate and become concentrated in the marine sediment off the coast of Taiwan affected by freshwater input, impacting the Taiwanese humpback dolphin habitat (Chen *et al.*, 2007; Hung *et al.*, 2010). Even toxins which were banned in the 1980s, such as polychlorinated biphenyls (PCBs), remain present in poorly maintained machinery and industrial equipment, thus their accumulation is expected to continue in the future (Chou *et al.*, 2004).

Pollution can affect the Taiwanese humpback dolphin in two ways: Directly influencing the health of the animal or influencing prey that the dolphin later ingests, thus leading to bioaccumulation of toxins in the dolphin. To date, only one study has analyzed the potential bioaccumulation of toxins specifically for the Taiwanese humpback dolphin population. Riehl *et al.* (2012), using a life-history based contaminant accumulation model for marine mammals, estimated that 68 percent of the population is at risk for

immunotoxicity based on a 17 mg/kg lipid weight (LW) threshold for immunotoxicity (noting that there are several lower level thresholds shown to impact the health of marine mammals). Model outputs using a “best-case” scenario (*e.g.*, diet of 100 percent *Johnius spp.*) resulted in average adult males reaching the threshold concentration just prior to turning 9.3 years of age. In contrast, the average adult female would only acquire enough PCBs to reach concentrations of 2.84 mg/kg LW due to offloading much of their body burden to their offspring after giving birth (Riehl *et al.*, 2012). Although the study was based on limited species-specific data inputs to the model, humpback dolphins in the PRE, affected by similar threats of industrial development and habitat contamination, have demonstrated elevated concentrations of organochlorines including PCBs, hexachlorocyclohexanes (HCHs), and dichlorodiphenyltrichloroethanes (DDTs) (Parsons, 2004; Ramu *et al.*, 2005; Jefferson *et al.*, 2006). For example, in humpback dolphins off the coast of Hong Kong, the concentration of DDTs was as high as 470 µg/g LW, and PCBs as high as 78 µg/g (Ramu *et al.*, 2005). Toxicity analysis (which compares these concentrations with known toxic effects from other marine mammals) strongly suggests that these chemicals impair reproduction and suppress immune function in the Indo-Pacific humpback dolphin (Ramu *et al.*, 2005). This is particularly concerning given the already low reproductive rate of the dolphin.

Overutilization for Commercial, Recreational, Scientific or Educational Purposes

We assessed two factors that may contribute to the overutilization of the subspecies: Whale watching and scientific research. While some whale watching and recreational observation of marine mammals occurs off the coast of Taiwan, it is unlikely that these activities contribute heavily to the extinction risk for the Taiwanese humpback dolphin relative to other threats. However, some tours targeting the Taiwanese humpback dolphin have been permitted to operate despite recommendations against any boat-based dolphin watch tour targeting the subspecies (Wang, pers. comm., 2017; Wang *et al.*, 2007a). Therefore, while whale watching tours on their own are unlikely to pose a significant threat to the dolphin, any additional stressor on the population likely acts synergistically with other more prominent threats and

contributes to the subspecies' extinction risk.

It is also unlikely that scientific monitoring has a negative impact on the Taiwanese humpback dolphin. The dolphin was only first observed in 2002, and since then several scientific surveys have sought to characterize its status and abundance. The low frequency of these surveys, and reliance on non-invasive photo identification, are unlikely to pose serious threats to the subspecies.

Inadequacy of Existing Regulatory Mechanisms

There are few regulations in place for the protection of the Taiwanese humpback dolphin. For example, the Taiwanese humpback dolphin is listed under Taiwan's Wildlife Conservation Act as a Level I protected species, which grants species the highest level of legal protection. Article 4 of the Act designates humpback dolphins as “protected wildlife”, and Article 18 states that these animals are “not to be disturbed, abused, hunted [or] killed” (Wang *et al.*, 2016). Nonetheless, there appear to be no associated regulatory or enforcement actions for the prevention of bycatch and entanglement of the population, or extensive habitat degradation (Wang *et al.*, 2016). For example, several years after Ross *et al.* (2010) published recommendations for legally protecting the confirmed and suitable habitat for the Taiwanese humpback dolphins, the Forestry Bureau of Taiwan proposed “Major Wildlife Habitat” for the dolphins in 2014; however, the proposed protected area did not cover the minimum area recommended for protection (Wang *et al.*, 2016). Given the already restricted amount of suitable habitat available to the dolphin, providing legal protection for an area that does not cover the subspecies' entire distribution may put the dolphins at risk of encountering increased threats occurring just outside the protected area (also known as the “edge effect”; see original citations in Wang *et al.*, 2016). Furthermore, regardless of potential inadequacies of the proposed protected area, the “Major Wildlife Habitat” proposal has not yet been implemented (Wang *et al.*, 2016). Therefore, based on current knowledge of the population, and despite providing the highest level of legislative protection, the Wildlife Conservation Act appears inadequate to control for the primary threats to the species and has thus far proven unsuccessful in slowing population decline.

While many recommendations have been made to guide the future conservation and recovery of the

population (Wang *et al.*, 2004a; Wang *et al.*, 2007a; Ross *et al.*, 2010; Ross *et al.*, 2011), no current regulatory mechanisms are in place to address the major threats to the subspecies and its future viability. Development and industrialization of the region are largely unregulated. Likewise, fishing and marine mammal bycatch are also unregulated.

Therefore, based on the foregoing information, we conclude that existing regulations for the Taiwanese humpback dolphin are inadequate. That is, the laws that are in place currently are not effectively controlling for the main identified threats to the species (*e.g.*, habitat destruction and fishing interactions) and will likely not prevent future population decline.

Other Natural or Manmade Factors Affecting Its Continued Existence

We assessed several potential threats that fall under the category of Other Natural or Manmade Factors, including bycatch and entanglement in fishing gear, vessel strikes, acoustic disturbance, and climate change. Among these threats, injury and mortality due to bycatch and entanglement in fishing gear and vessel strikes were by far the most significant threats to the continued existence of the Taiwanese humpback dolphin. We discuss these threats in detail below. Detailed information on the other threats (*i.e.*, acoustic disturbance and climate change) can be found in the draft status review report (Whittaker and Young, 2017).

As noted previously, entanglement and mutilation due to interactions with fishing gear are likely the most serious direct and immediate threat to the Taiwanese humpback dolphin (Wang *et al.*, 2016; Wang *et al.*, 2017). Bycatch poses a significant threat to small cetaceans in general, where entanglement in fishing gear results in widespread injury and mortality (Read *et al.*, 2006). Taiwanese fisheries reports indicate that entanglement in fishing gear kills thousands of small cetaceans in the region (Chou, 2006). Although there are many types of fishing gear used throughout the subspecies' habitat, the two fishing gear types most hazardous to small cetaceans are gillnets and trammel nets, thousands of which are set in coastal waters off western Taiwan (Dungan *et al.*, 2011; Slooten *et al.*, 2013).

Injury due to entanglement is evident in the Taiwanese humpback dolphin population, identified by characteristic markings on the body, including constrictive line wraps, and direct observation of gear wrapped around the

dolphin (Slooten *et al.*, 2013). One study determined that over 30 percent of the Taiwanese humpback dolphin population exhibits evidence of fisheries interactions including wounds, scars, and entanglement (Wang *et al.*, 2007a; Slooten *et al.*, 2013), with 59.2 percent of injuries (lethal and non-lethal) observed confirmed to have originated from fisheries interactions (Slooten *et al.*, 2013). In a more recent study that expands upon Slooten *et al.* (2013), Wang *et al.* (2017) determined that nearly 60 percent of the individuals examined in the study (n = 78) bore major injuries caused by human activities, with 93 major injuries recorded on 46 individuals. The authors defined "major injuries" as those that would likely comprise the dolphin's health, survivorship or reproductive potential. Not only was a large proportion of the population injured, more than half of the individuals suffered multiple injuries, with several new injuries observed. Consequently, this means that the risk of injury by human activities is ongoing. In fact, from 2007 to 2015, 11 new human-caused injuries were recorded on 9 individuals. Therefore, the population incurred a minimum of 1.38 new injuries each year of the study, which resulted in a total major injury rate of 1.13 individuals/year (Wang *et al.*, 2017). However, the authors note that despite the fact that all metrics evaluated in the study were high, they were still likely underestimates of the total impacts. For example, fatal injuries in which the animal dies immediately or soon after could not be considered and thus were not factored into the overall measure of impact. Two individuals have been found dead since 2009 with indications of gillnet entanglement injuries (Wang *et al.*, 2017) and thus far, there has been no action to reduce any of the major threats identified more than a decade ago at the first workshop on the conservation and research needs of the subspecies (Wang *et al.*, 2004a; Wang *et al.*, 2017). Overall, without immediate actions to control for threats from local fisheries (especially net fisheries) and other major threats identified to the subspecies, the Taiwanese humpback dolphin likely faces imminent extinction (Wang *et al.*, 2017).

In addition to direct effects of fishing activity on the Taiwanese humpback dolphin, indirect effects of fishing include: Depletion of prey resources, pollution, noise disturbance, altered behavioral responses to prey aggregation in fishing gear, and potential changes to social structure arising from the deaths

of individuals. Individuals of the Taiwanese humpback dolphin have shown potential evidence of disturbance due to such effects (Slooten *et al.*, 2013). For example, recent surveys have observed dolphins with emaciated and poor body condition, suggesting declines in prey abundance, increased foraging effort, or disease (Slooten *et al.*, 2013). While most Taiwanese humpback dolphin prey species are small and not commercially valuable (Barros *et al.*, 2004), decreases in their abundance due to bycatch and subsequent fishmeal production may lead to over-exploitation, and reduce prey availability for the dolphin (Slooten *et al.*, 2013). Increased prey aggregation due to fishing can also attract mothers and calves, putting them at greater risk of entanglement and injury; this has been observed in the PRE population, and is most likely behavior common to the Taiwanese humpback dolphin as well (Jefferson, 2000). Finally, death and injury of individuals due to fishing activity can disrupt social structure, which may affect the survival of calves or transfer of generational information throughout the social network. For example, loss of a mature female may impact the trajectory of learning and survival techniques passed on to a calf in its first several years.

In addition to bycatch and entanglement, fishing activities can affect dolphins by increasing the likelihood of vessel strikes due to increased boat traffic. The waters off Taiwan are highly concentrated with human boat activity, including transportation, industrial shipping, commercial fishing, sand extraction, harbor dredging, and commercial dolphin watching. This activity is unmitigated, and its concentration has increased dramatically over the past few decades. In fact, the trend in boating and fishing activity in the region has increased by more than 750 percent since the 1950s, and its increase is expected to continue into the foreseeable future (Huang and Chuang, 2010). Fishing vessels alone contribute a large fraction of this boating activity; an estimated 6,300 fishing vessels are currently active inside the dolphins' habitat (operating from ports in the six coastal counties fronting the dolphins' habitat), and 45 percent of them are regularly engaged in fishing coastal waters (Slooten *et al.*, 2013). The fleet is over-capitalized due to technological improvements, and thus fishing pressure and negative interactions between fishing gear/vessels and cetaceans are increasing (Wang *et al.*, 2007b). Additionally, this traffic is

unregulated, and poses a threat to the limited and narrow habitat available to the subspecies. The noise from these vessels may be disorienting for the dolphins, which rely upon acoustic sensory systems to communicate, forage, and interact with their environment, and thus increase the potential for a strike. In addition, individuals, especially females and calves, may be attracted to fishing vessels due to elevated prey concentration, which can lead to mortality via vessel strike. Humpback dolphins off the coast of Hong Kong, which interact with comparable levels of vessel traffic and face similar threats to habitat, have demonstrated unmistakable evidence of propeller cuts on their bodies, and vessel strikes have been determined as the conclusive cause of mortality in a high proportion of stranding incidents (Jefferson, 2000).

Aside from direct mortality, interaction with vessel traffic may alter behavior of the dolphin, causing stress, reducing foraging efficiency, increasing the threat of predation, and altering behaviors that support its productivity. For instance, in individuals off the coast of Hong Kong, mother-calf pairs demonstrated the greatest level of disturbance by vessel traffic; it has been hypothesized that separation of the calf due to vessel disturbance could easily increase risk of predation, aside from the direct injury of a vessel strike (Van Parijs and Corkeron, 2001).

Overall Extinction Risk Summary

We identified several threats that likely affect the continued survival of the Taiwanese humpback dolphin, including destruction, modification, and curtailment of its habitat (e.g., land reclamation, industrial, agricultural, and municipal pollution, and river diversion), and other natural or manmade factors, such as bycatch and entanglement in fishing gear, vessel strikes, and acoustic disturbance. Of these threats, destruction and modification of habitat through land reclamation, river flow diversion, and pollution, as well as entanglement and bycatch pose the highest risk of extinction for the Taiwanese humpback dolphin. These threats are immediate, and intensity of these threats is likely to increase in the future. Regulations to mitigate these threats are not currently in place, and plans for mitigation have not yet been implemented. The analysis of demographic factors above identified several characteristics that elevate the population's vulnerability to these threats. For example, heavily diminished and declining population size drastically elevates the impact of

even a single mortality event. Evidence suggests that diversity of the population is low, which reduces the resiliency of the population to threats and changes in its habitat. The population appears to be cohesive, most likely due to low population size and the narrow extent of its habitat. The potential for future disruption of social structure due to habitat fragmentation may heavily impact the transfer of generational information, calf survival, and foraging success. Finally, the population exhibits naturally low rates of reproduction and productivity, and data suggest that stress and habitat pollution act to further reduce the population's fecundity and productivity. Given these demographic characteristics, the aforementioned threats work synergistically to disrupt social structure, increase stress, limit food availability, and reduce fecundity while resulting in direct loss through mortality, injury, and prevention of population recovery. Due to the immediacy and intensity of threats, and demographic characteristics increasing the vulnerability of the population, we have concluded that the Taiwanese humpback dolphin has an overall high risk of extinction.

Conservation Efforts

Section 4(b)(1)(A) of the ESA requires the Secretary, when making a listing determination for a species, to take into account those efforts, if any, being made by any State or foreign nation to protect the species.

Non-governmental organizations (NGOs), scientists, activists and residents of Taiwan have invested significant amounts of time and resources into the conservation of the Taiwanese humpback dolphin (Wang *et al.*, 2016). For example, a series of workshops have been conducted to discuss the conservation of the Taiwanese humpback dolphin. These took place in 2004, 2007, 2011 and 2014, bringing together scientists, policy makers, and international partners to discuss conservation options for the subspecies. The overarching goals of each workshop were to define the conservation status, current threats, and outline potential conservation measures that would best help to improve the status of the subspecies. Since these workshops, research on the population has increased greatly, and understanding of the subspecies' abundance and population trends have improved. However, actions have yet to be taken by the local government to reduce any of the major existing threats faced by the subspecies (Wang *et al.*, 2016). We could not find any additional

information on protective efforts for the Taiwanese humpback dolphin that would reduce its current risk of extinction.

Proposed Determination

Section 4(b)(1) of the ESA requires that we make listing determinations based solely on the best scientific and commercial data available after conducting a review of the status of the species and taking into account those efforts, if any, being made by any state or foreign nation, or political subdivisions thereof, to protect and conserve the species. We have independently reviewed the best available scientific and commercial information, including the petition, public comments submitted on the 90-day finding (81 FR 1376; January 12, 2016), the draft status review report (Whittaker and Young, 2017), and other published and unpublished information, and we have consulted with species experts and individuals familiar with the Taiwanese humpback dolphin subspecies. We considered each of the section 4(a)(1) factors to determine whether it contributed significantly to the extinction risk of the species on its own. We also considered the combination of those factors to determine whether they collectively contributed significantly to the extinction risk of the species. Therefore, our determination set forth below is based on a synthesis and integration of the foregoing information, factors and considerations, and their effects on the status of the subspecies throughout its range.

We conclude that the Taiwanese humpback dolphin is presently in danger of extinction throughout its range. We summarize the factors supporting this conclusion as follows: (1) The best available information indicates that the subspecies has a critically small population of less than 100 individuals, which is likely declining; (2) the Taiwanese humpback dolphin has a very restricted range, occurring only in the shallow waters off the western coast of Taiwan; (3) the subspecies possesses life history characteristics that increase its vulnerability to threats, including that it is long-lived and has a late age of maturity, slow population growth, and low rate of reproduction and fecundity; (4) the subspecies is confined to limited habitat in a heavily impacted area of coastline where ongoing habitat destruction (including coastal development, land reclamation, and fresh water diversion) contributes to a high risk of extinction; (5) the Taiwanese humpback dolphin is

experiencing unsustainable rates of fisheries interactions, including mortality and major injuries due to bycatch and entanglement in fishing gear; and (6) existing regulatory mechanisms are inadequate for addressing the most important threats of habitat destruction and fisheries interactions.

As a result of the foregoing findings, which are based on the best scientific and commercial data available, we conclude that the Taiwanese humpback dolphin is presently in danger of extinction throughout all of its range. Accordingly, the Taiwanese humpback dolphin meets the definition of an endangered species, and thus warrants listing as an endangered species at this time.

Effects of Listing

Conservation measures provided for species listed as endangered or threatened under the ESA include the development and implementation of recovery plans (16 U.S.C. 1533(f)); designation of critical habitat, if prudent and determinable (16 U.S.C. 1533(a)(3)(A)); a requirement that Federal agencies consult with NMFS under section 7 of the ESA to ensure their actions do not jeopardize the species or result in adverse modification or destruction of designated critical habitat (16 U.S.C. 1536); and, for endangered species, prohibitions on the import and export of any endangered species; the sale and offering for sale of such species in interstate or foreign commerce; the delivery, receipt, carriage, shipment, or transport of such species in interstate or foreign commerce and in the course of a commercial activity; and the “take” of such species within the U.S., within the U.S. territorial sea, or on the high seas (16 U.S.C. 1538). Recognition of the species’ imperiled status through listing may also promote conservation actions by Federal and state agencies, foreign entities, private groups, and individuals.

Identifying Section 7 Consultation Requirements

Section 7(a)(2) (16 U.S.C. 1536(a)(2)) of the ESA and NMFS/FWS regulations require Federal agencies to confer with us on actions likely to jeopardize the continued existence of species proposed for listing, or that result in the destruction or adverse modification of proposed critical habitat. If a proposed species is ultimately listed, Federal agencies must consult on any action they authorize, fund, or carry out if those actions may affect the listed species or its critical habitat and ensure that such actions are not likely to

jeopardize the continued existence of the species or result in adverse modification or destruction of critical habitat should it be designated. It is unlikely that the listing of this subspecies under the ESA will increase the number of section 7 consultations because the subspecies occurs outside of the United States and is unlikely to be affected by Federal actions.

Critical Habitat

Critical habitat is defined in section 3 of the ESA (16 U.S.C. 1532(3)) as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the ESA, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a species at the time it is listed upon a determination that such areas are essential for the conservation of the species. “Conservation” means the use of all methods and procedures needed to bring the species to the point at which listing under the ESA is no longer necessary. Section 4(a)(3)(A) of the ESA (16 U.S.C. 1533(a)(3)(A)) requires that, to the extent prudent and determinable, critical habitat be designated concurrently with the listing of a species. However, critical habitat cannot be designated in foreign countries or other areas outside U.S. jurisdiction (50 CFR 424.12(g)). The Taiwanese humpback dolphin is endemic to Taiwan and does not occur within areas under U.S. jurisdiction. There is no basis to conclude that any unoccupied areas under U.S. jurisdiction are essential for the conservation of the subspecies. Therefore, we do not intend to propose any critical habitat designations for the subspecies.

Public Comments Solicited on Listing

To ensure that the final action resulting from this proposal will be as accurate and effective as possible, we solicit comments and suggestions from the public, other governmental agencies, the scientific community, industry, environmental groups, and any other interested parties. Comments are encouraged on this proposal (See **DATES** and **ADDRESSES**). Specifically, we are interested in new or updated information regarding: (1) The range, distribution, and abundance of the Taiwanese humpback dolphin; (2) the genetics and population structure of the Taiwanese humpback dolphin; (3) habitat within the range of the

Taiwanese humpback dolphin that was present in the past, but may have been lost over time; (4) any threats to the Taiwanese humpback dolphin (e.g., fishing gear entanglement, habitat destruction, etc.); (5) current or planned activities within the range of the Taiwanese humpback dolphin and their possible impact on the subspecies; (6) recent observations or sampling of the Taiwanese humpback dolphin; and (7) efforts being made to protect the Taiwanese humpback dolphin.

Role of Peer Review

In December 2004, the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review establishing minimum peer review standards, a transparent process for public disclosure of peer review planning, and opportunities for public participation. The OMB Bulletin, implemented under the Information Quality Act (Pub. L. 106–554), is intended to enhance the quality and credibility of the Federal government’s scientific information, and applies to influential scientific information or highly influential scientific assessments disseminated on or after June 16, 2005. To satisfy our requirements under the OMB Bulletin, we obtained independent peer review of the status review report. Independent specialists were selected from the academic and scientific community for this review. All peer reviewer comments were addressed prior to dissemination of the final status review report and publication of this proposed rule.

References

A complete list of all references cited herein is available upon request (see **FOR FURTHER INFORMATION CONTACT**).

Classification

National Environmental Policy Act

Section 4(b)(1)(A) of the ESA restricts the information that may be considered when assessing species for listing and sets the basis upon which listing determinations must be made. Based on the requirements in section 4(b)(1)(A) of the ESA and the opinion in *Pacific Legal Foundation v. Andrus*, 675 F. 2d 825 (6th Cir. 1981), we have concluded that ESA listing actions are not subject to the environmental assessment requirements of the National Environmental Policy Act (NEPA).

Executive Order 12866, Regulatory Flexibility Act, and Paperwork Reduction Act

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered

when assessing the status of a species. Therefore, the economic analysis requirements of the Regulatory Flexibility Act are not applicable to the listing process.

In addition, this proposed rule is exempt from review under Executive Order 12866. This proposed rule does not contain a collection-of-information requirement for the purposes of the Paperwork Reduction Act.

Executive Order 13132, Federalism

In accordance with E.O. 13132, we determined that this proposed rule does not have significant Federalism effects and that a Federalism assessment is not

required. Given that this subspecies occurs entirely outside of U.S. waters, there will be no federalism impacts because listing the subspecies will not affect any state programs.

List of Subjects in 50 CFR Part 224

Endangered and threatened species, Exports, Imports, Transportation.

Dated: June 20, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 224 is proposed to be amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C 1361 *et seq.*

■ 2. In § 224.101, amend the table in paragraph (h), by adding an entry, by common name, “Dolphin, Taiwanese humpback” under “Marine Mammals” in alphabetical order, to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *
(h) * * *

Species ¹		Description of listed entity	Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name				
*	*	*	*	*	*
MARINE MAMMALS					
*	*	*	*	*	*
Dolphin, Taiwanese humpback.	<i>Sousa chinensis taiwanensis.</i>	Entire subspecies	[Insert Federal Register page where the document begins], [date of publication when published as a final rule].	NA	NA
*	*	*	*	*	*

¹ Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722; February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612; November 20, 1991).

Notices

Federal Register

Vol. 82, No. 121

Monday, June 26, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Oregon State University of Corvallis, Oregon, an exclusive license to the variety of blueberry described in U.S. Plant Patent Application Serial No. 15/530,947, "BLUEBERRY CULTIVAR NAMED 'ECHO'," filed on March 28, 2017.

DATES: Comments must be received on or before July 26, 2017.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

FOR FURTHER INFORMATION CONTACT: Brian T. Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2017-13256 Filed 6-23-17; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Oregon State University of Corvallis, Oregon, an exclusive license to the variety of blackberry described in U.S. Plant Patent Application Serial No. 15/530,950, "BLACKBERRY NAMED 'HALL'S BEAUTY,'" filed on March 28, 2017.

DATES: Comments must be received on or before July 26, 2017.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4-1174, Beltsville, Maryland 20705-5131.

FOR FURTHER INFORMATION CONTACT: Brian T. Nakanishi of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2017-13255 Filed 6-23-17; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 21, 2017.

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

Comments regarding this information collection received by July 26, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8681.

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

persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Current Agricultural Industrial Reports (CAIR).

OMB Control Number: 0535-0254.

Summary of Collection: The Current Agricultural Industrial Reports (CAIR) surveys have become an integral part of the Census of Agriculture and numerous other surveys conducted by NASS. Under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105-113) and defined under Title 7, Sec. 2204(g), these surveys will be mandatory. The data from the CAIR surveys will supply data users with important information on the utilization of many of the crops, livestock, and poultry produced in the U.S.

Need and Use of the Information: Data from these surveys is essential to measuring the consumption of agricultural products in the production of numerous consumer goods. Agricultural products such as grain, oilseeds, fibers, and animal co-products is used in the creation of cooking oils, flour, lubricants, fuel, fabrics, soap, paint, methyl esters, resins, and numerous other products. The data are needed to provide a more complete picture of the importance of agriculture to the American population. Data from the instruments are published and publications are available to everyone at the same time on the NASS Web site.

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,420.

Frequency of Responses: Reporting: One time.

Total Burden Hours: 2,490.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017-13264 Filed 6-23-17; 8:45 am]

BILLING CODE 3410-20-P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Request Revision and Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the

National Agricultural Statistics Service (NASS) to request revision and extension of a currently approved information collection, the Livestock Slaughter Survey. Revision to burden hours may be needed due to changes in the size of the target population, sampling design, and/or questionnaire length.

DATES: Comments on this notice must be received by August 25, 2017 to be assured of consideration.

ADDRESSES: You may submit comments, identified by docket number 0535-0005, by any of the following methods:

- *Email:* ombofficer@nass.usda.gov.

Include docket number above in the subject line of the message.

- *Efax:* (855) 838-6382.

- *Mail:* Mail any paper, disk, or CD-ROM submissions to: David Hancock, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, Mail Stop 2024, South Building, 1400 Independence Avenue SW., Washington, DC 20250-2024.

- *Hand Delivery/Courier:* Hand deliver to: NASS Clearance Officer, U.S. Department of Agriculture, Room 5336A, South Building, 1400 Independence Avenue SW., Washington, DC 20250-2024.

FOR FURTHER INFORMATION CONTACT: R. Renee Picanso, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720-4333. Copies of this information collection and related instructions can be obtained without charge from David Hancock, NASS—OMB Clearance Officer, at (202) 690-2388 or at ombofficer@nass.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Livestock Slaughter Survey.

OMB Control Number: 0535-0005.

Expiration Date of Approval:

November 30, 2017.

Type of Request: To revise and extend a currently approved information collection for a period of three years.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition as well as economic statistics, farm numbers, land values, on-farm pesticide usage, pest crop management practices, as well as the Census of Agriculture. Livestock slaughter data are used to estimate U.S. red meat production and reconcile inventory estimates which provide producers and the rest of the industry with current and future information on market supplies. This data is also used in preparing production, disposition, and income statistics which facilitate more orderly

production, marketing, and processing of livestock and livestock products. NASS compiles data from both Federally Inspected and Non-Federally Inspected Slaughter Plants.

Authority: These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents. This Notice is submitted in accordance with the Paperwork Reduction Act of 1995 Pub. L. 104-13 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget regulations at 5 CFR part 1320. NASS also complies with OMB Implementation Guidance, "Implementation Guidance for Title V of the E-Government Act, Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA)," **Federal Register**, Vol. 72, No. 115, June 15, 2007, p. 33362.

Estimate of Burden: The Livestock Slaughter Survey includes a weekly survey of approximately 900 Federally Inspected (FI) slaughter plants and a monthly survey of approximately 900 State Inspected (SI) slaughter plants. Slaughter data is compiled by the Federal and State inspectors, therefore NASS does not contact these operations. NASS collects data only from the smaller independent plants and combines this data with the FI and SI data to create a national report. The smaller, independent operations (approximately 1,300 operations) are contacted either monthly, quarterly, or annually. Public reporting burden for this collection of information is estimated to average 15 minutes per response for an estimated annual burden of 2,500 hours. (The USDA and State inspectors are not included in the calculation of total burden, since they are performing this task as a part of their job functions.)

Respondents: Farmers and custom/state inspected slaughter plants.

Estimated Number of Respondents: 1,300.

Estimated Total Annual Burden on Respondents: 2,500 hours.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility,

and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, technological or other forms of information technology collection methods.

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

Signed at Washington, DC, June 13, 2017.

R. Renee Picanso,

Associate Administrator.

[FR Doc. 2017-13260 Filed 6-23-17; 8:45 am]

BILLING CODE 3410-20-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Louisiana Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Louisiana Advisory Committee (Committee) will hold a meeting on Thursday, July 6, 2017, at 3:00 p.m. Central for the purpose of a discussion on civil rights topics affecting the state.

DATES: The meeting will be held on Thursday, July 6, 2017, at 3:00 p.m. CDT

PUBLIC CALL INFORMATION: Dial: 877-718-5108, Conference ID: 1009990

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at dbarreras@usccr.gov or 312-353-8311

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 877-718-5108, conference ID: 1009990. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any

incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

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

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Louisiana Advisory Committee link (<https://database.faca.gov/committee/committee.aspx?cid=251&aid=17>). Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights Topics in Louisiana
Next Steps
Public Comment
Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102-3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of management difficulties that prevent an earlier filing.

Dated: June 21, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-13283 Filed 6-23-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Generic Clearance for Internet Nonprobability Panel Pretesting.

OMB Control Number: 0607-0978.

Form Number(s): TBD.

Type of Request: Extension of a Currently Approved Collection.

Number of Respondents: 60,000.

Average Hours per Response: 0.167.

Burden Hours: 10,000.

Needs and Uses: The information collected in this program of developing and testing questionnaires will be used by staff from the Census Bureau and sponsoring agencies to evaluate and improve the quality of the data in the surveys and censuses that are ultimately conducted. Because the questionnaires being tested under this clearance are still in the process of development, the data that result from these collections are not considered official statistics of the Census Bureau or other Federal agencies. Data will be included in research reports prepared for sponsors inside and outside of the Census Bureau. The results may also be prepared for presentations related to survey methodology at professional meetings or publications in professional journals. Since the submission of the 60 day notice, we have changed both the title and burden estimate for this collection. At the 60-day notice, the collection was entitled "Generic Clearance for Internet Nonprobability Panel Pretesting and Qualitative Survey Methods Testing." To more accurately reflect the intended collection, we are renaming this collection "Generic Clearance for Medium-Scale Pretesting." We are requesting an increase in hours from 8,334 to 16,900 annually because we incorporated the pretesting needs for the 2020 Census communications campaign into this request.

Affected Public: Individuals and households.

Frequency: Once.

Respondent's Obligation: Voluntary.

Legal Authority: Data collection for this project is authorized under the authorizing legislation for the questionnaire being tested. This may be Title 13, Sections 131, 141, 161, 181, 182, 193, and 301 for Census Bureau-

sponsored surveys, or other corresponding collection authorities for surveys sponsored by other Federal agencies. We do not now know what other titles will be referenced, since we do not know what survey questionnaires will be pretested during the course of the clearance.

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

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

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017-13280 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; 2018 National Sample Survey of Registered Nurses

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the proposed 2018 National Sample Survey of Registered Nurses, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before August 25, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Daniel Doyle, U.S. Census Bureau, ADDP, HQ-7H051, 4600 Silver Hill Road, Washington, DC 20233-0001, (301) 763-5304 (or via the Internet at Daniel.P.Doyle@census.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

Sponsored by the U.S. Department of Health and Human Services' (HHS') Health Resources Services Administration's (HRSA) National Center for Health Workforce Analysis (NCHWA), the National Sample Survey of Registered Nurses (NSSRN) is conducted to assist in fulfilling the Congressional mandates of the Public Health Service Act 42 U.S.C. Section 294n(b)(2)(A), foster the development of information describing and analyzing the health care workforce and workforce related issues and provide necessary information for decision-making regarding future directions in health professions and nursing programs in response to societal and professional needs. In addition, Public Health Service Act 42 U.S.C. Section 295k(a)-(b), the Secretary shall establish a program, including a uniform health professions data reporting system, to collect, compile, and analyze data on health professions personnel. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data, health care administration personnel, nurses, allied health personnel in States designated by the Secretary to be included in the program. The NSSRN is designed to obtain the necessary data to determine the characteristics and distribution of Registered Nurses (RNs) throughout the United States, as well as emerging patterns in their employment characteristics. These data will provide the means for the evaluation and assessment of the evolving demographics, educational qualifications, and career employment patterns of RNs, consistent with the goals of congressional mandates of the Public Health Service Act 42 U.S.C. Section 294n(b)(2)(A) and Section 295k(a)-(b). Such data have become particularly important for the need to better understand workforce issues given the recent dynamic change in the RN population and, the transformation of the healthcare system.

The proposed survey design for the 2018 NSSRN will include a probability sample (100,000 RNs) selected from a sampling frame compiled from files provided by the State Boards of Nursing and the National Council of the State Boards of Nursing (NCSBN). These files constitute a sampling frame of all RNs licensed in the 50 States and the District of Columbia. Sampling rates are set for each state based on considerations of statistical precision of the estimates and the costs involved in obtaining reliable national and state-level estimates. The

survey will be multi-mode offering respondents the opportunity to participate via a web instrument and a paper questionnaire.

The 2018 NSSRN project includes plans to experimentally test the efficacy of a non-monetary incentive (that is, whether offering a pen and lanyard as a token of appreciation increases response, thus reducing non-response bias and reducing costs associated with follow-up). Additionally, the project will test contact materials, and test modifications to data collection strategies based on response from prior contact strategies.

In addition to testing non-monetary incentives, the 2018 NSSRN will evaluate different non-response follow-up mailing strategies by testing for response improvements using different envelopes to deliver the survey materials. One of these strategies utilizes testing a pressure-sealed reminder postcard scheduled to be mailed approximately one week after the initial survey invite mailing. This strategy is being implemented to decrease the time gap during mailings and is more cost-effective than sending an additional paper questionnaire packet. The ability to send reminders enclosed with the pressure-seal system allows for the secure delivery of login information for the NSSRN web instrument as well as specific information about the survey.

Third, we plan to experimentally evaluate the impact of adding a supplemental fact sheet with important statistics from prior NSSRN administrations. During the initial mailing, inserts with important NSSRN facts will be tested.

Finally, for respondents who experience technical problems with the web instrument, have questions about the survey, or need other forms of assistance, the 2018 NSSRN will have a Telephone Questionnaire Assistance (TQA) line available. TQA staff will not only be able to answer respondent questions and concerns, but also they will have the ability to collect survey responses over the phone, using an administrative access to the web instrument, if the respondent calls in and would like to have interviewer assistance in completing the interview.

II. Methods of Collection

Web-Push

The production 2018 NSSRN plan for the web-push data collection design includes 80% of the 100,000 RNs receiving an initial invite with instructions on how to complete the questionnaire via the web. The web-

push production sample of 80,000 is broken out into two non-monetary incentive groups: The majority, 70,000 RNs, will receive a lanyard and pen; a small group, 10,000 RNs, will receive no incentive so that the effectiveness of the non-monetary incentive can be evaluated. No additional incentives are planned for subsequent follow-up reminders or paper questionnaire mailings.

Mixed-Mode

The remaining 20% of the sampled RNs will be mailed an initial invite with instructions on how to complete the questionnaire via the web, in addition to a paper questionnaire in the packet. This group of 20,000 RNs is broken out so that 10,000 receive a lanyard and pen, and a smaller group, 10,000 RNs, receive no incentive so that the effectiveness of the non-monetary incentive can be evaluated.

III. Data

OMB Control Number: 0607-####.

Form Number: NSSRN.

Type of Review: Regular submission.

Affected Public: Nurses, researchers, and policymakers.

Estimated Number of Respondents: 65,000.

Estimated Time per Response: 25 minutes per response.

Estimated Total Annual Burden

Hours: 27,083 hours.

Estimated Total Annual Cost to Public: \$0.

Respondent's Obligation: Voluntary.

Legal Authority: Census Authority: 13 U.S.C. Section 8(b).

HRSA Authority: Public Service Act 42 U.S.C. Section 294n(b)(2)(A) and 42 U.S.C. Section 295k(a)–(b).

Confidentiality: The data collected under this agreement are confidential under 13 U.S.C. Section 9. All access to Title 13 data from this survey is restricted to those holding Census Bureau Special Sworn Status pursuant to 13 U.S.C. Section 23(c).

IV. Request for Comments

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

or other forms of information technology.

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

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017-13293 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

RIN 0691-XC068

Request for Comment; Notice of Development of Outdoor Recreation Satellite Account (To Define and Measure the Economic Impact of Outdoor Recreation)

AGENCY: Bureau of Economic Analysis, Department of Commerce.

ACTION: Advance notice of development of satellite account to define and measure the outdoor recreation economy; request for comments.

SUMMARY: The Bureau of Economic Analysis (BEA) and Federal Recreation Council (FRC) are soliciting comments from the public on the development of a new set of national statistics that would provide information on the economic activity generated by outdoor recreation in the United States as authorized by the Outdoor Recreation Jobs and Impact Act of 2016, Public Law 114-249.

DATES: Comments must be received no later than 30 days after publication of this notice.

ADDRESSES: You may submit comments via email to OutdoorRecreation@bea.gov. Comments sent by any other method or after the comment period may not be considered. All comments are a part of the public record.

FOR FURTHER INFORMATION CONTACT: Thomas Howells, Chief, Industry Analysis Division (BE-53), Bureau of Economic Analysis, Department of Commerce, 4600 Silver Hill Road, Washington, DC 20233; phone: (301) 278-9586 or via email at thomas.howells@bea.gov.

SUPPLEMENTARY INFORMATION: In September 2016, the Bureau of Economic Analysis (BEA) entered an interagency agreement with agencies of the Federal Recreation Council (FRC). The FRC is composed of the National Park Service, U.S. Forest Service, U.S.

Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, National Oceanic and Atmospheric Administration, and U.S. Army Corps of Engineers. The interagency agreement seeks to develop an Outdoor Recreation Satellite Account (ORSA). The seven agencies that make up the FRC are prominent stewards of federal public lands and waters for outdoor recreation, and BEA is one of the U.S. government's premier producers of official economic statistics.

The ORSA will provide a first-of-its-kind look at the outdoor recreation economy. While BEA's current gross domestic product (GDP) statistics already embed economic activity associated with outdoor recreation, the new satellite account will allow these activities to be separately identified and highlighted in a way not possible with current statistics. Ultimately, creation of the ORSA will provide detailed data that will deepen the public's understanding of the economic impact of outdoor recreation. This will inform decision making and improve governance and long-term management of public lands and waters. The first major step in this effort is to define the range of activities encompassed by the outdoor recreation economy. In evaluating potential definitions, BEA and FRC will consider public comment as well as input from subject matter experts in the field of outdoor economics. The ORSA research team will then develop two or three potential definitions ranging in scope from narrow to broad. The range of activities in each definition will determine which industries and detailed goods and services measured by BEA will be classified as in scope, out of scope, or partially in scope for the outdoor recreation economy.

Once these initial definitions have been established, the second major step will be to review the list of partially-in-scope goods and services, and identify data sources and methodologies by which the in-scope share of these "partial" items can be estimated. Finally, using the information collected in the first two steps, prototype national-level estimates of economic activity will be developed that could include measures of output, value added, compensation of employees, and employment in the outdoor recreation economy. BEA invites email comments from the general public, private industry, state and local governments, non-profit organizations, and other interested parties. In particular, we are interested in feedback regarding the following:

1. What recreation-related activities should be considered as in scope for the ORSA;

2. What types of statistics that potential users of the ORSA would like to see presented in the account in addition to output, value added, employment, and compensation;

3. What datasets could supplement BEA's core statistics in estimating shares for partially in-scope goods and services; and,

4. What datasets could be used for possible future regionalization of the account.

Dated: June 20, 2017.

Sarahelen Thompson,

Deputy Director, Bureau of Economic Analysis.

[FR Doc. 2017-13289 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-06-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2034]

Reorganization of Foreign-Trade Zone 229 Under Alternative Site Framework; Charleston, West Virginia

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

Whereas, the West Virginia Economic Development Authority, grantee of Foreign-Trade Zone 229, submitted an application to the Board (FTZ Docket B-23-2016, docketed on April 22, 2016 and amended on September 27, 2016 and January 18, 2017) for authority to reorganize under the ASF with a service area of the Counties of Boone, Cabell, Calhoun, Clay, Fayette, Jackson, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Raleigh, Roane, Wayne, Wirt, Wood and Wyoming, within and adjacent to the Charleston Customs and Border Protection port of entry, and FTZ 229's existing Site 1 would be categorized as a magnet site;

Whereas, notice inviting public comment was given in the **Federal Register** (81 FR 25374, April 28, 2016) and the application, as amended, has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the

requirements of the FTZ Act and the Board's regulations are satisfied (except with regard to the request to exempt Site 1 from sunset limits);

Now, therefore, the Board hereby orders:

The application, as amended, to reorganize FTZ 229 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, and to an ASF sunset provision for magnet sites that would terminate authority for Site 1 if not activated within five years from the month of approval.

Dated: June 14, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2017-13302 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-017]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Rescission of 2014-2016 Countervailing Duty New Shipper Review

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

SUMMARY: The U.S. Department of Commerce (the Department) determines to rescind this new shipper review (NSR) of the countervailing duty (CVD) order on passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (the PRC). The period of review (POR) is December 1, 2014, through January 31, 2016. The NSR covers one exporter/producer of subject merchandise, Shandong Xinghongyuan Tire Co., Ltd. (SXT).

DATES: Effective June 26, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3857.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2017, the Department published notice of its preliminary rescission of this NSR pertaining to SXT for the period December 1, 2014,

through January 31, 2016.¹ On April 12, 2017, 2016, the Department extended the deadline for the final results to June 22, 2017.² For a complete description of the events that followed publication of the *Preliminary Rescission*, see the Issues and Decision Memorandum, which is dated concurrently with, and hereby adopted by, this notice.³ The Issues and Decision Memorandum is a public document and is available 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 Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Order

The scope of this order covers passenger tires from the PRC. For a complete description of the scope, see "Scope of the Order" section of the Issues and Decision Memorandum.⁴

Analysis of Comments Received

The Department received case and rebuttal briefs following publication of the *Preliminary Rescission*. All issues raised in the briefs are addressed in the Issues and Decision Memorandum.⁵ A list of topics included in the Issues and Decision Memorandum is provided at the Appendix to this notice.

Final Rescission of New Shipper Review

In the *Preliminary Rescission*, the Department announced its preliminary

¹ See *Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Rescission of 2014-2016 Countervailing Duty New Shipper Review*, 82 FR 8825 (January 31, 2017) (*Preliminary Rescission*), and accompanying Department Memorandum, "Passenger Vehicle and Light Truck Tires From the People's Republic of China: Decision Memorandum for the Preliminary Rescission of the 2014-2016 Countervailing Duty New Shipper Review," January 23, 2017 (*Preliminary Decision Memorandum*).

² See Department Memorandum, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Final Results in Countervailing Duty New Shipper Review," April 12, 2017.

³ See Department Memorandum, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Rescission of the 2014-2016 Countervailing Duty New Shipper Review," June 22, 2017 (Issues and Decision Memorandum).

⁴ *Id.*, at 2-4.

⁵ *Id.*, at 4-8.

intent to rescind this review, because SXT's request for an NSR included an inaccurately certified statement that SXT is not affiliated with any PRC exporter or producer that exported subject merchandise (*i.e.*, passenger tires from the PRC) to the United States during the period of time examined in the original CVD investigation (*i.e.*, January 1, 2013, through December 31, 2013) and, as such, SXT had not satisfied the statutory and regulatory requirements to request an NSR.⁶ Based on the Department's complete analysis of all information and comments on the record of this review, we make no changes to our findings in the *Preliminary Rescission*. Accordingly, for the reasons discussed in the *Preliminary Rescission* and the Issues and Decision Memorandum, we have determined to rescind this NSR with respect to SXT.⁷

Assessment

Because the Department is rescinding this NSR, we have not calculated a company-specific countervailing subsidy rate for SXT. SXT's entries during the POR will be assessed at the cash deposit rate required at the time of entry, which is the "all-others" rate (*i.e.*, 30.61 percent).

Cash Deposit Requirements

Effective upon publication of this notice of the final rescission of this NSR, the Department will instruct U.S. Customs and Border Protection to require a cash deposit for entries of subject merchandise from SXT. The following cash deposit requirements will be effective upon publication of this rescission for all shipments of subject merchandise from SXT entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) For subject merchandise produced and exported by SXT, the cash deposit rate will continue to be the all-others rate (*i.e.*, 30.61 percent); (2) for subject merchandise exported by SXT but not manufactured by SXT, the cash deposit rate will continue to be the all-others rate (*i.e.*,

30.61 percent); and (3) for subject merchandise manufactured by SXT but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of countervailing duties occurred and the subsequent assessment of double countervailing duties.

Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This Department is issuing and publishing these results in accordance with sections 751(a)(2)(B) and 771(i)(1) of the Act and 19 CFR 351.214 and 19 CFR 351.221(b)(5).

Dated: June 20, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
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Issue 1: Acceptance of Unverified Submissions as "Complete and Accurate"

Issue 2: Evidence of Xingyuan Group's Exports During the POI

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[FR Doc. 2017-13286 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No.: 170413395-7395-01]

RIN 0625-XC034

2017 Fee Schedule for National Travel and Tourism Office for the Advance Passenger Information System (APIS)/I-92 Program, I-94 International Arrivals Program, and Survey of International Air Travelers Program

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of revised fee schedule with request for comments.

SUMMARY: Consistent with the guidelines in OMB Circular A-25, federal agencies are responsible for conducting a biennial review of all programs to determine the types of activities subject to user fees and the basis upon which user fees are to be set. The U.S. Department of Commerce, International Trade Administration (ITA), National Travel and Tourism Office (NTTO) is raising the fees for 2017 data for the monthly, quarterly or annual data from the APIS/I-92 Program, the I-94 International Arrivals Program, and the annual custom reports, data tables or files from the Survey of International Air Travelers Program.

As part of the fee review process, the NTTO is providing industry with the opportunity to comment on the fee schedule and to provide any suggestions for reducing the costs of NTTO programs. NTTO may reassess the fees as appropriate.

DATES: Comments must be received by July 26, 2017.

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

- *Federal eRulemaking Portal:* www.Regulations.gov. The identification number is ITA-2017-0005.

- *Postal Mail/Commercial Delivery:* Docket No. ITA-2017-0005 International Trade Administration, 1401 Constitution Avenue NW., Room 1003, Washington, DC 20230.

Instructions: You must submit comments by one of the above methods to ensure that the comments are received and considered. 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. All comments received are a part of the public record and will generally be posted to www.regulations.gov without change. All Personal Identifying Information (for example, name, address, etc.)

⁶ See Preliminary Decision Memorandum at 5-8; see also Letter from SXT, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: New Shipper Review Request," February 25, 2016, at Exhibit 2 (certifying that "since the investigation was initiated, {SXT} has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation including those not individually examined during the investigation").

⁷ See *Preliminary Rescission*, 82 FR at 8825; see also Preliminary Decision Memorandum at 3-8; Issues and Decision Memorandum.

voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. ITA 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. Supporting documents and any comments we receive on this docket may be viewed at <https://www.regulations.gov/docket?D=ITA-2017-0005>.

FOR FURTHER INFORMATION CONTACT: Richard Champley at (202) 482-4753 or Richard.Champley@trade.gov; or Claudia Wolfe at (202) 482-4555 or Claudia.Wolfe@trade.gov.

SUPPLEMENTARY INFORMATION:

Background: Consistent with the guidelines in OMB Circular A-25,¹ federal agencies are responsible for conducting a biennial review of all programs to determine the types of activities subject to user fees and the basis upon which user fees are to be set.

In addition to OMB Circular A-25, the NTTO also follows OMB Circular A-130, which mandates federal agencies to develop and to maintain a comprehensive set of information management policies for use across the government, and to promote the application of information technology to improve the use and dissemination of information in the operation of Federal programs. The role of NTTO is to enhance the international competitiveness of the U.S. travel and tourism industry and to increase its exports, thereby creating U.S. employment and economic growth. The primary functions of the NTTO are: (1) Management of the travel and tourism statistical system for assessing the economic contribution of the industry and providing the sole source for characteristic statistics on international travel to and from the United States; (2) design and administration of export expansion activities; (3) development and management of tourism policy, strategy and advocacy; and (4) technical assistance for expanding this key export (international tourism) and assisting in domestic economic development.

The NTTO has provided this data for many years and has developed a subscriber base for each of these programs. The fees collected for these reports go to pay for ITA costs to develop the reports as well as to support research for the continuation and expansion of improvements to the data

provided by NTTO. In 2016, the NTTO issued a request for proposal for the 2017-2019 SIAT and I-94 data. The contractor prices for the SIAT base program are six percent greater than the 2016 contract prices and 27 percent greater for the I-94 program. This increase is due in part to increased quality management checks associated with this program. Additionally, there is a nearly 30 percent increase in the cost for custom reports for both programs. This was due to the additional work required by the contractor due to the additional sample and additional time the contractor took to finalize report formats and then issue them. Thus, the Department must increase fees to fulfill its Congressional mandate to continue and expand its market research under the Travel Promotion Act of 2009 [P.L. 111-145].

Additionally, for 2017, to help ameliorate the increased costs while keeping the program fees as low as possible, the SIAT sample for 2017 will be cut from 96,000 surveys in 2016 to 77,000 surveys in 2017. It is anticipated that the 2018 sample level will be similar depending upon the FY2018 budget. The increased fees for 2017 are necessary to avoid additional cuts. However, the NTTO would also be interested in the industry's preference on a cut in sample as a method to keep the fee increases lower versus higher fees.

There are three main research programs in which the public may obtain additional data on international travelers to and from the United States in addition to the free information already posted to the NTTO Web site. The proposed 2017 fees are for the monthly, quarterly or annual data from the APIS/I-92 Program, the I-94 International Arrivals Program, and the annual custom reports, data tables or files from the Survey of International Air Travelers Program.

The APIS/I-92 program is a joint effort between the Department of Homeland Security Customs and Border Protection (CBP) and the NTTO to provide international air traffic statistics data to the government and the travel industry. The system is a source of data on all international flights to and from the United States, including flights with fewer than 10 passengers. It reports the total volume of air traffic and various subsets of traffic. A differentiating feature of the I-92, compared to the T-100 (international nonstop segment and on-flight market data), is that the I-92 reports the number of U.S. citizens vs. "all other citizens."

The information collected from this program has been based upon the

Advance Passenger Information System (APIS) since July 2010. All carriers serving the United States must transmit APIS data (from their automated flight manifests) to CBP for each flight coming to or departing from the United States, including Canada. The information collected provides non-stop point-to-point air traffic totals between the United States and all other countries and between U.S. and foreign airports. Subsets of this information regarding the number of passengers on U.S. flag or foreign flag carriers are also made available. In addition, there is a breakout of scheduled or charter flight passengers.

In the monthly, quarterly and annual I-92 reports, there are four sets of tables. The first three sets have an arrivals portion (Ia, IIa, and IIIa), as well as a departures section (Id, IId, and IIId). The fourth table is a summary of traffic by flag of carrier. To learn more about this program, go to: <http://travel.trade.gov/research/programs/i92/index.asp>. The current 2016 and historical fees (1990-2015) for this program can be found at: <http://travel.trade.gov/research/reports/i92/index.asp>. Each fee service will be provided at a 15 percent fee increase from 2016 to 2017. Fee increases for the APIS/I-92 program are being increased to help offset an ITA budget cut and the much larger increases in costs to the I-94 and SIAT program, because all three programs are interdependent upon one another and used to provide the SIAT data.

The I-94 International Arrivals Program is a core part of the U.S. travel and tourism statistical system. This program provides the U.S. government and the public with the official U.S. monthly and annual overseas visitor arrivals to the United States along with select Mexican and Canadian visitor statistics. The NTTO manages the program in cooperation with the CBP. The program collects and reports overseas non-U.S. resident visitor arrivals to the United States. U.S. government data consists of the DHS I-94 data, which non-U.S. citizens from overseas and Mexico (Canada is excluded) must complete to enter the United States. All visitation data is processed by residency (world region and country), for total arrivals, type of visa, mode of transportation, age of traveler, address (state level only) while in the United States port of entry, and select percentage change comparisons year-over-year. The information is presented in a report entitled the *Summary of International Travel to the United States* with 35 tables including the categories above. NTTO publishes arrivals data to its Web site on a

¹ https://www.whitehouse.gov/omb/circulars_a025.

monthly basis, and reports and custom reports or tables are available on a monthly, quarterly or annual basis. More information about this program is available at <http://travel.trade.gov/research/programs/i94/index.asp>. The current 2016 and historical fees (1992–2015) for this program can be found at: <http://travel.trade.gov/research/reports/i94/index.html>.

As stated above, each fee service will be provided at a 15 percent fee increase from 2016 to 2017.

The Survey of International Air Travelers Program is a primary research program which gathers statistical data about air passenger travelers in U.S.—overseas and Mexican air markets (Canada is excluded). The program also serves as the cornerstone for NTTO's efforts to assist U.S. businesses to improve their competitiveness and effectiveness in the international travel market.

The Survey is conducted on selected flights which have departed, or are

about to depart, from the major U.S. international gateway airports. The Survey is administered either aboard flights or in the airport gate area, of the over 100 participating airlines (foreign and U.S.) departing 27 U.S. international gateways. The Survey data is “weighted” to census data. For example, non-resident inbound survey responses are weighted to the “100%” population of DHS I–94 arrival records to adjust for over and under sampling. Resident outbound data is weighted based on DHS I–92 U.S. departure data. Data are available on a quarterly and annual basis for either non-resident inbound or resident outbound. It can be delivered in a standard national report format or as a custom report, data table, or excel. Data files are also available. To learn more about this program, go to: <http://travel.trade.gov/research/programs/ifs/index.asp>. The current 2016 and historical fees (1983–2015) for this program can be found at: <http://>

travel.trade.gov/research/reports/ifs/index.asp. When viewing the current fee structure for the SIAT reports, the tables will show there is no fee increase for the vast majority of the standard published reports and their corresponding Excel tables for which the fees have remained constant for the last five years. The only reports or data for which the NTTO is revising the fees are shown below.

Fee Schedule increases for the APIS/I–92 program, the I–94 International Arrivals Program and the Survey of International Air Travelers (SIAT) Program are shown in the tables below. All fees shown are 15 percent greater in 2017 than in 2016, except for certain SIAT reports as explained above. For the I–94 program, the NTTO is eliminating the print files and will only provide a PDF and Excel file to save costs. The custom reports, data tables and files will also see a 15 percent fee increase in 2017.

APIS/I–92 Program	2017 Fee	2016 Fee
Monthly Reports printed	\$2,295	\$1,995
Monthly Reports (PDF and Excel)	3,435	2,985
Quarterly Reports printed	2,070	1,800
Quarterly Reports (PDF and Excel)	3,095	2,690
Annual Report printed	1,610	1,400
Annual Report (PDF and Excel)	2,405	2,090
Data Files, for internal use only	27,310	23,745
I–94 International Arrivals program	2017 Fee	2016 Fee
Monthly Subscription (PDF and Excel)	\$2,450	\$2,130
Quarterly Subscription (PDF and Excel)	2,155	1,870
Annual Issue (PDF and Excel)	1,485	1,290
Annual, data file (CD–ROM)	16,770	14,580
Quarterly, data file (CD–ROM)	18,820	16,365
Combined 2015 and 2016 International I–94 Arrivals Data	2017 Fee	2016 Fee
Monthly Subscription (PDF and Excel)	\$3,730	\$3,240
Quarterly Subscription (PDF and Excel)	3,170	2,755
Annual Issue (PDF and Excel)	2,000	1,740
Survey of International Air Travelers program	2017 Fee	2016 Fee
CUSTOM TABLE—1st table, in Excel	\$2,720	\$2,365
CUSTOM TABLE—all other tables in Excel	1,645	1,430
Custom Reports with Excel and PDF (First banner)	10,210	8,875
Custom Reports with Excel and PDF (Second banner)	9,185	7,985
Custom Reports with Excel and PDF (Third + banners)	8,220	7,145

Method for Determining Fees: ITA collects, retains, and expends user fees pursuant to delegated authority under the Mutual Educational and Cultural Exchange Act as authorized in its annual appropriations acts.

Last year as part of a fee review in compliance with Office of Management and Budget Circular No. A–25, the International Trade Administration

assessed the costs of its programs and the fees it collects. In 2016, NTTO increased fees by five percent, explaining the increased fees were necessary for NTTO to be in compliance with Circular A–25 (81 FR 39895, June 20, 2016). In 2016, and the NTTO sold a few more reports in 2016 than it did in previous years.

For each program, NTTO has a set of subscribers who have been using this data, some for decades. Since 2000, fees have increased by 10 percent or more six times. Most rely upon this data as the only federal source to define the international travel market to this country. Additionally, the power of the SIAT program is that it can provide estimates by world region and country

of the number of overseas travelers who visit U.S. census regions, states, territories, or cities. But the program provides far more than an estimated number. The responses to questions asked of the overseas visitors also help explain why the visitation numbers have increased or declined over the previous years due to the shifts in the traveler characteristics of the visitors between the two years. It may be a shift in visitors' ports of entry or purpose of trip; changes in the mix of first time or repeat visitors, or package or independent travelers; shifts in modes of transport used by visitors to travel within the country; or a shift to more or fewer destinations visited, compared to previous trips.

Fees are set considering the cost of providing this data. Most of the NTTO research is implemented from fixed price contracts. Within the contracts are built-in cost adjustments. The NTTO considers the current demand for each program by comparing changes from one year to the next before setting fees. We also consider if there have been decreases in timeliness or quality of service delivery or improvements made to the programs like new report formats, more travelers surveyed, or other enhancements to the research data provided. The NTTO staff considered the purchasing constraints experienced by current or potential subscribers (such as limits to purchase by credit card, or sole source/open bid requirements) and factored in the annual percentage change in the Consumer Price Index (used to determine rate of inflation).

In the analysis of these fees, it was determined that the services provided from this report offer special benefits to an identifiable recipient beyond those that accrue to the public.

ITA completed an analysis that calculated the actual cost of providing its data services to develop a basis for setting the fee. Full cost incorporates direct and indirect costs (including operations and maintenance), overhead, and charges for the use of capital facilities. ITA also considered additional factors when pricing goods and services, including adequacy of cost recovery, affordability, available efficiencies, inflation, pricing history, fee elasticity, and service delivery alternatives.

Finally, the NTTO staff members watch what is happening in the industry. If our clients' budgets are being cut or increased, this too is considered. We watch what is happening in terms of international travel to the country as well. If there are large increases in travel to the United States, there tends to be corresponding

increases in the international market. In contrast, in years international travel slows or declines, we factor this in when determining fees. Based upon all this input, we develop several options for cost increases or decreases and determine fees.

Conclusion

Based on the information provided above, the NTTO believes its revised fees are consistent with the objective of OMB Circular A-25 to "promote efficient allocation of the nation's resources by establishing charges for special benefits provided to the recipient that are at least as great as the cost to the U.S. Government of providing the special benefits . . ." OMB Circular A-25(5)(b). However, as stated above, we are providing the public with the opportunity to comment and will reassess the revised fees as appropriate.

Dated: June 8, 2017.

Isabel Hill,

*Director, National Travel & Tourism Office,
International Trade Administration, U.S.
Department of Commerce.*

[FR Doc. 2017-13427 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-016]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Final Rescission of 2015-2016 Antidumping Duty New Shipper Review

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

SUMMARY: The U.S. Department of Commerce (the Department) determines to rescind this new shipper review (NSR) of the antidumping duty (AD) order on passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (the PRC). The period of review (POR) is August 1, 2015, through January 31, 2016. The NSR covers one exporter/producer of subject merchandise, Shandong Xinghongyuan Tire Co., Ltd. (SXT).

DATES: Effective June 26, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3857.

SUPPLEMENTARY INFORMATION:

Background

On January 31, 2017, the Department published notice of its preliminary rescission of this NSR pertaining to SXT for the period August 1, 2015, through January 31, 2016.¹ On April 12, 2017, 2016, the Department extended the deadline for the final results to June 22, 2017.² For a complete description of the events that followed publication of the *Preliminary Rescission*, see the Issues and Decision Memorandum, which is dated concurrently with and hereby adopted by this notice.³ The Issues and Decision Memorandum is a public document and is available 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 Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Order

The scope of this order covers passenger tires from the PRC. For a complete description of the scope, see the "Scope of the Order" section of the Issues and Decision Memorandum.⁴

Analysis of Comments Received

The Department received case and rebuttal briefs following publication of the *Preliminary Rescission*. All issues raised in the briefs are addressed in the Issues and Decision Memorandum.⁵ A list of topics included in the Issues and

¹ See *Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Rescission of 2015-2016 Antidumping Duty New Shipper Review*, 82 FR 8824 (January 31, 2017) (*Preliminary Rescission*), and accompanying Department Memorandum, "Passenger Vehicle and Light Truck Tires From the People's Republic of China: Decision Memorandum for the Preliminary Rescission of the 2015-2016 Antidumping Duty New Shipper Review," January 23, 2017 (*Preliminary Decision Memorandum*).

² See Department Memorandum, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Final Results in Antidumping Duty New Shipper Review," April 12, 2017.

³ See Department Memorandum, "Passenger Vehicle and Light Truck Tires from the People's Republic of China: Issues and Decision Memorandum for the Final Rescission of the 2015-2016 Antidumping Duty New Shipper Review," June 22, 2017 (Issues and Decision Memorandum).

⁴ *Id.* at 2-4.

⁵ *Id.* at 4-8.

Decision Memorandum is provided at the Appendix to this notice.

Final Rescission of New Shipper Review

In the *Preliminary Rescission*, the Department announced its preliminary intent to rescind this review because SXT's request for an NSR included an inaccurately certified statement that SXT is not affiliated with any PRC exporter or producer that exported subject merchandise (*i.e.*, passenger tires from the PRC) to the United States during the period of time examined in the original AD investigation (*i.e.*, October 1, 2013, through March 31, 2014) and, as such, SXT had not satisfied the statutory and regulatory requirements to request an NSR.⁶ Based on the Department's complete analysis of all information and comments on the record of this review, we make no changes to our findings in the *Preliminary Rescission*. Accordingly, for the reasons discussed in the *Preliminary Rescission* and the Issues and Decision Memorandum, we have determined to rescind this NSR with respect to SXT.⁷

Assessment

Because the Department is rescinding this NSR, we have not calculated a company-specific dumping margin for SXT. SXT's entries during the POR will be assessed at the cash deposit rate required at the time of entry, which is the "PRC-wide" rate (*i.e.*, 76.46 percent).

Cash Deposit Requirements

Effective upon publication of this notice of the final rescission of this NSR, the Department will instruct U.S. Customs and Border Protection to require a cash deposit for entries of subject merchandise from SXT. The following cash deposit requirements will be effective upon publication of this rescission for all shipments of subject merchandise from SXT entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) For subject merchandise produced and exported by

⁶ See Preliminary Decision Memorandum at 5–8; see also Letter from SXT, "Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: New Shipper Review Request," February 25, 2016, at Exhibit 2 (certifying that "since the investigation was initiated, {SXT} has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation including those not individually examined during the investigation").

⁷ See *Preliminary Rescission*, 82 FR at 8824; see also Preliminary Decision Memorandum at 3–8; Issues and Decision Memorandum.

SXT, the cash deposit rate will continue to be the all-others rate (*i.e.*, 76.46 percent); (2) for subject merchandise exported by SXT but not manufactured by SXT, the cash deposit rate will continue to be the all-others rate (*i.e.*, 76.46 percent); and (3) for subject merchandise manufactured by SXT but exported by any other party, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This Department is issuing and publishing these results in accordance with sections 751(a)(2)(B) and 771(i)(1) of the Act and 19 CFR 351.214 and 19 CFR 351.221(b)(5).

Dated: June 20, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issues
 - Issue 1:* Acceptance of Unverified Submissions as "Complete and Accurate"
 - Issue 2:* Evidence of Xingyuan Group's Exports During the POI

V. Recommendation

[FR Doc. 2017–13287 Filed 6–23–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–889]

Diocetyl Terephthalate From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that dioctyl terephthalate (DOTP) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2015, through March 31, 2016. For information on the estimated weighted-average dumping margins of sales at LTFV, see the "Final Determination" section of this notice.

DATES: Effective June 26, 2017.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243 or (202) 482–6386, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 2017, the Department published the *Preliminary Determination of Sales at LTFV of DOTP from Korea*.¹ The petitioner in this investigation is Eastman Chemical Company. The mandatory respondents in this investigation are Aekyung Petrochemical Co., Ltd. (AKP) and LG Chem Ltd. (LG Chem). Both AKP and LG Chem participated in this investigation. A complete summary of the events that occurred since publication of the *Preliminary Determination*, as well as a full

¹ See *Diocetyl Terephthalate from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination*, 82 FR 9195 (February 3, 2017) (*Preliminary Determination*) and accompanying memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Diocetyl Terephthalate from the Republic of Korea" (*Preliminary Decision Memorandum*).

discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is dated concurrently with, and hereby adopted by, this notice.²

The Issues and Decision Memorandum is a public document and is available electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). Access is available to registered users at <https://access.trade.gov> and to all parties in the Central Records Unit, Room B-8024 of the Department's main building. In addition, a complete version of the Issues and Decision Memorandum can be accessed at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and electronic version are identical in content.

Scope of the Investigation

The product covered by this investigation is DOTP from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by the Department in the Issues and Decision Memorandum is attached at Appendix II.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), the Department verified the sales and cost data reported by AKP and LG Chem for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by the respondents.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for AKP and LG Chem since the *Preliminary Determination*. These changes are discussed in the "Margin Calculations"

² See the Department's memorandum, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Diethyl Terephthalate From the Republic of Korea," dated concurrently with this notice (Issues and Decision Memorandum).

section of the Issues and Decision Memorandum.

Final Negative Determination of Critical Circumstances

On November 15, 2016, the petitioner timely filed a critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of DOTP from Korea.³ We find that critical circumstances do not exist with respect to AKP and LG Chem.⁴ For a complete discussion of this issue, *see* the "Final Negative Determination of Critical Circumstances" section of the Issues and Decision Memorandum.

All-Others Rate

In accordance with section 735(c)(1)(B)(i)(I) of the Act, the Department calculated a dumping margin for the individually investigated exporters/producers of the subject merchandise. Consistent with sections 735(c)(1)(B)(i)(II) and 735(c)(5) of the Act, the Department also calculated an estimated "all-others" rate for exporters and producers not individually investigated. Section 735(c)(5)(A) of the Act provides that the "all-others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. We calculated the all-others rate using a weighted average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration, pursuant to section 735(c)(5)(A) of the Act, as referenced in the "Final Determination" section below.⁵

Final Determination

The Department determines that the weighted-average dumping margins to be:

³ See letter from Petitioner, "Re: Diethyl Terephthalate ("DOTP") From Korea; Critical Circumstances Allegation," dated November 15, 2016 (Critical Circumstances Allegation).

⁴ See *Preliminary Determination*, 82 FR at 9195.

⁵ See memorandum to the file, "Diethyl Terephthalate From the Republic of Korea: Calculation of All-Others' Rate in the Final Determination," dated concurrently with this notice.

Exporter/producer	Weighted-average margins (percent)
Aekyung Petrochemical Co., Ltd	4.08
LG Chem, Ltd	2.71
All-Others	3.69

Disclosure

In accordance with 19 CFR 351.224(b), we intend to disclose the calculations performed to parties in this proceeding within five days of any public announcement of this notice.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of DOTP from Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after February 3, 2017, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**. Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation of DOTP from Korea no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

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

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 20, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is dioctyl terephthalate (DOTP), regardless of form. DOTP that has been blended with other products is included within this scope when such blends include constituent parts that have not been chemically reacted with each other to produce a different product. For such blends, only the DOTP component of the mixture is covered by the scope of this investigation.

DOTP that is otherwise subject to this investigation is not excluded when commingled with DOTP from sources not subject to this investigation. Commingled refers to the mixing of subject and non-subject DOTP. Only the subject component of such commingled products is covered by the scope of the investigation.

DOTP has the general chemical formulation $C_{18}H_{18}(C_8H_{17}COO)_2$ and a chemical name of "bis (2-ethylhexyl) terephthalate" and has a Chemical Abstract Service (CAS) registry number of 6422-86-2. Regardless of the label, all DOTP is covered by this investigation.

Subject merchandise is currently classified under subheading 2917.39.2000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under subheadings 2917.39.7000 or 3812.20.1000 of the HTSUS. While the CAS registry number and HTSUS classification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Final Negative Determination of Critical Circumstances
- V. Margin Calculations
- VI. Discussion of the Issues

Comment 1: Whether the Department's Quarterly Cost Methodology Justifies Comparing Sales on a Quarterly Basis

Comment 2: Whether AKP's Reporting Supports the Department's Decision To Rely on Quarterly Costs for the Final Determination

Comment 3: Whether To Adjust the Reported Cost of Purchases of Raw Material 2-Ethyl Hexanol (2-EH)

Comment 4: The Structure of AKP's Paper Transactions and the Basis for U.S. Price for AKP's Channel 3 and 4 Sales

Comment 5: AKP's Affiliate's Financial Statements and Indirect Selling Expenses Calculation

Comment 6: Duty Drawback for AKP's U.S. Sales

Comment 7: LG Chem's Duty Drawback Adjustment

Comment 8: LG Chem's Constructed Export Price (CEP) Offset

Comment 9: Reported Currency for LG Chem's Bank Charges

Comment 10: LG Chem's General and Administrative Expense (G&A) Ratio

Comment 11: LG Chem's Raw Material and Variable Overhead Costs

VII. Recommendation

[FR Doc. 2017-13285 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 99-11A05]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review to California Almond Export Association, LLC (CAEA), Application No. 99-11A05.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis (OTE), issued an amended Export Trade Certificate of Review to CAEA on June 12, 2017. A previous amended Export Trade Certificate of Review was issued to CAEA on November 24, 2015, and a notice of its issuance was published in the **Federal Register** on December 10, 2015 (80 FR 76663).

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) (the Act) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the

Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15 CFR part 325 (2015). OTEA is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

CAEA's Export Trade Certificate of Review has been amended to:

- Remove California Gold Almonds, LLC as a Member
- Change the name of Member Paramount Farms, Inc. to Wonderful Pistachios & Almonds, LLC

CAEA's Export Trade Certificate of Review Membership, as amended, is listed below:

Almonds California Pride, Inc.,
Caruthers, CA
Baldwin-Minkler Farms, Orland, CA
Blue Diamond Growers, Sacramento, CA
Campos Brothers, Caruthers, CA
Chico Nut Company, Chico, CA
Del Rio Nut Company, Livingston, CA
Fair Trade Corner, Inc., Chico, CA
Fisher Nut Company, Modesto, CA
Hilltop Ranch, Inc., Ballico, CA
Hughson Nut, Inc., Hughson, CA
Mariani Nut Company, Winters, CA
Nutco, LLC d.b.a. Spycher Brothers,
Turlock, CA
P-R Farms, Inc., Clovis, CA
Roche Brothers International Family
Nut Co., Escalon, CA
RPAC, LLC, Los Banos, CA
South Valley Almond Company, LLC,
Wasco, CA
SunnyGem, LLC, Wasco, CA
Western Nut Company, Chico, CA
Wonderful Pistachios & Almonds, LLC,
Los Angeles, CA

The effective date of the amended certificate is March 13, 2017, the date on which CAEA's application to amend was deemed submitted.

Dated: June 21, 2017.

Joseph E. Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2017-13262 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE**National Institute of Standards and Technology****Proposed Information Collection; Comment Request; Small Business Innovation Research (SBIR) Program Application Cover Sheet**

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

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

DATES: Written comments must be submitted on or before August 25, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Mary Clague, NIST SBIR Program Office, 100 Bureau Drive, MS 2200, Gaithersburg, MD 20899, 301-975-4188, mary.clague@nist.gov.

SUPPLEMENTARY INFORMATION:**I. Abstract**

The SBIR program was originally established in 1982 by the Small Business Innovation Development Act (Pub. L. 97-219), codified at 15 U.S.C. 638. It was then expanded and extended by the Small Business Research and Development (R&D) Enhancement Act of 1992 (Pub. L. 102-564), and received subsequent reauthorization and extensions that include Public Law 112-81, extending SBIR through September 30, 2022. The US Small Business Administration (SBA) serves as the coordinating agency for the SBIR program. It directs the agency implementation of SBIR, reviews progress, and reports annually to Congress on its operation.

The NIST SBIR Cover Sheet is the first page of each application that responds to the annual NIST SBIR Federal Funding Opportunity (FFO). The information collected in the Cover Sheet provides identifying information and demographic data for use in NIST's

annual report to the SBA on the program.

II. Method of Collection

The information will be collected as part of the application process and will be submitted either through grants.gov or by paper.

III. Data

OMB Control Number: #0693-0072.

Form Number(s): None.

Type of Review: Extension of a current information collection.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 150 per year.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 75 hours.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

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

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

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017-13276 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Review of National Marine Sanctuaries and Marine National Monuments Designated or Expanded Since April 28, 2007; Notice of Opportunity for Public Comment**

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean

Service (NOS), National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice; request for public comments.

SUMMARY: Pursuant to Executive Order 13795—Implementing an America-First Offshore Energy Strategy, signed on April 28, 2017, the Department of Commerce is conducting a review of all designations and expansions of National Marine Sanctuaries and Marine National Monuments since April 28, 2007. The Secretary of Commerce will use the review to inform the preparation of a report under Executive Order 13795, Sec. 4(b)(ii). This Notice identifies 11 National Marine Sanctuaries and Marine National Monuments subject to the review and invites comments to inform the review.

DATES: Written comments must be submitted no later than July 26, 2017.

ADDRESSES: You may submit comments, identified by docket ID NOAA-NOS-2017-0066 by one of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2017-0066>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* E.O. 13795 Review, National Oceanic and Atmospheric Administration, Silver Spring Metro Campus Building 4 (SSMC4), Eleventh Floor, 1305 East-West Highway, Silver Spring, MD 20910.

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 NOAA. All comments received are a part of the public record and will be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA will accept anonymous comments (for electronic comments submitted through the Federal eRulemaking Portal, enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: William Douros, 831-647-1920, National Oceanic and Atmospheric Administration, Silver Spring Metro Campus Building 4 (SSMC4), Eleventh Floor, 1305 East-West Highway, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: Executive Order 13795 of April 28, 2017 directs the Secretary of Commerce to review National Marine Sanctuaries and Marine National Monuments designated or expanded since April 28, 2007. Specifically, section 4(b)(i) of Executive Order 13795 directs the Secretary to conduct, in consultation with the Secretary of Defense, Secretary of the Interior, and Secretary of Homeland Security, a review to include:

(A) An analysis of the acreage affected and an analysis of the budgetary impacts of the costs of managing each

National Marine Sanctuary or Marine National Monument designation or expansion;

(B) An analysis of the adequacy of any required Federal, State and tribal consultations conducted before the designations or expansions; and

(C) The opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf, in addition to any impacts on production in the adjacent region.

The Secretary shall complete this review and, in consultation with the Secretary of Defense and the Secretary

of the Interior, prepare and submit a report on the results of the review to the Director of the Office of Management and Budget, the Chairman of the Council on Environmental Quality and the Assistant to the President for Economic Policy within 180 days (by October 25, 2017).

Pursuant to Executive Order 13795, Sec. 4(b), the Department of Commerce's review of National Marine Sanctuary and Marine National Monument designations and expansions is limited to those designations or expansions listed in the table below.

NATIONAL MARINE SANCTUARIES AND MARINE NATIONAL MONUMENTS UNDER REVIEW PURSUANT TO EO 13795, SEC. 4(b)

Name	Location	Action	Date	Size in acres	Federal Register citation
Channel Islands National Marine Sanctuary.	California	Expansion	May 24, 2007 ...	9,600	72 FR 29,208 (May 24, 2007).
Cordell Bank National Marine Sanctuary.	California	Expansion	March 12, 2015	484,480	80 FR 13,078 (March 12, 2015).
Greater Farallones National Marine Sanctuary.	California	Expansion	March 12, 2015	1,288,320	80 FR 13,078 (March 12, 2015).
Marianas Trench Marine National Monument.	Commonwealth of the Northern Mariana Islands/Pacific Ocean.	Designation	January 6, 2009	60,938,240	74 FR 1,557 (January 12, 2009).
Monterey Bay National Marine Sanctuary.	California	Expansion	November 20, 2008.	496,000	73 FR 70,488 (November 20, 2008).
National Marine Sanctuary of American Samoa.	American Samoa	Expansion	July 26, 2012 ...	8,691,840	77 FR 43,942 (July 26, 2012).
Northeast Canyons and Seamounts Marine National Monument.	Atlantic Ocean	Designation	September 15, 2016.	3,114,320	81 FR 65,161 (September 21, 2016).
Pacific Remote Islands Marine National Monument.	Pacific Ocean	Designation; Expansion.	January 6, 2009; September 25, 2014.	55,608,320	74 FR 1,565 (January 12, 2009); 79 FR 58,645 (September 29, 2014).
Papahānaumokuākea Marine National Monument.	Hawaii	Expansion	August 26, 2016	283,379,840	81 FR 60,227 (August 31, 2016).
Rose Atoll Marine National Monument ¹ .	American Samoa	Designation	January 6, 2009	8,608,640	74 FR 1,577 (January 12, 2009).
Thunder Bay National Marine Sanctuary.	Michigan	Expansion	September 5, 2014.	2,465,280	79 FR 52,960 (September 5, 2014).

The area of the original designations for the five listed National Marine Sanctuaries and Papahānaumokuākea Marine National Monument are not subject to this review, rather only their respective expansion areas completed in the past 10 years.

The Department of Commerce seeks public comments related to the application of factors in Sec. 4(b)(i)(A), (B) and (C), as stated in Executive Order 13795, to the National Marine Sanctuary expansions and designation and

expansions of the Marine National Monuments indicated above.

Under Executive Order 13792—Review of Designations Under the Antiquities Act (signed April 26, 2017), the Department of the Interior is conducting a review of National Monuments pursuant to a separate set of factors (See the Department of the Interior's **Federal Register** Notice—Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Public Comment; 82 FR 22016, May 11, 2017). The Department of Commerce is collaborating with the Department of the Interior on this review for Marine National Monuments,

in conjunction with Department of Commerce's review under Executive Order 13795. The Department of Commerce will receive a copy of and consider all public comments submitted during the Department of the Interior's public comment period for Executive Order 13792 for Marine National Monuments that are affected by Executive Orders 13792 and 13795.

Accordingly, identical or substantively similar comments submitted as a part of the Department of the Interior's public comment period should not be re-submitted to the Department of Commerce in response to this **Federal Register** notice regarding

¹ All of Rose Atoll Marine National Monument is contained within National Marine Sanctuary of American Samoa.

public comment on the factors under Executive Order 13795, Sec. 4(b).

Authority: Executive Order 13795.

Dated: June 20, 2017.

Nicole Le Boeuf,

Deputy Assistant Administrator For Ocean Services and Coastal Management.

[FR Doc. 2017-13308 Filed 6-23-17; 8:45 am]

BILLING CODE 3510-NK-P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC-2010-0112]

Agency Information Collection Activities; Proposed Collection; Comment Request; Contests, Challenges, and Awards

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed extension of approval of a generic collection of information for CPSC-sponsored contests, challenges, and awards approved previously under OMB Control No. 3041-0151. The Commission will consider all comments received in response to this notice before requesting an extension of this collection of information from the Office of Management and Budget (OMB).

DATES: Submit written or electronic comments on the collection of information by August 25, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CPSC-2010-0112, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <http://www.regulations.gov>. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through www.regulations.gov. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814; telephone (301) 504-7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted

without change, including any personal identifiers, contact information, or other personal information provided, to: <http://www.regulations.gov>. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: <http://www.regulations.gov>, and insert the docket number, CPSC-2010-0112, into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT:

Charu Krishnan, Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; (301) 504-7221, or by email to: CKrishnan@cpsc.gov.

SUPPLEMENTARY INFORMATION: CPSC seeks to renew the following currently approved generic collection of information:

Title: Contests, Challenges, and Awards.

OMB Number: 3041-0151.

Type of Review: Renewal of generic collection.

Frequency of Response: On occasion.

Affected Public: Contestants, award nominees, award nominators.

Estimated Number of Respondents: 500 participants annually. In addition, 20 participants may be required to provide additional information upon selection.

Estimated Time per Response: 5 hours/participant. 20 participants may require 2 additional hours each to provide additional information upon selection.

Total Estimated Annual Burden: 2,540 hours (500 participants × 5 hours/participant) + (20 participants × 2 hours/participant).

General Description of Collection: The Commission establishes contests, challenges, and awards to increase the public's knowledge and awareness of safety hazards, such as carbon monoxide poisoning. The Commission also recognizes those individuals, firms, and organizations that work to address issues related to consumer product safety through awards.

Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

- Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
- Whether the estimated burden of the proposed collection of information is accurate;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: June 21, 2017.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2017-13300 Filed 6-23-17; 8:45 am]

BILLING CODE 6355-01-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of the Award Transfer forms: Request to Transfer a Segal Education Award Amount, Accept/Decline Award Transfer Form, Request to Revoke Transfer of Education Award Form, and Rescind Acceptance of Award Transfer Form. These forms enable AmeriCorps members and recipients to meet the legal requirements of the award transfer process.

Copies of the information collection request can be obtained by contacting

the office listed in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by August 25, 2017.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, National Service Trust, Attention: Nahid Jarrett, 250 E St. SW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through www.regulations.gov.

Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nahid Jarrett, 202-606-6753, or by email at njarrett@cns.gov.

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

AmeriCorps members may offer to transfer all or part of their qualified education awards to certain family members. Provision is made to accept the transfer or not, to rescind acceptance or revoke the transfer. These processes are implemented electronically where possible but paper forms are available if necessary.

Current Action

CNCS seeks to renew the current information. Except to add the categories of stepchild and step grandchild to the list of qualified recipients of the award transfer, only slight formatting and editing changes have been made.

The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on September 30, 2017.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Request to Transfer a Segal Education Award Amount, Accept/Decline Award.

OMB Number: 3045-0136.

Agency Number: None.

Affected Public: AmeriCorps members with eligible education awards and qualified recipients.

Total Respondents: 1420.

Frequency: Annually.

Average Time per Response: Averages 5 minutes.

Estimated Total Burden Hours: 118.33.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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

Dated: June 20, 2017.

Jerry Prentice,

Deputy Director of Trust Operations.

[FR Doc. 2017-13261 Filed 6-23-17; 8:45 am]

BILLING CODE 6050-28-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed

and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of the following proposed Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" for approval under the Paperwork Reduction Act (PRA). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this Notice or on www.regulations.gov.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by August 25, 2017.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service; Attention Amy Borgstrom; 250 E Street SW., Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the address above between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through www.regulations.gov.

Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

Comments submitted in response to this Notice may be made available to the public through www.regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the

public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT:

Amy Borgstrom, 202–606–6930, or by email at aborgstrom@cns.gov.

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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 expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

CNCS seeks to continue to use this information collection to seek feedback on the agency's service delivery from grantees and other stakeholders.

Current Action

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

Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

CNCS will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
 - The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
 - The collections are non-controversial and do not raise issues of concern to other Federal agencies;
 - Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
 - Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
 - Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
 - Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
 - Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.
- Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the

sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

The information collection will be used in the same manner as the current information collection.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

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

OMB Number: 3045–0137.

Agency Number: None.

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

Total Respondents: 10,000.

Frequency: Once.

Average Time per Response: Averages 10 minutes.

Estimated Total Burden Hours: 1,667 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Dated: June 19, 2017.

Mary Hyde,

Deputy Director, Research and Evaluation.

[FR Doc. 2017-13237 Filed 6-23-17; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF ENERGY

[Certification Notice—248]

Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of filing.

SUMMARY: On April 24, 2017, PSEG Fossil, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE-20, Room 8G-024, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586-5260.

SUPPLEMENTARY INFORMATION: On April 24, 2017, PSEG Fossil, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the

Department of Energy (DOE) pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c). Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

Owner: PSEG Fossil, LLC

Capacity: 485 megawatts (MW)

Plant Location: Bridgeport, CT 06604

In-Service Date: June 1, 2019

Issued in Washington, DC, on May 12, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017-13294 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Certification Notice—249; Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of filing.

SUMMARY: On May 5, 2017, St. Joseph Energy Center, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations. The FUA and

regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE-20, Room 8G-024, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586-5260.

SUPPLEMENTARY INFORMATION: On May 5, 2017, St. Joseph Energy Center, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to § 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c). Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

Owner: St. Joseph Energy Center, LLC.

Capacity: 750 megawatts (MW).

Plant Location: New Carlisle, IN

In-Service Date: Approximately March 24, 2018.

Issued in Washington, DC, on June 13, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017-13290 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**[OE Docket No. EA-436]****Application to Export Electric Energy; MAG Energy Solutions, Inc.****AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.**ACTION:** Notice of application.**SUMMARY:** MAG Energy Solutions, Inc. (Applicant or MAG) has applied for authority to transmit electric energy from the United States to Mexico pursuant to section 202(e) of the Federal Power Act.**DATES:** Comments, protests, or motions to intervene must be submitted on or before July 26, 2017.**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to Electricity.Exports@hq.doe.gov, or by facsimile to 202-586-8008.**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On April 25, 2017, DOE received an application from MAG for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities.

In its application, MAG states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that MAG proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding

should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning MAG's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA-436. An additional copy is to be provided to both Ruta Kalvaitis Skučas, Pierce Atwood LLC, 1875 K St., Suite 700, Washington, DC 20006 and Simon Pelletier, CEO, MAG Energy Solutions Inc., 999 de Maisonneuve Boulevard West, Suite 875, Montreal, Quebec H3A 3L4.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at <http://energy.gov/node/11845>, or by emailing Angela Troy at Angela.Troy@hq.doe.gov.

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

Christopher Lawrence,*Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.*

[FR Doc. 2017-13284 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P**DEPARTMENT OF ENERGY****[OE Docket No. EA-210-E]****Application To Export Electric Energy; Talen Energy Marketing, LLC****AGENCY:** Office of Electricity Delivery and Energy Reliability, DOE.**ACTION:** Notice of application.**SUMMARY:** Talen Energy Marketing, LLC (Applicant or Talen Energy) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.**DATES:** Comments, protests, or motions to intervene must be submitted on or before July 26, 2017.**ADDRESSES:** Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to Electricity.Exports@hq.doe.gov, or by facsimile to 202-586-8008.**SUPPLEMENTARY INFORMATION:** Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On August 18, 2012, DOE issued Order No. EA-210-C to PPL Energy Plus, LLC, which authorized the Applicant to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. On October 16, 2015, PPL Energy Plus, LLC changed its name to Talen Energy Marketing, LLC in Order No. EA-210-D. That authority expires on August 18, 2017. On May 5, 2017, Talen Energy filed an application with DOE for renewal of the export authority contained in Order No. EA-210 for an additional five-year term.

In its application, Talen Energy states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that Talen Energy proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by Talen Energy have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC)

Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Talen Energy's application to export electric energy to Canada should be clearly marked with OE Docket No. EA-210-E. An additional copy is to be provided directly to both Sandra Rizzo, Arnold & Porter Kaye Scholer LLP, 601 Massachusetts Ave. NW., Washington, DC 20001 and Debra L. Raggio, Talen Energy Corporation, 117 Oronoco Street, Alexandria, VA 22302.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at <http://energy.gov/node/11845>, or by emailing Angela Troy at Angela.Troy@hq.doe.gov.

Issued in Washington, DC, on May 31, 2017.

Christopher Lawrence,
Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017-13291 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[OE Docket No. EA-296-C]

Application to Export Electric Energy; Rainbow Energy Marketing Corporation

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Rainbow Energy Marketing Corporation (Applicant or Rainbow) has

applied to renew its authority to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before July 26, 2017.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE-20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585-0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to Electricity.Exports@hq.doe.gov, or by facsimile to 202-586-8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On September 20, 2012, DOE issued Order No. EA-296-B to Rainbow, which authorized the Applicant to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expires on September 18, 2017. On May 25, 2017, Rainbow filed an application with DOE for renewal of the export authority contained in Order No. EA-296 for an additional five-year term.

In its application, Rainbow states that it does not own or operate any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that Rainbow proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by Rainbow have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning Rainbow's application to export electric energy to Canada should be clearly marked with OE Docket No. EA-296-C. An additional copy is to be provided directly to Joseph A. Wolfe, Rainbow Energy Marketing Corporation, Kirkwood Office Tower, 919 South 7th Street, Suite 405, Bismarck, ND 58504.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at <http://energy.gov/node/11845>, or by emailing Angela Troy at Angela.Troy@hq.doe.gov.

Issued in Washington, DC, on June 8, 2017.

Christopher Lawrence,
Electricity Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017-13295 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Orders Granting Authority To Import and Export Natural Gas, To Import and Export Liquefied Natural Gas, and Vacating Prior Authorization During April 2017

	FE Docket Nos.
DOWNEAST LNG, INC	14-172-LNG
	14-173-LNG
GOLDEN PASS PRODUCTS LLC	12-156-LNG
NOBLE AMERICAS GAS & POWER CORP	17-36-NG
MIECO INC	17-33-NG
STATOIL NATURAL GAS LLC	17-34-LNG

	FE Docket Nos.
TRANS-PECOS PIPELINE, LLC	17-40-NG
ENCANA MARKETING (USA) INC	17-41-NG
WORLD FUEL SERVICES, INC	17-46-NG
EL PASO MARKETING COMPANY, L.L.C	17-44-NG
OKRA ENERGY, LLC	16-188-LNG
COMANCHE TRAIL PIPELINE, LLC	17-39-NG
BP WEST COAST PRODUCTS LLC	17-42-NG
GAZ METRO SOLUTIONS TRANSPORT LP	17-35-LNG
PACIFICORP	17-32-NG
GIGO TRANSPORT, INC	17-37-NG
	15-105-NG
OMIMEX CANADA, LTD	17-45-NG
ENGIE ENERGY MARKETING NA, INC	17-38-NG
	16-161-NG

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during April 2017, it issued orders granting authority to import and export natural gas, to import and export liquefied natural gas (LNG), and vacating authority. These orders are summarized in the attached appendix

and may be found on the FE Web site at <http://energy.gov/fe/listing-doe-fe-authorizationsorders-issued-2017>.

They are also available for inspection and copying in the U.S. Department of Energy (FE-34), Division of Natural Gas Regulation, Office of Regulation and International Engagement, Office of Fossil Energy, Docket Room 3E-033, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The Docket Room is

open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on June 20, 2017.

John A. Anderson,
Director, Office of Regulation and International Engagement, Office of Oil and Natural Gas.

APPENDIX

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS

3600-A	04/21/17	14-172-LNG 14-173-LNG	Downeast LNG, Inc	Order 3600-A granting request to vacate Long-term, Multi-contract authority to export LNG by vessel to Free trade Agreement Nations and to withdraw Application to export LNG by vessel to Non-free Trade Agreement Nations.
3978	04/25/17	12-156-LNG	Golden Pass Products LLC ...	Opinion and Order 3978 granting Long-term, Multi-contract authority to export LNG by vessel from the Golden Pass LNG Terminal located in Jefferson County, Texas, to Non-free Trade Agreement Nations.
4012	04/17/17	17-36-NG	Noble Americas Gas & Power Corp.	Order 4012 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4013	04/17/17	17-33-NG	Mieco Inc	Order 4013 granting blanket authority to import/export natural gas from/to Canada.
4014	04/17/17	17-34-LNG ...	Statoil Natural Gas LLC	Order 4014 granting blanket authority to import LNG from international sources by vessel.
4015	04/17/17	17-40-NG	Trans-Pecos Pipeline, LLC ...	Order 4015 granting blanket authority to import/export natural gas from/to Mexico.
4016	04/17/17	17-41-NG	Encana Marketing (USA) Inc	Order 4016 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4017	04/17/17	17-46-NG	World Fuel Services, Inc	Order 4017 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4018	04/17/17	17-44-NG	El Paso Marketing Company, L.L.C.	Order 4018 granting blanket authority to import/export natural gas from/to Canada/Mexico.
4019	04/18/17	16-188-LNG	Okra Energy, LLC	Order 4019 granting blanket authority to export LNG in ISO Containers loaded at a Proposed LNG Plant In Southern Alabama and exported by barge or vessel to Free Trade Agreement Countries in the Caribbean and Latin America.
4020	04/17/17	17-39-NG	Comanche Trail Pipeline, LLC	Order 4020 granting blanket authority to import/export natural gas from/to Mexico.
4021	04/17/17	17-42-NG	BP West Coast Products LLC	Order 4021 granting blanket authority to import/export natural gas from/to Canada.
4022	04/18/17	17-35-LNG ...	Gaz Metro Solutions Transport LP.	Order 4022 granting blanket authority to import LNG from Canada by Truck.
4023	04/18/17	17-32-NG	PacifiCorp	Order 4023 granting blanket authority to import/export natural gas from/to Canada.
4024	04/18/17	17-37-NG	GIGO Transport, Inc	Order 4024 granting blanket authority to import/export natural gas from/to Canada/Mexico and to export natural gas to Mexico, and vacating prior authorization.
4025	04/20/17	15-105-NG ... 17-45-NG	Omimex Canada, Ltd	Order 4025 granting blanket authority to import/export natural gas from/to Canada/Mexico, and to import LNG from various international sources by vessel.

DOE/FE ORDERS GRANTING IMPORT/EXPORT AUTHORIZATIONS—Continued

4026	04/20/17	17-38-NG 16-161-NG ...	ENGIE Energy Marketing NA, Inc.	Order 4026 granting blanket authority to export natural gas to Mexico, vacating prior authorization, and name change.
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[FR Doc. 2017-13233 Filed 6-23-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

[Docket No. ER17-1778-000]

HD Project One LLC; Supplemental
Notice That Initial Market-Based Rate
Filing Includes Request for Blanket
Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of HD Project One LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 10, 2017.

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-referenced proceeding are accessible in the Commission's eLibrary system by

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

Dated: June 20, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017-13268 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory
Commission

Combined Notice of Filings

June 21, 2017.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17-832-000.

Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2017-06-20 Ascent to be effective 6/20/2017.

Filed Date: 06/16/2017.

Accession Number: 20170616-5092.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, June 28, 2017.

Docket Numbers: RP17-833-000.

Applicants: Tennessee Gas Pipeline Company, L.L.C.

Description: Tennessee Gas Pipeline Company, L.L.C. submits tariff filing per 154.204: Volume No 2. Neg Rate Agmt—Alta Energy Marketing LLC; MMGS name to Mitsui to be effective 7/1/2017.

Filed Date: 06/16/2017.

Accession Number: 20170616-5166.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, June 28, 2017.

Docket Numbers: RP17-779-001.

Applicants: Florida Southeast Connection, LLC.

Description: Florida Southeast Connection, LLC submits tariff filing per 154.205(b): Filed Agreements to be effective 7/1/2017.

Filed Date: 06/19/2017.

Accession Number: 20170619-5151.

Comment Date: 5:00 p.m. Eastern Time on Monday, June 26, 2017.

Docket Numbers: RP17-834-000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: El Paso Natural Gas Company, L.L.C. submits tariff filing per 154.601: Negotiated Rate Agreement Update (Pioneer July-Sept 2017) to be effective 7/1/2017.

Filed Date: 06/20/2017.

Accession Number: 20170620-5140.

Comment Date: 5:00 p.m. Eastern Time on Monday, July 3, 2017.

Docket Numbers: RP17-835-000.

Applicants: Constellation Energy Services, Inc., Constellation Energy Services—Natural, CNE Gas Supply, LLC.

Description: Petition for Temporary Waivers of Capacity Release Regulations and Policies of Constellation Energy Services, Inc., et al.

Filed Date: 06/20/2017.

Accession Number: 20170620-5145.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, June 27, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified 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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF17-4-000]

Jordan Cove Energy Project, L.P.; Pacific Connector Gas Pipeline, L.P.; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects, Request for Comments on Environmental Issues, and Notice of Public Scoping Sessions; Correction

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the impacts of the planned Jordan Cove LNG Terminal and Pacific Connector Pipeline Projects (collectively referred to as the Project). The FERC is the lead federal agency for the preparation of the EIS. The U.S. Army Corps of Engineers (USACE), U.S. Department of Energy (DOE), Bureau of Land Management (BLM), Bureau of Reclamation (Reclamation), U.S. Forest Service (Forest Service), and the Bonneville Power Administration (BPA) are Cooperating Agencies and can adopt the EIS for their respective purposes and permitting actions.

Jordan Cove Energy Project, L.P. (JCEP) plans to construct and operate a liquefied natural gas (LNG) production, storage, and export facility in Coos County, Oregon. Pacific Connector Gas Pipeline, L.P. (PCGP) plans to construct and operate an interstate natural gas transmission pipeline and associated facilities in Coos, Douglas, Jackson, and Klamath Counties, Oregon. The Commission will use this EIS in its decision-making process to determine whether the Jordan Cove LNG Terminal is in the public interest and the Pacific Connector Pipeline is in the public convenience and necessity. Other federal agencies may adopt the EIS when making their respective determinations or decisions.

This notice announces the opening of the public comment period, commonly

referred to as scoping. You can make a difference by providing your comments. Your comments should focus on potential environmental impacts, reasonable alternatives, and measures to avoid or lessen environmental impacts. This scoping opportunity is for the entire Project, including actions and proposed plan amendments of the Cooperating Agencies listed above. The Forest Service also seeks comments specific to the 2012 planning rule requirements at §§ 219.8 through 219.11 that are likely to be directly related to the proposed amendments. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before July 10, 2017.

If you submitted comments on this project before February 10, 2017, you will need to refile those comments in FERC Docket No. PF17-4-000 to ensure they are considered as part of this proceeding. If you sent comments on a previous iteration of this project, you will also need to refile those comments in FERC Docket No. PF17-4-000.

This notice is being sent to the Commission's current environmental mailing list for the Project. State and local government representatives should notify their constituents of this project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a PCGP company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned pipeline. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled *An Interstate Natural Gas Facility On My Land? What Do I Need To Know?* is available for viewing on the FERC Web site (www.ferc.gov). This

fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are four methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you by phone at (202) 502-8258 or via email at FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded. If you include personal information along with your comments, please be aware that this information (address, phone number, and/or email address) would become publicly available in the Commission's eLibrary.

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;

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

You can file a paper copy of your comments by mailing them to the following address. Be sure to include docket number PF17-4-000 with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

In lieu of sending written or electronic comments, the Commission invites you to attend one the public scoping sessions its staff will conduct in the project area, scheduled as follows:

Date and time	Location
Tuesday, June 27, 2017, 4:00 p.m. to 7:00 p.m	Sunset Middle School, Library and Commons Rooms, 245 South Cammann Street, Coos Bay, OR 97420.
Wednesday, June 28, 2017, 4:00 p.m. to 7:00 p.m	Umpqua Community College, Jackson Hall, Rooms 11 & 12, 1140 Umpqua College Road, Roseburg, OR 97470.
Thursday, June 29, 2017, 4:00 p.m. to 7:00 p.m	Oregon Institute of Technology, College Union Building, Mt. Bailey and Mt. Theilsen Rooms, 3201 Campus Drive, Klamath Falls, OR 97601.

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the EIS to be prepared for this project. Individual verbal comments will be taken on a one-on-one basis with a court reporter. This format is designed to receive the maximum amount of verbal comments in a convenient way during the timeframe allotted.

Each scoping session is scheduled from 4:00 p.m. to 7:00 p.m. Pacific Daylight Time. There will be no formal presentation by Commission staff when the session opens. If you wish to provide comments, the Commission staff will issue numbers in the order of your arrival. Please see Appendix 2¹ for additional information on the session format and conduct expectations.

Your comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available through the FERC's eLibrary system (see below for instructions on using eLibrary). If a significant number of people are interested in providing verbal comments, a time limit of 5 minutes may be implemented for each commenter.

Verbal comments hold the same weight as written or electronically submitted comments. Although there will not be a formal presentation, Commission staff will be available throughout the comment session to answer your questions about the environmental review process.

The submission of timely and specific comments, whether submitted in writing or orally at a scoping session, can affect a reviewer's ability to participate in a subsequent administrative or judicial review of BLM and/or Forest Service decisions. Comments concerning BLM and Forest Service actions submitted anonymously will be accepted and considered; however such anonymous submittals would not provide the commenters with standing to participate in administrative or judicial review of BLM and Forest Service decisions.

Summary of the Planned Project

JCEP plans to construct and operate an LNG export terminal on the North

Spit of Coos Bay in Coos County, Oregon. The terminal would include gas inlet facilities, a metering station, a gas conditioning plant, five liquefaction trains and associated equipment, two full-containment LNG storage tanks, an LNG transfer line, LNG ship loading facilities, a marine slip, a marine offloading facility, a new access channel between the Coos Bay Navigation Channel and the new marine slip, and enhancements to the existing Coos Bay Navigation Channel at four turns. In addition, the terminal would include emergency and hazard, electrical, security, control, and support systems, administrative buildings, and a temporary workforce housing facility. The LNG terminal would be designed to liquefy about 1.04 billion cubic feet per day of LNG for export to markets across the Pacific Rim.

PCGP plans to construct and operate an approximately 235-mile-long, 36-inch-diameter interstate natural gas transmission pipeline and associated aboveground facilities. The pipeline would originate near Malin in Klamath County, Oregon, traverse Douglas and Jackson Counties, and terminate (at the LNG Terminal) in Coos County, Oregon. The pipeline would be capable of transporting about 1.2 billion cubic feet per day of natural gas. The associated aboveground facilities would include the new Klamath Compressor Station (61,500 horsepower) near Malin, Oregon; 3 new meter stations; 5 new pig launchers and receivers; 17 mainline block valves; and a gas control communication system.

The general locations of the Project facilities are shown on maps included in Appendix 1. In addition, PCGP provides detailed mapping of its pipeline route on its Web page at <http://pacificconnectorgp.com/project-overview/>.

Land Requirements for Construction

About 530 acres of land would be disturbed by construction of the LNG Terminal. JCEP owns about 300 acres of this land, and the remaining 230 acres would be leased from private landowners. Following construction, about 170 acres would be retained for operation of the LNG terminal facilities.

About 5,060 acres of land would be disturbed by construction of the Pacific Connector Pipeline Project. Following construction, a 50-foot-wide easement, totaling about 1,415 acres, would be permanently maintained for operation of the pipeline. The majority of the remaining 3,620 acres disturbed by pipeline construction would be restored and returned to previous use, while about 25 acres would be maintained for

a new compressor station and other new aboveground facilities. Land ownership of the approximately 235 miles of permanent pipeline operational easement is approximately 162 miles private land, 40 miles BLM, 31 miles Forest Service, and 2 miles Reclamation.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the authorization of LNG facilities under Section 3 of the Natural Gas Act and pipeline facilities under Section 7 of the Natural Gas Act. NEPA also requires the Commission to discover and address concerns the public may have about proposals. This process is commonly referred to as scoping. The main goal of the scoping process is to identify the important environmental issues the Commission's staff should focus on in the EIS. By this notice, the Commission requests public comments on the scope of issues to be addressed in the EIS. The FERC and the Cooperating Agencies will consider all filed comments during the preparation of the EIS.

The EIS will discuss the impacts that could occur as a result of the construction and operation of the planned Project under these general headings:

- Geology and soils;
- water resources and wetlands;
- vegetation, fisheries, and wildlife;
- protected species;
- land use;
- socioeconomic;
- cultural resources;
- air quality and noise;
- public safety and reliability; and
- cumulative impacts.

The FERC and the Cooperating Agencies will also evaluate reasonable alternatives to the planned project or portions thereof; and make recommendations on how to avoid or minimize impacts on the various resource areas.

Although no formal application has been filed with FERC, FERC has already initiated a review of the project under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of its pre-filing review, FERC has begun to contact interested federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

As stated previously, the FERC will be the lead federal agency for the

¹ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

preparation of the EIS. The USACE, BLM, Reclamation, and Forest Service all have NEPA responsibilities related to their respective permitting actions, and can adopt the EIS for their own agency's purposes. The BLM, Reclamation, and Forest Service intend to adopt this EIS to evaluate the effects of the pipeline portion of the Project on lands and facilities managed by each respective agency, and to support decision-making regarding the issuance of and concurrence with the right-of-way grant and the associated plan amendments.²

The EIS will present the FERC's and the Cooperating Agencies' independent analysis of the issues. The FERC will publish and distribute the draft EIS for public comment. After the comment period, the FERC and the Cooperating Agencies will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure the FERC and the Cooperating Agencies have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section.

With this notice, the FERC is asking agencies with jurisdiction by law and/or special expertise with respect to environmental issues related to this project to formally cooperate with us in the preparation of the EIS.³ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided in the Public Participation section.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, this notice initiates consultation with Oregon's State Historic Preservation Office (SHPO), and solicits its views and those of other government agencies, interested Indian tribes, and the public on the Project's potential effects on historic properties.⁴ The project-specific Area of Potential

² BLM land management plans are called "Resource Management Plans" or RMPs. Forest Service land management plans are called "Land and Resource Management Plans" or LRMPs. The term "land management plan" is generic and may apply to either an RMP or LRMP.

³ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

⁴ The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Effects (APE) will be defined in consultation with the SHPO as the Project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include LNG terminal site, pipeline construction work area, contractor/equipment storage yards, and access roads). The EIS for this Project will document the findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

The Commission's environmental staff has already identified several issues that merit attention based on a preliminary review of the planned facilities, the environmental information provided by the applicants, analysis conducted previously, and early comments filed with FERC. This preliminary list of issues may change based on your comments and further analysis. Preliminary issues include:

- Reliability and safety of LNG carrier traffic in Coos Bay, the LNG terminal, and natural gas pipeline;
- impacts on aquatic resources from dredging the LNG terminal access channel and slip, and from multiple pipeline crossings of surface waters;
- potential impacts on the LNG Terminal resulting from an earthquake or tsunami;
- impacts of pipeline construction on federally listed threatened and endangered species, including salmon, marbled murrelet, and northern spotted owl; and
- impacts of pipeline construction on private landowners, including use of eminent domain to obtain right-of-way.

Preliminary Planning Criteria Identified by the BLM

The BLM Preliminary Planning Criteria for its proposed land management plan amendments include:

- Impacts to stand function for listed species, specifically northern spotted owl and marbled murrelet in BLM-managed Late Successional Reserves (LSR); and
- consent by the Federal surface managing agencies, Forest Service and Reclamation.

Preliminary Issues and Planning Criteria Identified by the Forest Service

The Forest Service has identified preliminary issues for its proposed land and resource management plan (LRMP) amendments. The issues include:

- Effects of proposed amendments on Survey and Manage species and their habitat;

- effects of the proposed amendments on LSRs; and
- effects of the proposed amendments on Riparian Reserves, detrimental soil conditions, and Visual Quality Objectives.

Planning Rule Requirements for LRMP Amendments

The Forest Service seeks public input on issues and planning rule requirements on proposed amendments of their Forest land management plans related to the Pacific Connector Pipeline Project. Additional information regarding the proposed amendments is included at the end of this NOI.

Proposed Actions of the BLM

The purpose of and need for the proposed action by the BLM is to respond to a right-of-way grant application originally submitted by Pacific Connector L.P. to construct, operate, maintain, and eventually decommission a natural gas pipeline that crosses lands and facilities administered by the BLM, Reclamation, and Forest Service. In addition, there is a need for the BLM to consider amending affected District land management plans to make provision for the Pacific Connector right-of-way. Additional detail on proposed actions by the BLM is provided at the end of this NOI.

Proposed Actions of the Forest Service

The purpose of and need for the proposed action by the Forest Service is to consider amending affected National Forest land management plans to make provision for the Pacific Connector right-of-way. The Responsible Official for amendment of Forest Service LRMPs is the Forest Supervisor of the Umpqua National Forest. If the Forest Service adopts the FERC EIS for the Pacific Connector Pipeline Project (in FERC Docket No. PF17-4-000), the Forest Supervisor of the Umpqua National Forest will make the following decisions and determinations:

Decide whether to amend the LRMPs of the Umpqua, Rogue River, and Winema National Forests as proposed or as described in an alternative.

Additional detail on proposed actions by the Forest Service is provided at the end of this NOI.

Environmental Mailing List

The environmental mailing list includes Federal, State, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries

and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations), whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the Project. The FERC will update the environmental mailing list as the analysis proceeds to ensure that the information related to this environmental review is sent to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

Copies of the draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of a compact disc or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once JCEP and PCGP file applications with the Commission, you may want to become an "intervenor," which is an official party to the Commission's proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>. Instructions for becoming an intervenor are in the "Document-less Intervention Guide" under the "e-filing" link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

BLM Administrative Remedy Process

Under the provisions of 43 CFR 1610.5-2, proposed decision(s) of the BLM to amend land management plans are subject to protest with the Director of the BLM following publication of the Final EIS. In accordance with 43 CFR, part 4, the BLM's decision on the application for a right-of-way grant will be subject to appeal to the Interior Board of Land Appeals.

Administrative Review of Forest Service Decisions To Amend Land Management Plans

The proposed Forest Service plan amendments are being developed in accordance with the planning

regulations at 36 CFR 219 (2012). Decisions by the Forest Service to approve "plan level" amendments to Land Management Plans (proposed amendments UNF-4 and RRNF-7 in this Notice) are subject to the Pre-Decisional Administrative Review Process Regulations at 36 CFR 219 subpart B. The term "plan level" refers to plan amendments that would apply to future management actions.

Decisions by the Forest Service to approve "project-specific" plan amendments (proposed amendments UNF-1 thru 3, RRNF-2 thru 6, and WNF-1 thru 5 in this Notice) are subject to the Administrative Review Process of 36 CFR 218 Subpart A and B, in accordance with 36 CFR 219.59 (b). The term "project specific" refers to amendments that would only apply to the proposed project and would not apply to any future management actions.

The Forest Service concurrence to BLM to issue a right-of-way grant would not be a decision subject to the NEPA and, therefore, would not be subject to the Forest Service administrative review procedures.

Additional Information

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.*, PF17-4). 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 www.ferc.gov/docs-filing/esubscription.asp.

Finally, public meetings or site visits will be posted on the Commission's calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Dated: June 9, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

BLM Proposed Actions and Forest Service Planning Rule Requirements

Forest Service Planning Rule Requirements for LRMP Amendments

The Forest Service seeks public input on issues and planning rule requirements on proposed amendments of their Forest land management plans related to the Pacific Connector Pipeline Project. On December 15, 2016 the Department of Agriculture Under Secretary for Natural Resources and Environment issued a final rule that amended the 36 CFR 219 regulations pertaining to National Forest System Land Management Planning (the planning rule) (81 FR 90723, 90737). The amendment to the 219 planning rule clarified the Department's direction for amending LRMPs. The Department also added a requirement for amending a plan for the responsible official to provide in the initial notice "which substantive requirements of §§ 219.8 through 219.11 are likely to be directly related to the amendment" (36 CFR 219.13(b)(2), 81 FR at 90738). Whether a rule provision is directly related to an amendment is determined by any one of the following: The purpose for the amendment, a beneficial effect of the amendment, a substantial adverse effect of the amendment, or a lessening of plan protections by the amendment. The proposed Forest Service plan amendments described below (under Amendments of Forest Service Land Management Plans), include a description of the "substantive requirements of §§ 219.8 through 219.11" that are likely to be directly related to each amendment.

Proposed Actions of the BLM

The purpose of and need for the proposed action by the BLM is to respond to a right-of-way grant application originally submitted by Pacific Connector L.P. to construct, operate, maintain, and eventually decommission a natural gas pipeline that crosses lands and facilities administered by the BLM, Reclamation, and Forest Service. In addition, there is a need for the BLM to consider amending affected District land management plans to make provision for the Pacific Connector right-of-way.

The proposed action of the BLM has two components. First, the BLM would amend the Northwestern and Coastal Oregon ROD/RMP and the Southwestern Oregon ROD/RMP. The

BLM would consider one or more amendments to:

Make changes to land use allocations along the Pacific Connector Gas Pipeline route;

Make changes to the management direction for Late Successional Reserves (LSR) specifically where the Pacific Connector Gas Pipeline route crosses LSR, for this project only;

Consider designating a utility corridor coinciding with the Pacific Connector Gas Pipeline route;

Make changes to the right-of-way Avoidance Areas specifically where the Pacific Connector Gas Pipeline route would cross these areas.

Second, in accordance with 43 CFR 2882.3(i), the BLM would consider a right-of-way grant in response to Pacific Connector's application for the project to occupy federal lands, with the written concurrence of the Forest Service and Reclamation. Each agency may submit specific stipulations, including mitigation measures, for inclusion in the right-of-way grant related to lands, facilities, and easements within their respective jurisdictions.

The Secretary of the Interior has delegated to the BLM the authority, under the Mineral Leasing Act of 1920, to grant a right-of-way in response to Pacific Connector's application for a natural gas transmission pipeline across federal lands, with consent of affected surface managing agencies. The Responsible Official for amendments of BLM RMPs and issuance of the right-of-way grant, should one be issued, is the BLM Oregon/Washington State Director. Reclamation's Responsible Official for concurrence of the right-of-way grant, if issued by BLM, is the Area Manager of the Mid-Pacific Region's Klamath Basin Area Office.

If the BLM adopts the FERC EIS for the Pacific Connector Pipeline Project (in FERC Docket No. PF17-4-000), the Oregon/Washington State Director of the BLM would use this EIS in the decision-making process to:

Grant, grant with conditions, or deny the right-of-way application, and;

Consider associated amendments to the Northwestern and Coastal Oregon ROD/RMP and the Southwestern Oregon ROD/RMP where the Project does not conform to these plans.

Proposed Actions of the Forest Service

The purpose of and need for the proposed action by the Forest Service is to consider amending affected National Forest land management plans to make provision for the Pacific Connector right-of-way. The Responsible Official for amendment of Forest Service LRMPs

is the Forest Supervisor of the Umpqua National Forest. If the Forest Service adopts the FERC EIS for the Pacific Connector Pipeline Project (in FERC Docket No. PF17-4-000), the Forest Supervisor of the Umpqua National Forest will make the following decisions and determinations:

Decide whether to amend the LRMPs of the Umpqua, Rogue River, and Winema National Forests as proposed or as described in an alternative.

Amendment of Forest Service Land Management Plans

FS-1—Project-Specific Amendment To Exempt Management Recommendations for Survey and Manage Species on the Umpqua National Forest, Rogue River National Forest, and Winema National Forest LRMPs

Applicable National Forest LRMPs would be amended to exempt certain known sites within the area of the proposed Pacific Connector right-of-way grant from the Management Recommendations required by the 2001 "Record of Decision and Standards and Guidelines for Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines. For known sites within the proposed right-of-way that cannot be avoided, the 2001 Management Recommendations for protection of known sites of Survey and Manage species would not apply. For known sites located outside the proposed right-of-way but with an overlapping protection buffer only that portion of the buffer within the right-of-way would be exempt from the protection requirements of the Management Recommendations. Those Management Recommendations would remain in effect for that portion of the protection buffer that is outside of the right of way. The proposed amendment would not exempt the Forest Service from the requirements of the 2001 Survey and Manage Record of Decision, as modified, to maintain species persistence for affected Survey and Manage species within the range of the northern spotted owl. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project. The amendment would provide an exception from these standards for the Pacific Connector Project and include specific mitigation measures and project design requirements for the project.

The 36 CFR 219 planning rule requirements that are likely to be

directly related to this amendment include:

§ 219.9(a)(2)(ii)—[the plan must include plan components to maintain or restore] "Rare aquatic and terrestrial plant and animal communities."

§ 219.9(b)(1)—The responsible official shall determine whether or not the plan components required by paragraph (a) provide ecological conditions necessary to: . . . maintain viable populations of each species of conservation concern within the plan area.

If this proposed amendment is determined to be directly related to the substantive rule requirements, the Responsible Official must apply those requirements within the scope and scale of the amendment and, if necessary, make adjustments to the amendment to meet these rule requirements (36 CFR 219.13 (b)(5) and (6)).

Amendment of the Umpqua National Forest LRMP

UNF-1—Project-Specific Amendment To Allow Removal of Effective Shade on Perennial Streams:

The Umpqua National Forest LRMP would be amended to exempt the Standards and Guidelines for Fisheries (Umpqua National Forest LRMP, page IV-33, Forest-Wide) to allow the removal of effective shading vegetation where perennial streams are crossed by the Pacific Connector right-of-way. This change would potentially affect an estimated total of three acres of effective shading vegetation at approximately five perennial stream crossings in the East Fork of Cow Creek subwatershed from pipeline mileposts (MP) 109 to 110 in Sections 16 and 21, T.32S., R.2W., W.M., OR. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include: § 219.8(a)(3)(i)—The plan must include plan components "to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity."

UNF-2—Project-Specific Amendment To Allow the Pacific Connector Pipeline Project in Riparian Areas:

The Umpqua National Forest LRMP would be amended to change prescriptions C2-II (LRMP IV-173) and C2-IV (LRMP IV-177) to allow the Pacific Connector pipeline route to run parallel to the East Fork of Cow Creek for approximately 0.1 mile between about pipeline MPs 109.5 and 109.6 in Section 21, T.32S., R.2W., W.M., OR. This change would potentially affect approximately one acre of riparian vegetation along the East Fork of Cow Creek. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include: § 219.8(a)(3)(i)—The plan must include plan components to “maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity.”

UNF-3—Project-Specific Amendment To Exempt Limitations on Detrimental Soil Conditions Within the Pacific Connector Right-of-Way in All Management Areas

The Umpqua National Forest LRMP would be amended to exempt limitations on the area affected by detrimental soil conditions from displacement and compaction within the Pacific Connector right-of-way. Standards and Guidelines for Soils (LRMP page IV-67) requires that not more than 20 percent of the project area have detrimental compaction, displacement, or puddling after completion of a project. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include: § 219.8(a)(2)(ii)—[The plan

must include plan components to maintain or restore] soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

UNF-4—Reallocation of Matrix Lands to LSR

The Umpqua National Forest LRMP would be amended to change the designation of approximately 588 acres from Matrix land allocations to the LSR land allocation in Sections 7, 18, and 19, T.32S., R.2W.; and Sections 13 and 24, T.32S., R.3W., W.M., OR. This change in land allocation is proposed to partially mitigate the potential adverse impact of the Pacific Connector Pipeline Project on LSR 223 on the Umpqua National Forest. This is a plan level amendment that would change future management direction for the lands reallocated from Matrix to LSR.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.8(a)(1)(i)—[the plan must include plan components to maintain or restore] Interdependence of terrestrial and aquatic ecosystems in the plan area.

§ 219.8(b)(1)—[the plan must include plan components to guide the plan area’s contribution to social and economic sustainability] social, cultural and economic conditions relevant to the area influenced by the plan.

§ 219.9(b)(1) “The responsible official shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area,” and

§ 219.9(a)(2)(ii)—[the plan must include plan components to maintain or restore] “Rare aquatic and terrestrial plant and animal communities.”

If any of the proposed amendments to the Umpqua NF LRMP described above are determined to be “directly related” to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13 (b)(5) and (6)).

Amendment of the Rogue River National Forest LRMP

RRNF-2—Project Specific Amendment of Visual Quality Objectives (VQO) on the Big Elk Road

The Rogue River National Forest LRMP would be amended to change the VQO where the Pacific Connector pipeline route crosses the Big Elk Road at about pipeline MP 161.4 in Section 16, T.37S., R.4E., W.M., OR, from Foreground Retention (Management Strategy 6, LRMP page 4-72) to Foreground Partial Retention (Management Strategy 7, LRMP page 4-86) and allow 10-15 years for amended VQO to be attained. The existing Standards and Guidelines for VQO in Foreground Retention where the Pacific Connector pipeline route crosses the Big Elk Road require that VQOs be met within one year of completion of the project and that management activities not be visually evident. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment that would apply only to the Pacific Connector Pipeline Project in the vicinity of Big Elk Road and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[. . .the responsible official shall consider: . . .] (1) Aesthetic values,. . . scenery,. . . viewsheds. . . .

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character. . . .

RRNF-3—Project—Specific Amendment of VQO on the Pacific Crest Trail

The Rogue River National Forest LRMP would be amended to change the VQO where the Pacific Connector pipeline route crosses the Pacific Crest Trail at about pipeline MP 168 in Section 32, T.37S., R.5E., W.M., OR, from Foreground Partial Retention (Management Strategy 7, LRMP page 4-86) to Modification (USDA Forest Service Agricultural Handbook 478) and to allow 15-20 years for amended VQOs to be attained. The existing Standards and Guidelines for VQOs in Foreground Partial Retention in the area where the Pacific Connector pipeline route crosses the Pacific Crest Trail require that visual

mitigation measures meet the stated VQO within three years of the completion of the project and that management activities be visually subordinate to the landscape. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment that would apply only to the Pacific Connector Pipeline Project in the vicinity of the Pacific Crest Trail and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[. . .the responsible official shall consider: . . .] (1) Aesthetic values,. . . scenery,. . . viewsheds. . . .

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character. . . .

RRNF-4—Project-Specific Amendment of Visual Quality Objectives Adjacent to Highway 140

The Rogue River National Forest LRMP would be amended to allow 10–15 years to meet the VQO of Middleground Partial Retention between Pacific Connector pipeline MPs 156.3 to 156.8 and 157.2 to 157.5 in Sections 11 and 12, T.37S., R.3E., W.M., OR. Standards and Guidelines for Middleground Partial Retention (Management Strategy 9, LRMP Page 4–112) require that VQOs for a given location be achieved within three years of completion of the project. Approximately 0.8 miles or 9 acres of the Pacific Connector right-of-way in the Middleground Partial Retention VQO visible at distances of 0.75 to 5 miles from State Highway 140 would be affected by this amendment. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment that would apply only to the Pacific Connector Pipeline Project in Sections 11 and 12, T.37S., R.3E., W.M., OR, and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[. . .the responsible official shall consider: . . .] (1)

Aesthetic values,. . . scenery,. . . viewsheds. . . .

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character. . . .

RRNF-5—Project-Specific Amendment To Allow the Pacific Connector Pipeline Project in Management Strategy 26, Restricted Riparian Areas

The Rogue River National Forest LRMP would be amended to allow the Pacific Connector right-of-way to cross the Restricted Riparian land allocation. This would potentially affect approximately 2.5 acres of the Restricted Riparian Management Strategy at one perennial stream crossing on the South Fork of Little Butte Creek at about pipeline MP 162.45 in Section 15, T.37S., R.4E., W.M., OR. Standards and Guidelines for the Restricted Riparian land allocation prescribe locating transmission corridors outside of this land allocation (Management Strategy 26, LRMP page 4–308.). The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a site-specific amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.8(a)(3)(i)—The plan must include plan components to maintain or restore the ecological integrity of riparian areas in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity

RRNF-6—Site-Specific Amendment To Exempt Limitations on Detrimental Soil Conditions Within the Pacific Connector Right-of-Way in All Management Areas

The Rogue River National Forest LRMP would be amended to exempt limitations on areas affected by detrimental soil conditions from displacement and compaction within the Pacific Connector right-of-way in all affected Management Strategies. Standards and Guidelines for detrimental soil impacts in affected Management Strategies require that no more than 10 percent of an activity area should be compacted, puddled or displaced upon completion of project (not including permanent roads or

landings). No more than 20 percent of the area should be displaced or compacted under circumstances resulting from previous management practices including roads and landings. Permanent recreation facilities or other permanent facilities are exempt (RRNF LRMP 4–41, 4–83, 4–97, 4–123, 4–177, 4–307). The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

219.8(a)(2)(ii)—[The plan must include plan components to maintain or restore] soils and soil productivity, including guidance to reduce soil erosion and sedimentation.

RRNF-7—Reallocation of Matrix Lands to LSR

The Rogue River National Forest LRMP would be amended to change the designation of approximately 512 acres from Matrix land allocations to the LSR land allocation in Section 32, T.36S., R.4E. W.M., OR. This change in land allocation is proposed to partially mitigate the potential adverse impact of the Pacific Connector Pipeline Project on LSR 227 on the Rogue River National Forest. This is a plan level amendment that would change future management direction for the lands reallocated from Matrix to LSR.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.8(a)(1)(i)—[the plan must include plan components to maintain or restore] Interdependence of terrestrial and aquatic ecosystems in the plan area.

§ 219.8(b)(1)—[the plan must include plan components to guide the plan area's contribution to social and economic sustainability] Social, cultural and economic conditions relevant to the area influenced by the plan.

§ 219.9(b)(1) The responsible official shall determine whether or not the plan components required by paragraph (a) of this section provide the ecological conditions necessary to: Contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of

conservation concern within the plan area, and

§ 219.9(a)(2)(ii)—[the plan must include plan components to maintain or restore: . . .] (ii) Rare aquatic and terrestrial plant and animal communities.

If any of the proposed amendments to the Rogue River NF LRMP described above are determined to be “directly related” to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13 (b)(5) and (6)).

Amendment of the Winema National Forest LRMP

WNF-1—Project -Specific Amendment To Allow Pacific Connector Pipeline Project in Management Area 3

The Winema National Forest LRMP would be amended to change the Standards and Guidelines for Management Area 3 (MA-3) (LRMP page 4-103-4, Lands) to allow the 95-foot-wide Pacific Connector pipeline project in MA-3 from the Forest Boundary in Section 32, T.37S., R.5E., W.M., OR, to the Clover Creek Road corridor in Section 4, T.38S, R.5. E., W.M., OR. Standards and Guidelines for MA-3 state that the area is currently an avoidance area for new utility corridors. This proposed Pacific Connector Pipeline Project is approximately 1.5 miles long and occupies approximately 17 acres within MA-3. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[the responsible official shall consider] Aesthetic values,. . . scenery,. . . viewsheds. . .

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character

WNF-2—Project-Specific Amendment of VQO on the Dead Indian Memorial Highway

The Winema National Forest LRMP would be amended to allow 10-15 years

to achieve the VQO of Foreground Retention where the Pacific Connector right-of-way crosses the Dead Indian Memorial Highway at approximately pipeline MP 168.8 in Section 33, T.37S., R.5E., W. M., OR. Standards and Guidelines for Scenic Management, Foreground Retention (LRMP 4-103, MA 3A, Foreground Retention) requires VQOs for a given location be achieved within one year of completion of the project. The Forest Service proposes to allow 10-15 years to meet the specified VQO at this location. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment that would apply only to the Pacific Connector Pipeline Project in the vicinity of the Dead Indian Memorial Highway and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[. . .the responsible official shall consider: . . .] (1) Aesthetic values,. . . scenery,. . . viewsheds

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character

WNF-3—Project—Specific Amendment of VQO Adjacent to the Clover Creek Road

The Winema National Forest LRMP would be amended to allow 10-15 years to meet the VQO for Scenic Management, Foreground Partial Retention, where the Pacific Connector right-of-way is adjacent to the Clover Creek Road from approximately pipeline MP 170 to 175 in Sections 2, 3, 4, 11, and 12, T.38S., R.5E., and Sections 7 and 18, T.38S., R.6E., W.M., OR. This change would potentially affect approximately 50 acres. Standards and Guidelines for Foreground Partial Retention (LRMP, page 4-107, MA 3B) require that VQOs be met within three years of completion of a project. The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment that would apply only to the Pacific Connector Pipeline Project in the vicinity of Clover Creek Road and

would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.10(a)(1)—[. . .the responsible official shall consider: . . .] (1) Aesthetic values,. . . scenery,. . . viewsheds

§ 219.10(b)(i)—[the responsible official shall consider] Sustainable recreation; including recreation settings, opportunities, . . . and scenic character. . . .

WNF-4—Project—Specific Amendment To Exempt Limitations on Detrimental Soil Conditions Within the Pacific Connector Right-of-Way in All Management Areas

The Winema National Forest LRMP would be amended to exempt restrictions on detrimental soil conditions from displacement and compaction within the Pacific Connector right-of-way in all affected management areas. Standards and Guidelines for detrimental soil impacts in all affected management areas require that no more than 20 percent of the activity area be detrimentally compacted, puddled, or displaced upon completion of a project (LRMP page 4-73, 12-5). The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.8(a)(2)(ii)—[The plan must include plan components to maintain or restore . . .] Soils and soil productivity, including guidance to reduce soil erosion and sedimentation

WNF-5—Project-Specific Amendment To Exempt Limitations on Detrimental Soil Conditions Within the Pacific Connector Right-of-Way in Management Area 8

The Winema National Forest LRMP would be amended to exempt restrictions on detrimental soil conditions from displacement and compaction within the Pacific Connector right-of-way within the Management Area 8, Riparian Area (MA-8). This change would potentially affect approximately 0.5 mile or an

estimated 9.6 acres of MA-8. Standards and Guidelines for Soil and Water, MA-8 require that not more than 10 percent of the total riparian zone in an activity area be in a detrimental soil condition upon the completion of a project (LRMP page 4-137, 2). The amendment would provide an exception from these standards for the Pacific Connector Pipeline Project and include specific mitigation measures and project design requirements for the project. This is a project-specific plan amendment applicable only to the Pacific Connector Pipeline Project and would not change future management direction for any other project.

The 36 CFR 219 planning rule requirements that are likely to be directly related to this amendment include:

§ 219.8(a)(2)(ii)—[The plan must include plan components to maintain or restore . . .] “Soils and soil productivity, including guidance to reduce soil erosion and sedimentation”

If any of the proposed amendments to the Winema NF LRMP described above are determined to be directly related to a substantive rule requirement, the Responsible Official must apply that requirement within the scope and scale of the proposed amendment and, if necessary, make adjustments to the proposed amendment to meet the rule requirement (36 CFR 219.13 (b)(5) and (6)).

[FR Doc. 2017-13271 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17-116-000.
Applicants: Horse Hollow Wind IV, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Horse Hollow Wind IV, LLC.

Filed Date: 6/19/17.

Accession Number: 20170619-5179.
Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: EG17-117-000.
Applicants: Horse Hollow Wind II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Horse Hollow Wind II, LLC.

Filed Date: 6/19/17.

Accession Number: 20170619-5183.
Comments Due: 5 p.m. ET 7/10/17.
Docket Numbers: EG17-118-000.
Applicants: CA Flats Solar 130, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of CA Flats Solar 130, LLC.

Filed Date: 6/20/17.

Accession Number: 20170620-5034.
Comments Due: 5 p.m. ET 7/11/17.

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

Docket Numbers: ER11-4450-001; ER11-4449-001.

Applicants: Starion Energy NY, Inc., Starion Energy Inc.

Description: Notice of Non-Material Changes in Status of Starion Energy NY, Inc., et al.

Filed Date: 6/19/17.

Accession Number: 20170619-5173.
Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17-1867-000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA General Transfer Agreement (West) Rev 9 to be effective 1/1/2017.

Filed Date: 6/19/17.

Accession Number: 20170619-5157.
Comments Due: 5 p.m. ET 7/10/17.

Docket Numbers: ER17-1868-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1977R9 Nemaha-Marshall Electric Cooperative NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5018.
Comments Due: 5 p.m. ET 7/11/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17-1116-000.
Applicants: Ultramar Inc.

Description: Form 556 of Ultramar Inc.

Filed Date: 6/19/17.

Accession Number: 20170619-5172.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing

requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 20, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017-13266 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10-3124-005; ER10-3129-005; ER10-3130-005; ER10-3132-005; ER10-3134-005; ER10-3137-005

Applicants: Noble Altona Windpark, LLC, Noble Bliss Windpark, LLC, Noble Chateaugay Windpark, LLC, Noble Clinton Windpark I, LLC, Noble Ellenburg Windpark, LLC, Noble Wethersfield Windpark, LLC.

Description: Triennial Market Power Analysis for the Northeast Region of the Noble Sellers.

Filed Date: 6/14/17.

Accession Number: 20170614-5213.
Comments Due: 5 p.m. ET 8/14/17.

Docket Numbers: ER17-1820-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original Service Agreement No. 4732, Queue Position #AC1-202 to be effective 5/16/2017.

Filed Date: 6/14/17.

Accession Number: 20170614-5186.
Comments Due: 5 p.m. ET 7/5/17.

Docket Numbers: ER17-1821-000.

Applicants: Panda Stonewall LLC.

Description: Baseline eTariff Filing: Reactive Supply and Voltage Control from Generation to be effective 6/15/2017.

Filed Date: 6/14/17.

Accession Number: 20170614-5207.
Comments Due: 5 p.m. ET 7/5/17.

Docket Numbers: ER17-1822-000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of Special Facilities Service Agreement No. 36 of Pacific Gas and Electric Company.

Filed Date: 6/14/17.

Accession Number: 20170614-5216.
Comments Due: 5 p.m. ET 7/5/17.

Docket Numbers: ER17–1823–000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1895R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5006.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1824–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1897R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5028.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1825–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2045R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5030.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1826–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: OATT Attachment C–1 and C–3 Amendment Filing to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5032.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1827–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2066R6 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5034.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1828–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2390R5 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5036.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1829–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2491R5 Westar Energy, Inc. NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5039.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1830–000.

Applicants: CXA Sundevil Holdco, Inc.

Description: Baseline eTariff Filing: Application of Market Based Rate to be effective 7/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5040.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1831–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEP TX-Patriot Wind Farm Interconnection Agreement 3rd Amd to be effective 5/24/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5057.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1832–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEP TX-Bruenning's Breeze Wind Interconnection Agreement 1st Amd to be effective 5/24/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5060.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1833–000.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–06–15 SA 2929 Huron Wind-ITC Amended GIA (J308) to be effective 6/1/2017.

Filed Date: 6/15/17.

Accession Number: 20170615–5061.

Comments Due: 5 p.m. ET 7/6/17.

Docket Numbers: ER17–1834–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Clean-up to Historical Correct OATT Sch. 12- Appdx A Dominion, ATSI, Penelec to be effective 1/1/2016.

Filed Date: 6/15/17.

Accession Number: 20170615–5064.

Comments Due: 5 p.m. ET 7/6/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–13265 Filed 6–23–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1510–018]

Kaukauna Utilities; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–1510–018.

c. *Date filed:* March 24, 2017.

d. *Applicant:* Kaukauna Utilities.

e. *Name of Project:* Kaukauna City Plant Hydropower Project.

f. *Location:* On the Fox River in Outagamie County, Wisconsin. There are no federal or tribal lands within the project boundary.

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

h. *Applicant Contact:* Mr. Mike Pedersen, Kaukauna Utilities, 777 Island Street, P.O. Box 1777, Kaukauna, WI 54130; (920) 766–5721.

i. *FERC Contact:* Erin Kimsey, (202) 502–8621 or erin.kimsey@ferc.gov.

j. *Deadline for filing scoping comments:* August 21, 2017.

The Commission strongly encourages electronic filing. Please file scoping comments 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–1510–018.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person 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. This application is not ready for environmental analysis at this time.

l. The existing Kaukauna City Plant Hydroelectric Project consists of: (1) A 3,527-foot-long, 14-foot-high dam that includes: (a) A 930-foot-long, 14-foot-high rubble masonry retaining wall section (left forebay dam) with a remnant concrete headwall structure and a trash sluice; (b) a 92-foot-long, 47.5-foot-high concrete intake and powerhouse section; (c) a 365-foot-long, 20-foot-high rubble masonry retaining wall section (right forebay dam) with a masonry abutment section and a concrete gravity section with a trash sluice; (d) a 66-foot-long gated spillway section with two 30-foot-wide, 8.8-foot-high spillway gates; and (e) a 2,074-foot-long, 10-foot-high overflow spillway section that includes a 1,305-foot-long concrete ogee section, a 75-foot-long natural rock section, a 125-foot-long concrete gravity section, and a 569-foot-long concrete gravity section; (2) a 19-acre 1.5-mile-long impoundment with a normal maximum elevation of 629.0 above mean seal level; (3) an intake structure with two head gates and two 25-foot-high, 88-foot-long trashracks with 5 inch clear-bar spacing; (4) a 92-foot-long, 47.5-foot-high concrete and brick powerhouse containing two 2.4-megawatt (MW) turbine-generator units for a total capacity of 4.8 MW; (5) a 440-foot-wide, 49-foot-deep, 1,200-foot-long excavated tailrace; (6) two 68-foot-long, 2.4-kilovolt generator leads that connect the turbine-generator units to the regional distribution line; and (7) appurtenant facilities.

Kaukauna Utilities operates the project in a run-of-river mode with an annual average generation of approximately 29,704 megawatt-hours. Kaukauna Utilities is not proposing any new project facilities or changes in project operation.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to address the document. For assistance, contact FERC Online Support. A copy is available for inspection and reproduction at the address in item h above.

n. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances

related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process

The Commission staff intends to prepare a single Environmental Assessment (EA) for the Kaukauna City Plant Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff does not propose to conduct any on-site scoping meetings at this time. Instead, we are soliciting comments, recommendations, and information, on Scoping Document 1 (SD1) issued on June 20, 2017.

Copies of SD1 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may 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, call 1-866-208-3676 or for TTY, (202) 502-8659.

Dated: June 20, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017-13270 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER10-2290-005.

Applicants: Avista Corporation.

Description: Fourth Amendment to June 30, 2016 Triennial Market Power Update for the Northwest Region of Avista Corporation.

Filed Date: 6/20/17.

Accession Number: 20170620-5097.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER10-2507-013.

Applicants: Westar Energy, Inc.

Description: Notice of Non-Material Change in Status of Westar Energy, Inc.

Filed Date: 6/20/17.

Accession Number: 20170620-5091.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER14-225-004.

Applicants: New Brunswick Energy Marketing Corporation.

Description: Second Supplement to December 22, 2016 Triennial Market Power Update for the Northeast Region of New Brunswick Energy Marketing Corporation.

Filed Date: 6/20/17.

Accession Number: 20170620-5102.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER17-1869-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 607R31 Westar Energy, Inc. NITSA NOA to be effective 6/1/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5028.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER17-1870-000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 2562R5 Kansas Municipal Energy Agency NITSA and NOA to be effective 9/1/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5076.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER17-1871-000.

Applicants: Bayshore Solar B, LLC.

Description: Baseline eTariff Filing: Bayshore Solar B, LLC MBR Tariff to be effective 8/20/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5077.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER17-1872-000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: 205 Bethlehem LGIA SA 2341 among NYISO, NMPC, PSEG to be effective 6/7/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5083.

Comments Due: 5 p.m. ET 7/11/17.

Docket Numbers: ER17-1873-000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSCo-WAPA-Brlngtn Bndry Mtr-402-0.1.0 to be effective 6/21/2017.

Filed Date: 6/20/17.

Accession Number: 20170620-5107.

Comments Due: 5 p.m. ET 7/11/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but

intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 20, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017-13267 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17-1864-000]

Bayshore Solar A, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Bayshore Solar A, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 10, 2017.

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-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov. or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: June 20, 2017.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2017-13269 Filed 6-23-17; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comment on the Exposure Draft of a Proposed Federal Financial Accounting Technical Release Entitled Implementation Guidance for Establishing Opening Balances

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mailstop 6H19, Washington, DC 20548, or call (202) 512-7350.

SUPPLEMENTARY INFORMATION:

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft of a proposed Federal Financial Accounting Technical Release entitled *Implementation Guidance for Establishing Opening Balances*.

The exposure draft is available on the FASAB Web site at <http://www.fasab.gov/documents-for-comment/>. Copies can be obtained by contacting FASAB at (202) 512-7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by July 21, 2017, and should be sent to

fasab@fasab.gov or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW., Suite 6814, Mailstop 6H19, Washington, DC 20548.

Authority: Federal Advisory Committee Act, Pub. L. 92-463.

Dated: June 21, 2017.

Wendy M. Payne,
Executive Director.

[FR Doc. 2017-13292 Filed 6-23-17; 8:45 am]

BILLING CODE 1610-02-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064-0083 & 0194)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on renewal of the information collections described below.

DATES: Comments must be submitted on or before August 25, 2017.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.
- *Email:* comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones (202-898-6768), Counsel, MB-3105, 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 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the 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, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jennifer Jones, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Recordkeeping and Disclosure Requirements in Connection with Regulation M (Consumer Leasing).
OMB Number: 3064-0083.
Form Number: None.

Affected Public: State nonmember banks and state savings associations engaging in consumer leasing.
Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated number of responses	Estimated time per response	Frequency of response	Total annual estimated burden
Recordkeeping Requirements in Connection with Regulation M (Consumer Leasing).	Recordkeeping ...	52	100	0.375	On Occasion	1,950
Third-Party Disclosure Requirements in Connection with Regulation M (Consumer Leasing).	Third-Party Disclosure.	52	100	0.375	On Occasion	1,950
Total hourly burden .....	.....	.....	.....	.....	.....	3,900

General Description of Collection: Regulation M (12 CFR 1013), issued by the Bureau of Consumer Financial Protection, implements the consumer leasing provisions of the Truth in Lending Act. Regulation M requires lessors of personal property to provide consumers with meaningful disclosures about the costs and terms of the leases for personal property. Lessors are required to retain evidence of compliance with Regulation M for twenty-four months.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of (1) economic fluctuation and (2) an updated estimate (based on historical information) of state nonmember banks and state savings associations engaged in consumer leasing. In particular, the number of respondents has decreased while the hours per response remain the same.
 2. *Title:* Covered Financial Company Asset Purchaser Eligibility Certification.
OMB Number: 3064-0194.

Form Number: Covered Financial Company Asset Sales Purchaser Eligibility Certification—7300/10.
Affected Public: Any individual or entity that is a potential purchaser of assets from (1) the FDIC as receiver for a Covered Financial Company (“CFC”); or (2) a bridge financial company (“BFC”) which requires the approval of the FDIC, as receiver for the predecessor CFC and as the sole shareholder of the BFC (e.g., the BFC’s sale of a significant business line).
Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated number of responses	Estimated time per response	Frequency of response	Total annual estimated burden
Covered Financial Company Asset Sales Purchaser Eligibility Certification.	Reporting	10	1	.5	Annual	5
Total hourly burden .....	.....	.....	.....	.....	.....	5

General Description of Collection: Assets held by the FDIC in the course of liquidating any covered financial company must not be sold to persons who contributed to the demise of a covered financial company in specified ways (e.g., individuals who profited or engaged in wrongdoing at the expense of the failed institution, or seriously mismanaged the failed institution). 12 CFR part 380 requires prospective purchasers to complete and submit a Purchaser Eligibility Certification (“PEC”) to the FDIC. The PEC is a self-certification by a prospective purchaser that it does not fall into any of the categories of individuals or entities that are prohibited by statute or regulation from purchasing the assets of covered financial companies. The PEC will be required in connection with the sale of assets by the FDIC, as receiver for a CFC, or the sale of assets by a BFC which requires the approval of the FDIC, as

receiver for the predecessor CFC and as the sole shareholder of the BFC.
 There is no change in the method or substance of the collection. The number of respondents and the hours per response remain the same.
Request for Comment
 Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC’s functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information

technology. All comments will become a matter of public record.
 Dated at Washington, DC, this 21st day of June, 2017.
 Federal Deposit Insurance Corporation.
Robert E. Feldman,
Executive Secretary.
 [FR Doc. 2017-13311 Filed 6-23-17; 8:45 am]
BILLING CODE 6714-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–17–17ACY; Docket No. CDC–2017–0041]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. As part of a Broad Agency Announcement (BAA) issued for the competitive selection of research proposals, this notice invites comment on the proposed information collection project titled “Applied Research to Address Emerging Public Health Priorities.”

DATES: Written comments must be received on or before August 25, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2017–0041 by any of the following methods:

- *Federal eRulemaking Portal:*

Regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease

Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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

Proposed Project

Applied Research to Address Emerging Public Health Priorities—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID),

Centers for Disease Control and Prevention (CDC).

Background and Brief Description

On March 27, 2017, CDC issued a Broad Agency Announcement (FY2017–OADS–01) available at <https://www.fbo.gov/spg/HHS/CD/CP/PGOA/FY2017-OADS-01/listing.html>. There is potential for standardized information collection attached to a limited number of awarded projects. For those projects, a 30-day notice will be published in the **Federal Register** and information collection requests will be submitted to OMB for approval. This **Federal Register** notice is intended to broadly inform the public of CDC’s intent to contract with researchers to carry out a variety of different research projects awarded through this announcement.

For this announcement, CDC has identified the following research areas of interest. Interested parties are invited to consider innovative approaches to support advanced research and development strategies in the following research areas of interest:

1. New diagnostic, sequencing and metagenomic tools for antibiotic detection and improved antibiotic use
2. International Transmission, colonization, and prevention of antibiotic resistance (AR) pathogens
3. Domestic transmission, colonization, and prevention of antibiotic resistance pathogens and *Clostridium difficile* infections (CDI)
4. Microbiome disruption
5. Antibiotic resistance pathogens and genes in water systems and the environment and their contribution to human infections
6. Medication safety and antibiotic stewardship
7. Improving the timeliness, accuracy, and usability of public health emergency management, surveillance and survey information data

Contracts that are awarded based on responses to this BAA are as a result of full and open competition and therefore in full compliance with the provisions of PL 98–369, “The Competition in Contracting Act of 1984.” CDC contracts with educational institutions, nonprofit organizations, state and local government, and private industry for research and development (R&D) in those areas covered in this BAA.

The public is invited to look at the BAA online for greater detail and more specific research areas falling under the seven topics listed above.

Authorizing legislation comes from Section 301 of the Public Health Service Act. Responses will be voluntary and it is not expected that there will be any

cost to respondents other than the time to participate in information collection.

The total estimated burden for all of the information collections is not expected to exceed 1,500 hours (100

hours of burden for a maximum of 15 potentially PRA-applicable contracts).

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Public	Information Collection	150	1	1	1,500
Total .....	.....	.....	.....	.....	1,500

Leroy A. Richardson,
Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.
 [FR Doc. 2017-13320 Filed 6-23-17; 8:45 am]
BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-1561/1561A, CMS-370 and CMS-377]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 26, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-5806 OR, Email: *OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*.
3. Call the Reports Clearance Office at (410) 786-1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: 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,

revision or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Health Insurance Benefit Agreement; *Use:* Applicants to the Medicare program are required to agree to provide services in accordance with federal requirements. The CMS-1561/1561A is essential in that it allows us to ensure that applicants are in compliance with the requirements. Applicants will be required to sign the completed form and provide operational information to us to assure that they continue to meet the requirements after approval. *Form Number:* CMS-1561/1561A (OMB control number: 0938-0832); *Frequency:* Yearly; *Affected Public:* Private sector—(Business or other for-profits and Not-for-profit institutions); *Number of Respondents:* 2,400; *Total Annual Responses:* 2,400; *Total Annual Hours:* 400. (For policy questions regarding this collection contact Shonte Carter at 410-786-3532).

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Titles of Information Collection:* ASC Forms for Medicare Program Certification; *Use:* The CMS-370 is used to establish eligibility for payment. This agreement, upon submission by the ambulatory surgical center (ASC) and acceptance for filing by the Secretary of Health & Human Services, shall be binding on both the ASC and the Secretary. The agreement may be terminated by either party in accordance with regulations. In the event of termination, payment will not be available for ASC services furnished on or after the effective date of termination.

The Request for Certification or Update of Certification Information in

the Medicare Program Form (CMS-377) is used by State agencies who conduct certification surveys on CMS' behalf to maintain information on the facility's characteristics that facilitate conducting surveys, e.g., determining the size and the composition of the survey team on the basis of the number of ORs/procedure rooms and the types of surgical procedures performed in the ASC. *Form Numbers:* CMS-370 and CMS-377 (OMB control number: 0938-0266); *Frequency:* Occasionally; *Affected Public:* Private Sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 5,694; *Total Annual Responses:* 1,898; *Total Annual Hours:* 627. (For policy questions regarding this collection contact Erin McCoy at 410-786-2337.)

Dated: June 21, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017-13321 Filed 6-23-17; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10292, CMS-10332 and CMS-10239]

Agency Information Collection

Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be

collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 25, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.

3. Call the Reports Clearance Office at (410) 786-1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10292 State Medicaid HIT Plan, Planning Advance Planning Document, and Implementation Advance Planning Document for Section 4201 of the Recovery Act
 CMS-10332 Disclosure Requirement for the In-Office Ancillary Services Exception
 CMS-10239 Conditions of Participation for Critical Access Hospitals (CAH) and Supporting Regulations

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain

approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* State Medicaid HIT Plan, Planning Advance Planning Document, and Implementation Advance Planning Document for Section 4201 of the Recovery Act; *Use:* To assess the appropriateness of state requests for the administrative Federal financial participation for expenditures under their Medicaid Electronic Health Record Incentive Program related to health information exchange, our staff will review the submitted information and documentation to make an approval determination of the state advance planning document. *Form Number:* CMS-10292 (OMB control number: 0938-1088); *Frequency:* Once and occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 896. (For policy questions regarding this collection contact Marty Rice at 410-786-2417.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Disclosure Requirement for the In-Office Ancillary Services Exception; *Use:* Section 6003 of the ACA established a disclosure requirement for the in-office ancillary services exception to the prohibition of physician self-referral for certain imaging services. This section of the ACA amended section 1877(b)(2) of the Social Security Act by adding a requirement that the referring physician informs the patient, at the time of the referral and in writing, that the patient may receive the imaging service from another supplier. The implementing regulations are at 42 CFR 411.355(b)(7).

Physicians who provide certain imaging services (MRI, CT, and PET) under the in-office ancillary services exception to the physician self-referral prohibition are required to provide the disclosure notice as well as the list of other imaging suppliers to the patient. The patient will then be able to use the disclosure notice and list of suppliers in making an informed decision about his or her course of care for the imaging service. CMS would use the collected information for enforcement purposes. Specifically, if we were investigating the referrals of a physician providing advanced imaging services under the in-office ancillary services exception, we would review the written disclosure in order to determine if it satisfied the requirement. *Form Number:* CMS-10332 (OMB control number: 0938-1133); *Frequency:* Occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 7,100; *Total Annual Responses:* 759,700; *Total Annual Hours:* 19,638. (For policy questions regarding this collection contact Laura Dash at 410-786-8623.)

3. Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Conditions of Participation for Critical Access Hospitals (CAH) and Supporting Regulations; *Use:* At the outset of the critical access hospital (CAH) program, the information collection requirements for all CAHs were addressed together under the following information collection request: CMS-R-48 (OCN: 0938-0328). As the CAH program has grown in both scope of services and the number of providers, the burden associated with CAHs with distinct part units (DPUs) was separated from the CAHs without DPUs. Section 1820(c)(2)(E)(i) of the Social Security Act provides that a CAH may establish and operate a psychiatric or rehabilitation DPU. Each DPU may maintain up to 10 beds and must comply with the hospital requirements specified in 42 CFR subparts A, B, C, and D of part 482. Presently, 105 CAHs have rehabilitation or psychiatric DPUs. The burden associated with CAHs that have DPUs continues to be reported under CMS-R-48, along with the burden for all 4,890 accredited and non-accredited hospitals.

The CAH conditions of participation and accompanying information collection requirements specified in the regulations are used by surveyors as a basis for determining whether a CAH meets the requirements to participate in the Medicare program. We, along with the healthcare industry, believe that the

availability to the facility of the type of records and general content of records, which this regulation specifies, is standard medical practice and is necessary in order to ensure the well-being and safety of patients and professional treatment accountability. *Form Number:* CMS-10239 (OMB Control number: 0938-1043); *Frequency:* Yearly; *Affected Public:* Private sector—Business or other for-profit; *Number of Respondents:* 1,215; *Total Annual Responses:* 144,585; *Total Annual Hours:* 24,183. (For policy questions regarding this collection contact Mary Collins at 410-786-3189.)

Dated: June 20, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017-13198 Filed 6-23-17; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3338-FN]

Medicare and Medicaid Programs: Approval of an Application From the Center for Improvement in Healthcare Quality for Continued CMS Approval of Its Hospital Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Center for Improvement in Healthcare Quality (CIHQ) for continued recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: This final notice is effective July 26, 2017 through July 26, 2023.

FOR FURTHER INFORMATION CONTACT: Lillian Williams (410) 786-8638, Monda Shaver, (410) 786-3410, or Patricia Chmielewski, (410) 786-6899.

SUPPLEMENTARY INFORMATION:

I. Background

A healthcare provider may enter into an agreement with Medicare to participate in the program as a hospital provided certain requirements are met. Section 1861(e) of the Social Security Act (the Act) establishes criteria for providers seeking participation in Medicare as a hospital. Regulations concerning Medicare provider agreements in general are at 42 CFR part

489 and those pertaining to the survey and certification for Medicare participation of providers and certain types of suppliers are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the specific conditions that a provider must meet to participate in the Medicare program as a hospital. Hospitals that wish to be paid under the Medicaid program must be approved to participate in Medicare, in accordance with 42 CFR 440.10(a)(3)(iii).

Generally, to enter into a Medicare hospital provider agreement, a facility must first be certified as complying with the conditions set forth in part 482 and recommended to the Centers for Medicare & Medicaid Services (CMS) for participation by a State survey agency. Thereafter, the hospital is subject to periodic surveys by a State survey agency to determine whether it continues to meet these conditions. However, there is an alternative to certification surveys by State agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national accrediting organization meets or exceeds all applicable Medicare conditions, we may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity to be in compliance. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

Part 488 subpart A implements the provisions of section 1865 of the Act and requires that a national accrediting organization applying for approval of its Medicare accreditation program must provide CMS with reasonable assurance that the accrediting organization requires its accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at § 488.5(e)(2)(i) require an accrediting organization to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS. The Center for Improvement in Healthcare Quality’s (CIHQ’s) term of approval as a recognized Medicare accreditation program for hospitals expires July 26, 2017.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On February 24, 2017, we published a proposed notice in the **Federal Register** (82 FR 11579) announcing CIHQ's request for continued approval of its Medicare hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of CIHQ's Medicare hospital accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of CIHQ's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its hospital surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospitals; and, (5) survey review and decision-making process for accreditation.

- A comparison of CIHQ's Medicare accreditation program standards to our current Medicare hospital Conditions of Participation (CoPs).

- A documentation review of CIHQ's survey process to do the following:

- ++ Determine the composition of the survey team, surveyor qualifications, and CIHQ's ability to provide continuing surveyor training.

- ++ Compare CIHQ's processes to those we require of State survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospitals.

- ++ Evaluate CIHQ's procedures for monitoring hospitals it has found to be out of compliance with CIHQ's program requirements. (This pertains only to

monitoring procedures when CIHQ identifies non-compliance. If non-compliance is identified by a State survey agency through a validation survey, the State survey agency monitors corrections as specified at § 488.9(c)).

- ++ Assess CIHQ's ability to report deficiencies to the surveyed hospitals and respond to the hospital's plan of correction in a timely manner.

- ++ Establish CIHQ's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

- ++ Determine the adequacy of CIHQ's staff and other resources.

- ++ Confirm CIHQ's ability to provide adequate funding for performing required surveys.

- ++ Confirm CIHQ's policies with respect to surveys being unannounced.

- ++ Obtain CIHQ's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the February 24, 2017 proposed notice also solicited public comments regarding whether CIHQ's requirements met or exceeded the Medicare CoP for hospitals. There were no comments submitted.

IV. Provisions of the Final Notice

A. Differences Between CIHQ's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared CIHQ's hospital accreditation requirements and survey process with the Medicare CoPs at part 482, and the survey and certification process requirements of parts 488 and 489. CIHQ's standards crosswalk, which maps CIHQ's standards with the corresponding requirements under the Medicare CoPs, was also examined to ensure that the appropriate CMS regulation was included in citations as appropriate. We reviewed and evaluated CIHQ's hospital application, conducted as described earlier. As a result, CIHQ has revised its materials, standards, and certification processes to reflect the following Medicare requirements:

- § 482.12: Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.

- § 482.12(a)(1) through (10): Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.

- § 482.12(a)(10): Revised its standards to address the hospital's responsibility to consult directly with the medical staff.

- § 482.12(c): Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.

- § 482.12(c)(1)(ii): Updated the CFR citation to properly reference the regulatory requirement on its standards crosswalk.

- § 482.12(c)(2): Updated the CFR citation to properly reference the regulatory requirement on its standards crosswalk.

- § 482.12(c)(4)(i): Clarified the use of the word "develops" to indicate if the condition was present on admission or developed during the hospitalization on its standards crosswalk.

- § 482.12(f)(2): Revised its standards to ensure the medical staff have written policies and procedures for appraisals of emergencies, initial treatment and referral.

- § 482.13(a)(1) and § 482.13(a)(2): Updated the summary description of these provisions in the crosswalk to be consistent with its accreditation standards.

- § 482.13(a)(2)(i): Revised its standards to ensure the patient's right to submit "written or verbal" grievances.

- § 482.13(a)(2)(ii), § 482.13(b)(3), § 482.13(b)(4) and § 482.13(c)(2): Updated the summary description of these provisions in the crosswalk to be consistent with its accreditation standards.

- § 482.13(e)(5): Updated the CFR citation to properly reference the regulatory requirement.

- § 482.13(e)(6), § 482.13(f)(1)(ii), § 482.13(g), § 482.13(g)(2), § 482.13(h), § 482.21(b)(1), § 482.21(d)(2) and § 482.21(d)(4): Updated the summary description of these provisions in the crosswalk to be consistent with its accreditation standards.

- § 482.22(a)(2): Updated its standards to reflect that temporary practice privileges are granted by the governing body.

- § 482.22(b)(1): Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.

- § 482.22(b)(3): Revised its standards to reflect CMS requirements for medical staff organization and accountability.

- § 482.22(b)(4): Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.

- § 482.23(c)(4): Updated its standards to fully address requirements for blood transfusions.

- § 482.24(b): Updated its standards to fully address requirements for the form and retention of medical records.
- § 482.24(c)(2) through (c)(4)(viii): Updated the Medicare regulatory language on its standards crosswalk to ensure that its accreditation standards are consistent with Medicare standards.
- § 482.25(b)(2)(ii): Updated the crosswalk and standard to add references to the Comprehensive Drug Abuse Prevention and Control Act of 1970.
- § 482.26: Updated the summary description of this provision in the crosswalk to be consistent with its accreditation standards.
- § 482.41: Revised its standards to reflect the requirements of the “Physical Environment”.
- § 482.43: Revised its standards to ensure that the hospital discharge planning process applies to all patients.
- § 482.51(b)(6) and § 482.56(a)(2): Updated the summary description of these provisions in the crosswalk to be consistent with its accreditation standards.
- § 482.56(b)(2): Revised its standards to address the requirements at § 409.17 related to physical therapy, occupational therapy, and speech language pathology services.
- § 482.57(b)(3): Updated the CFR citation to properly reference the regulatory requirement on its crosswalk.
- § 482.57(b)(4): Updated the CFR citation to properly reference the regulatory requirement on its crosswalk and in its accreditation standards.
- § 488.4(a)(6): Revised its standards to include a process to track and trend complaints received.
- § 488.5(a)(4)(ii): Revised its standards to ensure that an appropriate number of open, inpatient medical records are fully reviewed during the survey process.
- § 488.5(a)(4)(iv): Revised its standards to assure that findings of non-compliance are documented under all appropriate CMS standards where non-compliance is found; and that adverse findings for each CoP are reviewed for manner and degree of non-compliance and subsequently cited at the appropriate level (that is, condition versus standard level).
- § 488.5(a)(7) through (9): Revised its standards to ensure that newly hired surveyors receive orientation so as to ensure AO compliance with these provisions.
- § 488.26(b): Revised its standards to improve surveyor documentation to include the appropriately detailed deficiency statements that clearly support the determination of noncompliance and level of deficiency.

- § 489.13: Revised its standards to reflect CMS policy regarding effective dates of participation in the Medicare program and develop a plan for monitoring for sustained compliance.
- CIHQ revised its complaint policy and procedure to clearly identify the individual(s) that are responsible for triaging complaints submitted to the accrediting organization.
- CIHQ revised its policy to clarify that an “Immediate Jeopardy” finding remains cited at the Conditional level, even if abated while onsite.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that CIHQ’s hospital program requirements meet or exceed our requirements. Therefore, we approve CIHQ as a national accreditation organization for hospitals that request participation in the Medicare program, effective July 26, 2017 through July 26, 2023.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: June 20, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2017–13207 Filed 6–23–17; 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

Proposed Projects

Title: Multistate Financial Institution Data Match and Federally Assisted State Transmitted Levy (MSFIDM/FAST Levy).

OMB No.: 0970–0196.

Description: Section 466(a)(17) of the Social Security Act (the Act) requires states to establish procedures for their child support agencies to enter into agreements with financial institutions doing business in their state for the purpose of securing information leading to the enforcement of child support

orders. Under 452(m) and 466(a)(17)(A)(i) of the Act, the Secretary may aid state agencies conducting data matches with financial institutions doing business in two or more states by establishing a centralized and standardized matching program through the Federal Parent Locator Service.

To further assist states collect child support, the federal Office of Child Support Enforcement (OCSE) worked with child support agencies and financial institutions to develop the Federally Assisted State Transmitted (FAST) Levy system.

FAST Levy is a central, standardized, and secure electronic process for child support agencies and financial institutions to exchange information about levying financial accounts to collect past-due support. OCSE picks up files created by child support agencies that contain FAST Levy requests and distributes them to financial institutions that use the FAST Levy system. Those financial institutions create response files that OCSE picks up and distributes to the child support agencies.

The MSFIDM/FAST-Levy information collection activities are authorized by: 42 U.S.C. 652(m), which authorizes OCSE, through the Federal Parent Locator Service, to aid state child support agencies and financial institutions doing business in two or more states reach agreements regarding the receipt from financial institutions, and the transfer to the state child support agencies, of information pertaining to the location of accounts held by obligors who owe past-due support; 42 U.S.C. 666(a)(2) and (c)(1)(G)(ii), which require state child support agencies in cases in which there is an arrearage to establish procedures to secure assets to satisfy any current support obligation and the arrearage by attaching and seizing assets of the obligor held in financial institutions; 42 U.S.C. 666(a)(17)(A), which requires state child support agencies to establish procedures under which the state child support agencies shall enter into agreements with financial institutions doing business in the State to develop and operate, in coordination with financial institutions, and the Federal Parent Locator Service (in the case of financial institutions doing business in two or more States), a data match system, using automated data exchanges to the maximum extent feasible, in which a financial institution is required to quarterly provide information pertaining to a noncustodial parent owing past-due support who maintains an account at the institution and, in response to a notice of lien or levy, encumber or surrender, assets held; 42

U.S.C. 652(a)(7), which requires OCSE to provide technical assistance to state child support enforcement agencies to help them establish effective systems for collecting child and spousal support; and, 45 CFR 303.7(a)(5), which requires state child support agencies to transmit

requests for information and provide requested information electronically to the greatest extent possible. To facilitate this requirement for states, OCSE developed the *FAST* Levy system that supports the electronic exchange of lien and levy information between child

support agencies and financial institutions.

Respondents: Multistate Financial Institutions and State Child Support Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Financial Data Match Result File-Portal	192	4	5 minutes ¹	64
Election Form	30	1	0.5	15
FAST-Levy Record Specifications: Current Financial Institutions Users to Program New Codes.	1	1	65 ²	65
FAST-Levy Record Specifications: Current State Child Support Agencies to Program New Codes.	3	1	65	195
FAST-Levy Response Withhold Record Specifications: Financial Institutions.	1	1	1,716	1,716
FAST-Levy Request Withhold Record Specifications: State Child Support Agencies.	2	1	1,610	3,220

¹ Estimate is approximately 5 minutes per response. For calculation, use 5/60.

² Estimate is an average based on input from OCSE's matching partners.

Estimated Total Annual Burden Hours: 5,275.

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, 330 C Street SW., Washington, DC 20201, Attention Reports Clearance Officer. All requests should be identified by 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, email: OIRA_SUBMISSION@OMB.EOP.GOV, Attn: Desk Officer for the Administration for Children and Families.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 2017-13252 Filed 6-23-17; 8:45 am]

BILLING CODE 4184-41-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Evaluation of Employment Coaching for TANF and Other Low-Income Populations.

OMB No.: New Collection.

Description: The Administration for Children and Families (ACF) is proposing a data collection activity as part of the Evaluation of Employment Coaching for TANF and Other Low-Income Populations. This study will provide an opportunity to learn more about the potential of coaching to help clients achieve self-sufficiency and other desired employment-related outcomes. It will take place over five years in up to three employment programs. These programs may be Temporary Assistance for Needy Families (TANF) agencies or other public or private employment programs that serve low-income individuals. Selected sites will include a robust coaching component and have the capacity to conduct a rigorous impact evaluation, among other criteria. This study will provide information on whether coaching helps people obtain and retain jobs, advance in their careers, move toward self-sufficiency, and improve their overall well-being. To meet these objectives, this study will include an impact and implementation study.

The impact study will involve participants being randomly assigned to either a “program group,” who will be paired with a coach, or to a “control group,” who will not be paired with a coach. The effectiveness of the coaching will be determined by differences between members of the program and control groups in outcomes such as obtaining and retaining employment, earnings, measures of self-sufficiency, and measures of self-regulation.

The implementation study will document coaching practices, describe lessons learned from implementing coaching, and enhance interpretation of the impact study findings.

The proposed information collection activities are: (1) Baseline data collection: Collection of characteristics data on all study participants as they enroll in the study. Data will be entered into the Random Assignment, Participant Tracking Enrollment, and Reporting (RAPTER) system; (2) First follow-up survey: Collection of outcome data for a subset of study participants about 9 months after random assignment; (3) Semi-structured staff interviews: Collection of qualitative data on the design and implementation of the program; (4) Staff survey: Collection of information on staff members’ professional backgrounds, training, coaching practices, and attitudes; (5) In-depth participant interviews: Collection of detailed information about the participants’ backgrounds and experiences with coaching; (6) Staff reports of program service receipt: Collection of data on coaching and other program services received by study

participants and entered into RAPTER; and (7) Video recordings of coaching sessions: Collection of data on the interaction between the coaches and participants.

A second follow-up survey will be administered approximately 21 months

after random assignment. This data collection activity will be included under a separate OMB submission.

Respondents: Program staff and individuals enrolled in the Evaluation of Employment Coaching for TANF and Other Low-Income Populations.

Program staff may include coaches, case managers, workshop instructors, job developers, supervisors, and managers. All participants will be able to opt out of participating in the data collection activities.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Baseline data collection—study participants	6,000	2,000	1	0.33	660
Baseline data collection—staff	60	20	100	0.33	660
First follow-up survey	2,400	800	1	1	800
Semi-structured staff interviews	66	22	1	1.5	33
Staff survey	48	16	1	0.75	12
In-depth participant interviews	24	8	1	2.5	20
Staff reports of program service receipt	30	10	5,200	0.03	1,560
Video recordings of coaching sessions	27	9	10	0.10	9

Estimated Total Annual Burden Hours: 3,754.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: OPREinfocollection@acf.hhs.gov. All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2017-13288 Filed 6-23-17; 8:45 am]

BILLING CODE 4184-09-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2016-N-4620]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Devices; Reports of Corrections and Removals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 26, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0359. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:
Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD

20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Devices; Reports of Corrections and Removals—21 CFR Part 806

OMB Control Number 0910-0359—Extension

FDA is requesting approval for the collection of information regarding reports of corrections and removals required under part 806 (21 CFR part 806), which implements section 519(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360i(g)), as amended by the Food and Drug Modernization Act of 1997 (FDAMA) (Pub. L. 105-115). A description of the information collection requirements are provided as follows:

Under § 806.10 (21 CFR 806.10), within 10 working days of initiating any action to correct or remove a device to reduce a risk to health posed by the device or to remedy a violation of the FD&C Act caused by the device that may present a risk to health, device manufacturers or importers must submit a written report to FDA of the correction or removal.

Under § 806.20(a), device manufacturers or importers that initiate a correction or removal that is not required to be reported to FDA must keep a record of the correction or removal.

The information collected in the reports of corrections and removals will be used by FDA to identify marketed devices that have serious problems and

to ensure that defective devices are removed from the market. This will assure that FDA has current and complete information regarding these corrections and removals to determine whether recall action is adequate. Failure to collect this information would prevent FDA from receiving timely information about devices that may have a serious effect on the health of users of the devices.

Reports of corrections and removals may be submitted to FDA via mail or using FDA's Electronic Submission Gateway (ESG). We estimate that approximately 99 percent of submitters will use the ESG. Our estimate of the

reporting and recordkeeping burden is based on Agency records and our experience with this program, as well as similar programs that utilize FDA's ESG.

For respondents who submit corrections and removals using the electronic process, the operating and maintenance costs associated with this information collection are approximately \$30 per year to purchase a digital verification certificate (certificate must be valid for 1 to 3 years). This burden may be minimized if the respondent has already purchased a verification certificate for other electronic submissions to FDA. However, FDA is assuming that all

respondents who submit corrections and removals using the electronic process will be establishing a new WebTrader account and purchasing a digital verification certificate. We therefore estimate the total operating and maintenance costs to be \$30,660 annually (1,022 respondents × \$30).

In the **Federal Register** of March 20, 2017 (82 FR 14367), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN¹

Activity (21 CFR part)	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours ²	Total operating and maintenance costs
Electronic process setup ³	1,022	1	1,022	3.08	3,148	\$30,660
Submission of corrections and removals (part 806)	1,033	1	1,033	10	10,330	.....

¹ There are no capital costs associated with this collection of information.

² Totals may not sum due to rounding.

³ We estimate that approximately 99 percent of respondents will submit corrections and removals using the electronic process. The actual burden hours for setup of the electronic process listed in the reporting burden table are divided by 3 to avoid double counting in the Office of Information and Regulatory Affairs Consolidated Information System. However, the one-time Average Burden per Response is 9.25 hours, resulting in a total one-time burden of 9,454 hours for the setup of the electronic process.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

Activity (21 CFR part)	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records of corrections and removals (part 806)	93	1	93	10	930

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

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017-13248 Filed 6-23-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2008-N-0312]

Agency Information Collection Activities; Proposed Collection; Comment Request; Extralabel Drug Use in Animals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of

certain information by the Agency. 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 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 reporting requirements associated with extralabel drug use in animals.

DATES: Submit either electronic or written comments on the collection of information by August 25, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 25, 2017. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of August 25, 2017. Comments received by mail/hand

delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way.

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that

identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

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

- For written/paper comments submitted to the Dockets Management Staff, 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-2008-N-0312 for “Agency Information Collection Activities; Proposed Collection; Comment Request; Extralabel Drug Use in Animals.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit

both copies to the Dockets Management Staff. 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: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

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

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrahi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-7726, 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.

Extralabel Drug Use in Animals—21 CFR Part 530 OMB Control Number 0910-0325—Extension

The Animal Medicinal Drug Use Clarification Act of 1994 allows a veterinarian to prescribe the extralabel use of approved new animal drugs. Also, it permits FDA, if it finds that there is a reasonable probability that the extralabel use of an animal drug may present a risk to the public health, to establish a safe level for a residue from the extralabel use of the drug, and to require the development of an analytical method for the detection of residues above that established safe level (21 CFR 530.22(b)). Although to date, we have not established a safe level for a residue from the extralabel use of any new animal drug and, therefore, have not required the development of analytical methodology, we believe that there may be instances when analytical methodology will be required. We are, therefore, estimating the reporting burden based on two methods being required annually. The requirement to establish an analytical method may be fulfilled by any interested person. We believe that the sponsor of the drug will be willing to develop the method in most cases. Alternatively, FDA, the sponsor, and perhaps a third party may cooperatively arrange for method development. The respondents may be sponsors of new animal drugs, State, or Federal and/or State Agencies, academia, or individuals.

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

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
530.22(b), Submission(s) of Analytical Method	2	1	2	4,160	8,320

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

The burden for this information collection has not changed since the last OMB approval.

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017-13296 Filed 6-23-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-0809]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (the FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that Brineura (cerliponase alfa) manufactured by Biomarin Pharmaceuticals Inc., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT: Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6484, Silver Spring, MD 20993-0002, 301-796-4061, FAX: 301-796-9858, email: althea.cuff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award

priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that Brineura (cerliponase alfa) manufactured by Biomarin Pharmaceuticals Inc., meets the criteria for a priority review voucher. Brineura (cerliponase alfa) is indicated to slow the progression of loss of ambulation in symptomatic pediatric patients 3 years of age and older with late infantile neuronal ceroid lipofuscinosis type 2 (CLN2), also known as tripeptidyl peptidase 1 (TPP1) deficiency.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to <https://www.fda.gov/ForIndustry/DevelopingProducts/orRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm>. For further information about Brineura (cerliponase alfa) go to the “Drugs@FDA” Web site at <https://www.accessdata.fda.gov/scripts/cder/daf/>.

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017-13236 Filed 6-23-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-1066]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Annual Reporting for Custom Device Exemption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget

(OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 26, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202-395-7285, or emailed to oira_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0767. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Annual Reporting for Custom Device Exemption OMB Control Number 0910-0767—Extension

The custom device exemption is set forth at section 520(b)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360j(b)(2)(B)). A custom device is in a narrow category of device that, by virtue of the rarity of the patient’s medical condition or physician’s special need the device is designed to treat, it would be impractical for the device to comply with premarket review regulations and performance standards.

The Food and Drug Administration Safety and Innovation Act (FDASIA) implemented changes to the custom device exemption contained in section 520(b) of the FD&C Act. The new provision amended the existing custom device exemption and introduced new concepts and procedures for custom devices, such as:

- Devices created or modified in order to comply with the order of an individual physician or dentist;

- The potential for multiple units of a device type (limited to no more than five units per year) qualifying for the custom device exemption; and

- Annual reporting requirements by the manufacturer to FDA about devices manufactured and distributed under section 520(b) of the FD&C Act.

Under FDASIA, “devices” that qualify for the custom device exemption contained in section 520(b) of the FD&C Act were clarified to include no more than “five units per year of a particular device type” that otherwise meet all the requirements necessary to qualify for the custom device exemption.

In the **Federal Register** of September 24, 2014 (79 FR 57112), FDA announced the availability of the guidance entitled “Custom Device Exemption.” FDA has developed this document to provide guidance to industry and FDA staff about implementation of the custom device exemption contained in the FD&C Act. The intent of the guidance is to define terms used in the custom device exemption, explain how to interpret the “five units per year of a particular device type” language contained in the FD&C Act, describe information that FDA proposes

manufacturers should submit in the custom device annual report, and provide recommendations on how to submit an annual report for devices distributed under the custom device exemption.

In the **Federal Register** of March 21, 2017 (82 FR 14518), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

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
Annual reporting for custom devices	33	1	33	40	1,320

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

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–13245 Filed 6–23–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–3331]

Arthritis Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Arthritis Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA’s regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on August 2, 2017, from 8 a.m. to 5 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993.

Answers to commonly asked questions including information regarding special

accommodations due to a disability, visitor parking, and transportation may be accessed at: <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm>.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–3331. The docket will close on August 1, 2017. Submit either electronic or written comments on this public meeting by August 1, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 1, 2017. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of August 1, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before July 19, 2017, will be provided to the committee.

Comments received after that date will be taken into consideration by the Agency.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://>

www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2017–N–3331 for “Arthritis Advisory Committee; Notice of Meeting;

Establishment of a Public Docket; Request for Comments.” Received comments, those filed in a timely manner (see **ADDRESSES**) will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. 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: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

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

FOR FURTHER INFORMATION CONTACT: Philip Bautista, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, Fax: 301-847-8533, email: AAC@fda.hhs.gov, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the

Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency’s Web site at <https://www.fda.gov/AdvisoryCommittees/default.htm> and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The committee will discuss biologics license application (BLA) 761057, for sirukumab injection (proposed trade name PLIVENSIA), submitted by Janssen Biotech, Inc., for the treatment of adult patients with moderately to severely active rheumatoid arthritis who have had an inadequate response or are intolerant to one or more disease modifying anti-rheumatic drugs. The discussion will include dose selection, efficacy, radiographic progression study, and safety.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA’s Web site after the meeting. Background material is available at <https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm>. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions must be submitted on or before August 1, 2017. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 11, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably

accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 12, 2017.

Persons attending FDA’s advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Philip Bautista at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at <https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm> for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 20, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017-13203 Filed 6-23-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Low-Income Levels Used for Various Health Professions and Nursing Programs Authorized in Titles III, VII, and VIII of the Public Health Service Act

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is updating income levels used to identify a “low-income family” for the purpose of determining eligibility for programs that provide health professions and nursing training to individuals from disadvantaged backgrounds. These various programs are authorized in Titles III, VII, and VIII of the Public Health Service Act.

HHS periodically publishes in the **Federal Register** low-income levels to be used by institutions receiving federal grants and cooperative agreements to

determine eligibility for programs providing training for (1) disadvantaged individuals, (2) individuals from disadvantaged backgrounds, or (3) individuals from low-income families.

SUPPLEMENTARY INFORMATION: Many health professions and nursing grant and cooperative agreement awardees use these low-income levels to determine whether potential program participants are from an economically-disadvantaged background and would be eligible to participate in the program, as well as to determine the amount of funding the individual receives. Awards are generally made to accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, podiatric medicine, nursing, and chiropractic; public or private nonprofit schools which offer graduate programs in behavioral health and mental health practice; and other public or private nonprofit health or education entities to assist the disadvantaged to enter and graduate from health professions and nursing schools. Some programs provide for the repayment of health professions or nursing education loans for disadvantaged students.

A “low-income family/household” for programs included in Titles III, VII, and VIII of the Public Health Service Act is defined as having an annual income that does not exceed 200 percent of the Department’s poverty guidelines. A family is a group of two or more individuals related by birth, marriage, or adoption who live together.

Most HRSA programs use the income of a student’s parent(s) to compute low-income status. However, a “household” may potentially be only one person. Other HRSA programs, depending upon the legislative intent of the program, the programmatic purpose related to income level, as well as the age and circumstances of the participant, will apply these low-income standards to the individual student to determine eligibility, as long as he or she is not listed as a dependent on the tax form of his or her parent(s). Each program announces the rationale and choice of methodology for determining low-income levels in program guidance.

Low-income levels are adjusted annually based on HHS’s poverty guidelines. HHS’s poverty guidelines are based on poverty thresholds published by the U.S. Census Bureau, adjusted annually for changes in the Consumer Price Index. The income figures below have been updated to reflect HHS’s 2017 poverty guidelines as published in 82 FR 8831 (January 31, 2017).

LOW-INCOME LEVELS BASED ON THE 2017 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household*	Income level**
1	\$24,120
2	32,480
3	40,840
4	49,200
5	57,560
6	65,920
7	74,280
8	82,640

For families with more than 8 persons, add \$8,360 for each additional person.

LOW-INCOME LEVELS BASED ON THE 2017 POVERTY GUIDELINES FOR ALASKA

Persons in family/household*	Income level**
1	\$30,120
2	40,580
3	51,040
4	61,500
5	71,960
6	82,420
7	92,880
8	103,340

For families with more than 8 persons, add \$10,460 for each additional person.

LOW-INCOME LEVELS BASED ON THE 2017 POVERTY GUIDELINES FOR HAWAII

Persons in family/household*	Income level**
1	\$27,720
2	37,340
3	46,960
4	56,580
5	66,200
6	75,820
7	85,440
8	95,060

For families with more than 8 persons, add \$9,620 for each additional person.

*Includes only dependents listed on federal income tax forms.

** Adjusted gross income for calendar year 2016.

Separate poverty guidelines figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period since the U.S. Census Bureau poverty thresholds do not have separate figures for Alaska and Hawaii. The poverty guidelines are not defined for Puerto Rico and other outlying jurisdictions. Puerto Rico and other outlying jurisdictions must use the low-income levels table for the 48 contiguous states and the District of Columbia.

Dated: June 16, 2017.

George Sigounas,
Administrator.

[FR Doc. 2017–13312 Filed 6–23–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Lists of Designated Primary Medical Care, Mental Health, and Dental Health Professional Shortage Areas

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice informs the public of the availability of the complete lists of all geographic areas, population groups, and facilities designated as primary medical care, mental health, and dental health professional shortage areas (HPSAs) as of May 1, 2017. The lists are available on HRSA’s HPSAFind Web site.

ADDRESSES: The complete lists of HPSAs designated as of May 1, 2017, are available on the HPSAFind Web site at <https://datawarehouse.hrsa.gov/tools/analyzers/hpsafind.aspx>. Frequently updated information on HPSAs is available at <http://datawarehouse.hrsa.gov>. Information on shortage designations is available at <https://bhwh.hrsa.gov/shortage-designation>.

FOR FURTHER INFORMATION CONTACT: For further information on the HPSA designations listed on the HPSAFind Web site or to request an additional designation, withdrawal, or reapplication for designation, please contact Melissa Ryan, Operations Director, Division of Policy and Shortage Designation, Bureau of Health Workforce, HRSA, 11SWH03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 594–5168 or MRyan@hrsa.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 332 of the Public Health Services (PHS) Act, 42 U.S.C. 254e, provides that the Secretary shall designate HPSAs based on criteria established by regulation. HPSAs are defined in section 332 to include (1) urban and rural geographic areas with shortages of health professionals, (2) population groups with such shortages, and (3) facilities with such shortages. Section 332 further requires that the

Secretary annually publish lists of the designated geographic areas, population groups, and facilities. The lists of HPSAs are to be reviewed at least annually and revised as necessary.

Final regulations (42 CFR part 5) were published in 1980 that include the criteria for designating HPSAs. Criteria were defined for seven health professional types: Primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary care. The criteria for correctional facility HPSAs were revised and published on March 2, 1989 (54 FR 8735). The criteria for psychiatric HPSAs were expanded to mental health HPSAs on January 22, 1992 (57 FR 2473). Currently-funded PHS Act programs use only the primary medical care, mental health, or dental HPSA designations.

HPSA designation offers access to potential federal assistance. Public or private nonprofit entities are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide primary medical care, mental health, or dental health services in or to these HPSAs. NHSC health professionals enter into service agreements to serve in federally-designated HPSAs. Entities with clinical training sites located in HPSAs are eligible to receive priority for certain residency training program grants administered by HRSA's Bureau of Health Workforce (BHW). Other federal programs also utilize HPSA designations. For example, under authorities administered by the Centers for Medicare & Medicaid Services, certain qualified providers in geographic area HPSAs are eligible for increased levels of Medicare reimbursement.

Content and Format of Lists

The three lists of designated HPSAs are available on the HPSAFind Web site and include a snapshot of all geographic areas, population groups, and facilities that were designated HPSAs as of May 1, 2017. This notice incorporates the most recent annual reviews of designated HPSAs and supersedes the HPSA lists published in the **Federal Register** on July 1, 2016 (81 FR 43214).

In addition, all Indian Tribes that meet the definition of such Tribes in the Indian Health Care Improvement Act of 1976, 25 U.S.C. 1603(d), are automatically designated as population groups with primary medical care and dental health professional shortages. Further, the Health Care Safety Net Amendments of 2002 provides eligibility for automatic facility HPSA designations for all federally qualified health centers (FQHCs) and rural health

clinics that offer services regardless of ability to pay. Specifically, these entities include FQHCs funded under section 330 of the PHS Act, FQHC Look-Alikes, and Tribal and urban Indian clinics operating under the Indian Self-Determination and Education Act of 1975 (25 U.S.C. 450) or the Indian Health Care Improvement Act. Many, but not all, of these entities are included on this listing. Absence from this list does not exclude them from HPSA designation; facilities eligible for automatic designation are included in the database when they are identified.

Each list of designated HPSAs is arranged by state. Within each state, a list is presented by county. If only a portion (or portions) of a county is (are) designated, a county is part of a larger designated service area, or a population group residing in a county or a facility located in a county has been designated, the name of the service area, population group, or facility involved is listed under the county name. A county that has a whole county geographic HPSA is indicated by the phrase "Entire county HPSA" following the county name.

Development of the Designation and Withdrawal Lists

Requests for designation or withdrawal of a particular geographic area, population group, or a facility as a HPSA are received continuously by BHW. Under a Cooperative Agreement between HRSA and the 54 state and territorial Primary Care Offices (PCOs), PCOs conduct needs assessments and submit the majority of the applications to HRSA to designate areas as HPSAs. Requests that come from other sources are referred by BHW to PCOs for review. In addition, interested parties, including Governors, state Primary Care Associations, and state professional associations, are notified of requests so that they may submit comments and recommendations.

BHW reviews each recommendation for possible addition, continuation, revision, or withdrawal. Following review, BHW notifies the appropriate agency, individuals, and interested organizations of each designation of a HPSA, rejection of recommendation for HPSA designation, revision of a HPSA designation, and/or advance notice of pending withdrawal from the HPSA list. Designations (or revisions of designations) are effective as of the date on the notification from BHW and are updated daily on the HPSAFind Web site. The effective date of a withdrawal will be the next publication of a notice regarding the lists in the **Federal Register**.

Dated: June 16, 2017.

George Sigounas,
Administrator.

[FR Doc. 2017-13313 Filed 6-23-17; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the program in general, contact Lisa L. Reyes, Acting Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357-6400. For information on HRSA's role in the program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, MD 20857; (301) 443-6593, or visit our Web site at: <http://www.hrsa.gov/vaccinecompensation/index.html>.

SUPPLEMENTARY INFORMATION: The program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa-10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa-12(b)(2), requires that “[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.” Set forth below is a list of petitions received by HRSA on May 1, 2017, through May 31, 2017. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master “shall afford all interested persons an opportunity to submit relevant, written information” relating to the following:

1. The existence of evidence “that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,” and
2. Any allegation in a petition that the petitioner either:
 - a. “[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by” one of the vaccines referred to in the Table, or
 - b. “[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine” referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of

the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, MD 20857. The Court’s caption (Petitioner’s Name v. *Secretary of HHS*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the program.

Dated: June 16, 2017.

George Sigounas,
Administrator.

List of Petitions Filed

1. Carlo Smith, Phoenix, Arizona, Court of Federal Claims No: 17-0580V
2. Deeki Sinha, Robertsedale, Alabama, Court of Federal Claims No: 17-0582V
3. Carolyn Wall and Stephen Wall on behalf of G.W., Aiken, South Carolina, Court of Federal Claims No: 17-0583V
4. John Price, Epping, New Hampshire, Court of Federal Claims No: 17-0586V
5. Julie A. Galpin, Asheville, North Carolina, Court of Federal Claims No: 17-0588V
6. Joseph Orlando, Erie, Pennsylvania, Court of Federal Claims No: 17-0589V
7. Eric Raymer, Lake Jackson, Texas, Court of Federal Claims No: 17-0590V
8. Aimee Nichols, Charlestown, Massachusetts, Court of Federal Claims No: 17-0591V
9. Janelle Peacock, Washington, District of Columbia, Court of Federal Claims No: 17-0592V
10. Mary Grammer, Arlington, Virginia, Court of Federal Claims No: 17-0593V
11. Brian Kelly, Canton, Ohio, Court of Federal Claims No: 17-0594V
12. Olivia Jeffers on behalf of X.J., Augusta, Georgia, Court of Federal Claims No: 17-0596V
13. Shawnta Gillespie, Baltimore, Maryland, Court of Federal Claims No: 17-0597V
14. Ross Vinocur, Avon, Connecticut, Court of Federal Claims No: 17-0598V
15. Kathleen Colbath on behalf of M.C., Phoenix, Arizona, Court of Federal Claims No: 17-0599V
16. Lacey Hauck, Johnstown, Pennsylvania, Court of Federal Claims No: 17-0602V
17. Hanane M. Seid, Oakland, California, Court of Federal Claims No: 17-0604V
18. Yvonne Salmon, Wellington, Florida, Court of Federal Claims No: 17-0605V
19. David Robin Curtis, West Des Moines, Iowa, Court of Federal Claims No: 17-0607V
20. Amy Shahbaz and Philip Shahbaz on behalf of J.S., Glendora, California, Court of Federal Claims No: 17-0608V
21. Evangelina Salinas, Greensboro, North Carolina, Court of Federal Claims No: 17-0609V
22. Joy Pleasant, Wellesley Hills, Massachusetts, Court of Federal Claims No: 17-0610V
23. Cynthia Pittman, Alexandria, Louisiana, Court of Federal Claims No: 17-0611V
24. Alethea Agee, Dublin, California, Court of Federal Claims No: 17-0615V
25. Kesha M. Story, Chalmette, Louisiana, Court of Federal Claims No: 17-0616V
26. Crystal Martin, Midland, Texas, Court of Federal Claims No: 17-0619V
27. Judith Dunn, Calera, Alabama, Court of Federal Claims No: 17-0620V
28. Russell Kilde on behalf of K.K., Ortonville, Minnesota, Court of Federal Claims No: 17-0621V
29. Donald R. Izard, Tonawanda, New York, Court of Federal Claims No: 17-0623V
30. Janine King, Dublin, Ohio, Court of Federal Claims No: 17-0625V
31. Mary Havener, Columbus, Ohio, Court of Federal Claims No: 17-0626V
32. Cameron Sharp, Vienna, Virginia, Court of Federal Claims No: 17-0628V
33. Elizabeth Hiebert, Dallas, Texas, Court of Federal Claims No: 17-0630V
34. Harold D. O’Dell, Alloy, West Virginia, Court of Federal Claims No: 17-0631V
35. Mark Prazoff, Washington, District of Columbia, Court of Federal Claims No: 17-0634V
36. Robert William Van Keuren, Maryville, Tennessee, Court of Federal Claims No: 17-0636V
37. Danielle Dotson on behalf of B.M., New Albany, Indiana, Court of Federal Claims No: 17-0637V
38. Diana Bell, Meridian, Idaho, Court of Federal Claims No: 17-0638V
39. Fay Munoz, Austell, Georgia, Court of Federal Claims No: 17-0640V
40. Sheila English, Chicago, Illinois, Court of Federal Claims No: 17-0641V
41. Elizabeth Doles, Trenton, New Jersey, Court of Federal Claims No: 17-0642V
42. Muna Allaham, Ypsilanti, Michigan, Court of Federal Claims No: 17-0644V
43. Emily McIntosh, Fremont, Nebraska, Court of Federal Claims No: 17-0645V
44. Susan Chatriand, Butte, Montana, Court of Federal Claims No: 17-0646V
45. Richard Pastella, Camp Hill, Pennsylvania, Court of Federal Claims No: 17-0647V
46. Elena Trujillo, Phoenix, Arizona, Court of Federal Claims No: 17-0648V
47. Donna T. Hyatt, Greenville, South Carolina, Court of Federal Claims No: 17-0650V
48. Gina Kidwell, New Port Richey, Florida, Court of Federal Claims No: 17-0651V
49. Rebecca Tell, New Milford, New Jersey, Court of Federal Claims No: 17-0652V
50. Ardena White, Chicago, Illinois, Court of Federal Claims No: 17-0655V
51. Misty Titus, Flagstaff, Arizona, Court of Federal Claims No: 17-0656V
52. John Berchielli, Washington, District of Columbia, Court of Federal Claims No: 17-0658V
53. Beth Bieranowski, McKees Rocks, Pennsylvania, Court of Federal Claims No: 17-0659V
54. Amy Lynn Smith, Brookfield, Wisconsin,

- Court of Federal Claims No: 17-0660V
55. Ethel Lynn Munn, Norfolk, Virginia, Court of Federal Claims No: 17-0662V
56. Robert Meli, Ocean City, New Jersey, Court of Federal Claims No: 17-0666V
57. John Sheridan, Phoenix, Arizona, Court of Federal Claims No: 17-0669V
58. Christine Pearson, Warrenton, Virginia, Court of Federal Claims No: 17-0670V
59. Shannon Finch, Riverside, California, Court of Federal Claims No: 17-0675V
60. Elizabeth Turner, Sacramento, California, Court of Federal Claims No: 17-0678V
61. Cynthia A. Marcinik, Latrobe, Pennsylvania, Court of Federal Claims No: 17-0680V
62. Kimberly R. Koebler, Pittsburgh, Pennsylvania, Court of Federal Claims No: 17-0681V
63. Tanitha Jackson on behalf of D.E., Albany, Georgia, Court of Federal Claims No: 17-0682V
64. Kimberly Roberts, Torrance, California, Court of Federal Claims No: 17-0683V
65. Billy Dean Peel, Martinez, Georgia, Court of Federal Claims No: 17-0684V
66. Kristie McClure, Murphy, North Carolina, Court of Federal Claims No: 17-0687V
67. Anita Burgess, Denton, Texas, Court of Federal Claims No: 17-0688V
68. Victor Walker, Juneau, Alaska, Court of Federal Claims No: 17-0689V
69. Mona Ibrahim, Fargo, North Dakota, Court of Federal Claims No: 17-0690V
70. Darlene Dinkel, Salina, Kansas, Court of Federal Claims No: 17-0691V
71. Todd Rosenthal, Ft. Mill, South Carolina, Court of Federal Claims No: 17-0693V
72. Victor Morales, Pembroke Pines, Florida, Court of Federal Claims No: 17-0694V
73. Valerie Mulholland, Florence, Oregon, Court of Federal Claims No: 17-0696V
74. Joseph L. Wheatley, Louisville, Kentucky, Court of Federal Claims No: 17-0697V
75. Julius Vine, Glendale, California, Court of Federal Claims No: 17-0698V
76. Nico Herron and Patience Turner on behalf of Xavier Herron, Deceased, Palo Alto, California, Court of Federal Claims No: 17-0700V
77. Jeffery Graves, Dresher, Pennsylvania, Court of Federal Claims No: 17-0701V
78. Christy Lynn Day on behalf of Reid Thomas Englehart, Deceased, Baton Rouge, Louisiana, Court of Federal Claims No: 17-0702V
79. Jamie L. Pinelli, San Clemente, California, Court of Federal Claims No: 17-0704V
80. Samuel Schreengost, Clarion, Pennsylvania, Court of Federal Claims No: 17-0705V
81. Linda McDonald, Voorhees, New Jersey, Court of Federal Claims No: 17-0706V
82. Willie Griffin, Dallas, Texas, Court of Federal Claims No: 17-0707V
83. Carolyn Curtis, Waldorf, Maryland, Court of Federal Claims No: 17-0708V
84. Jannie Owens, Knoxville, Tennessee, Court of Federal Claims No: 17-0709V
85. Marc Dudash, Greensboro, North Carolina, Court of Federal Claims No: 17-0710V
86. Jennifer Butterworth Lyons, Chicago, Illinois, Court of Federal Claims No: 17-0713V
87. Lynn Farag on behalf of Z.F., Roseland,

- New Jersey, Court of Federal Claims No: 17-0714V
88. Catherine W. Viega, Rochester, New York, Court of Federal Claims No: 17-0715V
89. Iola Sykes, Sarasota, Florida, Court of Federal Claims No: 17-0716V
90. Dennis Smalley, Washington, District of Columbia, Court of Federal Claims No: 17-0717V
91. Lauren Jankowski on behalf of L.J., Englewood, New Jersey, Court of Federal Claims No: 17-0718V
92. Marci Talley Banks, Greensboro, North Carolina, Court of Federal Claims No: 17-0719V
93. Paula Burcham, Mankato, Minnesota, Court of Federal Claims No: 17-0720V
94. Darlene Headding, Rancho Santa Margarita, California, Court of Federal Claims No: 17-0721V
95. Linda Chen on behalf of K.N., Boston, Massachusetts, Court of Federal Claims No: 17-0722V
96. Tina Reynolds, Beverly Hills, California, Court of Federal Claims No: 17-0723V

[FR Doc. 2017-13314 Filed 6-23-17; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pancreas-Related Applications.

Date: July 14, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Digestive Disease Research Core Centers.

Date: July 19, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Bladder Function P01.

Date: July 21, 2017.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892-2542, 301-594-4721, ryan.morris@nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK17-501 Limited Competition: Revision Application for the Human Islet Research Network Coordinating Center (U01).

Date: July 24, 2017.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, 301-594-2242, jerkinsa@niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA DK16-005 Identification of Mechanisms Mediating the Effects of Sleep on Diabetes-Related Metabolism in Humans (R01).

Date: July 25, 2017.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892-5452, 301-594-2242, jerkinsa@niddk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 20, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13220 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hepatology.

Date: July 11, 2017.

Time: 1:00 p.m. to 3:00 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: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594-1245, ivinsj@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; Member Conflict: Drug Development and Xenobiotic Disposition.

Date: July 13, 2017.

Time: 1:00 p.m. to 3:00 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: Jonathan K. Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594-1245, ivinsj@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-16-117: iKnow HIV Applications.

Date: July 18, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301-755-4355, bynumsa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: HIV and Related Research.

Date: July 18, 2017.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shalanda A. Bynum, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3206, Bethesda, MD 20892, 301-755-4355, bynumsa@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Multidisciplinary Studies of HIV and Viral Hepatitis Co-Infection.

Date: July 19, 2017.

Time: 11:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Host Defense and Vaccines.

Date: July 19, 2017.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alok Mulky, Ph.D., Scientific Review Officer, Center for Scientific Review (CSR), National Institutes of Health (NIH), 6701 Rockledge Dr, Room 4203, Bethesda, MD 20817, (301) 435-3566, alok.mulky@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333,

93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13213 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Integrative Health Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NCCIH Training and Education Review Panel.

Date: July 19, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ashlee Tipton, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Center for Complementary and Integrative Health, 6707 Democracy Boulevard, Room 401, Bethesda, MD 20892, 301-451-3849, ashlee.tipton@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: June 20, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13215 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Eye Institute; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Translational Research Program to Develop Novel Therapies and Devices for the Treatment of Visual System Disorders (R24).

Date: July 25, 2017.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301-451-2020, hoshaw@mail.nih.gov.

Name of Committee: National Eye Institute, Special Emphasis Panel; NEI Secondary Data Analysis Grant Applications.

Date: July 26, 2017.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health 5635 Fishers Lane, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeanette M. Hosseini, Ph.D., Scientific Review Officer 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301-451-2020, jeanetteh@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: June 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13216 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Heart, Lung, and Blood Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; International Strategic Timing of Antiretroviral Therapy Trial.

Date: July 18, 2017.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892-7924, 301-827-7940, carolko@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 20, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13218 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Center for Scientific Review; Notice of Closed Meetings**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 16-121: Early-Stage Preclinical Validation of Therapeutic Leads for Diseases of Interest to the NIDDK.

Date: July 18, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Antonello Pileggi, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, Bethesda, MD 20892-7892, (301) 402-6297, pileggia@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Eukaryotic Parasites and Vectors.

Date: July 24-25, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Fouad A. El-Zaatari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7808, Bethesda, MD 20892, (301) 435-1149, elzaataf@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 20, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-13212 Filed 6-23-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Institute on Drug Abuse; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel NIDA Blending Initiative (2248).

Date: June 27, 2017.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, lf33c.nih.gov.

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 20, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13219 Filed 6–23–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: July 21, 2017.

Time: 11:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 3046, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Thomas, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Ste. 4076, MSC 9306, Bethesda, MD 20892–9306, 301–402–0838, barbara.thomas@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 20, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13217 Filed 6–23–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel Platform Delivery—N.A.

Date: July 19, 2017.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, Room 1066, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barbara J. Nelson, Ph.D., Scientific Review Officer Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4874, 301–435–0806, nelsonbj@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research

and Research Training, National Institutes of Health, HHS)

Dated: June 20, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–13214 Filed 6–23–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Center for Substance Abuse Treatment (CSAT) National Advisory Council will meet on August 11, 2017, 11:00 a.m.–12:00 p.m. (EDT) in a closed teleconference meeting.

The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Acting Deputy Assistant Secretary for Mental Health and Substance Use in accordance with Title 5 U.S.C. 552b(c)(4) and (6) and Title 5 U.S.C. App. 2, 10(d).

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA Committee Web site at <http://www.samhsa.gov/about-us/advisory-councils/csat-national-advisory-council> or by contacting the CSAT National Advisory Council Designated Federal Officer; Tracy Goss (see contact information below).

Council Name: SAMHSA's Center for Substance Abuse Treatment, National Advisory Council.

Date/Time/Type: August 11, 2017, 11:00 a.m.–12:00 p.m. EDT, Closed.

Place: SAMHSA, 5600 Fishers Lane, Rockville, Maryland 20857.

Contact: Tracy Goss, Designated Federal Officer, CSAT National Advisory Council, 5600 Fishers Lane, Rockville, Maryland 20857 (mail), Telephone: (240) 276–0759, Fax: (240) 276–2252, Email: tracy.goss@samhsa.hhs.gov.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2017–13221 Filed 6–23–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

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

Proposed Project: Evaluation of the Projects for Assistance in Transition From Homelessness (PATH) Program—New

SAMHSA is conducting the federally mandated Evaluation of the PATH program. The PATH grant program, created as part of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, is administered by SAMHSA's CMHS' Homeless Programs Branch. The PATH program is authorized under Section 521 *et seq.* of the Public Health Service (PHS) Act, as amended. The SAMHSA PATH program funds each Fiscal Year the 50 states, the District of Columbia, Puerto Rico, and four U.S. Territories (the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands). The PATH grantees make

grants to local, public and non-profit organizations to provide the PATH allowable services.

The SAMHSA Administrator is required under Section 528 of the PHS Act to evaluate the expenditures of PATH grantees at least once every three years to ensure they are consistent with legislative requirements and to recommend changes to the program design or operations. The primary task of the PATH evaluation is to meet the mandates of Section 528 of the PHS Act. The second task of the PATH evaluation is to conduct additional data collection and analysis to further investigate the sources of variation in key program output and outcome measures that are important for program management and policy development. The PATH evaluation builds on the previous evaluation which was finalized in 2016 and was conducted as part of the National Evaluation of SAMHSA Homeless Programs. The PATH evaluation will use web surveys, telephone interviews and site visits to facilitate the collection of information regarding the structures and processes in place at the grantee and provider level. Data regarding the outputs and outcomes of the PATH program will be obtained from grantee applications, providers' intended use plans (IUPs) and from PATH annual report data, which is also required by Section 528 of the PHS Act and is approved under OMB No. 0930-0205.

Web Surveys will be conducted with all State PATH Contacts (SPCs) and staff from intermediary and PATH provider organizations. The *Web Surveys* will capture detailed and structured information in the following topics: Selection, monitoring and oversight of PATH providers; populations served; the PATH allowable or eligible services provided; sources for match funds; provision of training and technical assistance; implementation of Evidence Based Practices (EBPs) and innovative practices including SOAR; data reporting, use of data and the Homeless Management Information System (HMIS); and collaboration, coordination and involvement with Continuums of Care (CoCs) and other organizations. The SPCs for all grantees (n=56), the Project Directors from the PATH provider organizations (n=500) and staff from the intermediary organizations (n=28) will be contacted to complete the

web surveys. The *Web Surveys* will be administered once.

Site Visits will be conducted with a purposive sample of PATH grantees and providers to collect more nuanced information than will be possible with the web survey. Semi-structured discussions will take place with the SPCs, grantee staff, PATH provider staff including the Project Director and other key management staffs, outreach workers, case managers and other clinical treatment staff, key stakeholders at the grantee and provider level and consumers. Five grantees will be selected for *Site Visits* and visited within each grantee will be one to two PATH providers. The *Site Visits* will be utilized to collect information regarding: Provider and state characteristics; practices and priorities; context within which the grantees and providers operate; and services available within the areas the providers operate. Also, discussed will be the successes, barriers, and strategies faced by PATH grantees and providers. Focus groups will be held with current or former consumers of the PATH program to obtain consumer perspectives regarding the impact of the programs. The *Site Visits* will be conducted once.

Telephone Interviews will be conducted with a sample of SPCs (n=28) and intermediary (n=14) and provider staff (n=60) to explore through open-ended questions in greater detail, explanations for variations among providers in measures that are important for program management and policy development. The outputs of the PATH program include: the number of persons receiving PATH-funded services, outreached/contacted and enrolled; the number of services provided; and the number of referrals provided. The outcome evaluation will be limited, given limitations in available data and will include the number of persons referred to and attaining substance use treatment, primary health services, job training, educational services, housing services, housing placement assistance, income assistance, employment assistance and medical assistance. The *Telephone interviews* will be conducted once.

The estimated burden for the reporting requirements for the PATH evaluation is summarized in the table below.

ANNUAL BURDEN TABLE

Instrument/activity	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Web Surveys					
SPC Web Survey	¹ 56	1	56	1	56
PATH Intermediary Web Survey	² 28	1	28	1	28
PATH Provider Web Survey	³ 500	1	500	1	500
Telephone Interviews					
SPC Telephone Interviews	⁴ 28	1	28	1	28
PATH Intermediary Telephone Interviews	⁵ 14	1	14	1	14
PATH Provider Telephone Interviews	⁶ 60	1	60	1	60
Site Visit Interviews					
Opening Session with State Staff	⁷ 25	1	25	2	50
SPC Session	⁸ 5	1	5	2	10
State Stakeholder Session	⁹ 25	1	25	1.5	37.5
Opening Session with PATH Provider Leadership Staff	¹⁰ 50	1	50	2	100
PATH Provider PD Session	¹¹ 10	1	10	2	20
PATH Provider Direct Care Staff Session	¹² 50	1	50	2	100
Provider Stakeholder Session	¹³ 50	1	50	1.5	75
Consumer Focus Groups	¹⁴ 100	1	100	1.5	150
Total	1,001	.....	1,001	.....	1,228.5

¹ 1 respondent × 56 SPCs = 56 respondents.

² 1 respondent × 28 Intermediaries = 28 respondents.

³ 1 respondent × 500 PATH providers = 500 respondents.

⁴ 1 respondent × 28 SPCs = 28 respondents.

⁵ 1 respondent × 14 Intermediaries = 14 respondents.

⁶ 1 respondent × 60 PATH providers = 60 respondents.

⁷ 5 respondents × 5 site visits = 25 respondents.

⁸ 1 respondent × 5 site visits = 5 respondents.

⁹ 5 respondents × 5 site visits = 25 respondents.

¹⁰ 5 respondents × 10 site visits (2 providers per state) = 50 respondents.

¹¹ 1 respondent × 10 site visits (2 providers per state) = 10 respondents.

¹² 5 respondents × 10 site visits (2 providers per state) = 50 respondents.

¹³ 5 respondents × 10 site visits (2 providers per state) = 50 respondents.

¹⁴ 10 respondents × 10 site visits (10 Consumers per provider (2 providers per state) = 100 respondents.

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57-B, Rockville, Maryland 20857, *OR* email a copy to summer.king@samhsa.hhs.gov. Written comments should be received by August 25, 2017.

Summer King,
Statistician.

[FR Doc. 2017-13240 Filed 6-23-17; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2017-0496]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Teleconference meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee working group will meet via teleconference to work on Task Statement 98, review of the progress made by the military services towards meeting the goals on the use of Military Education, Training, and Assessment for STCW and National Mariner Endorsements as identified in the Howard Coble Coast Guard and Maritime Transportation Act of 2014 and subsequent legislation, and to complete the discussions from its March 22-23 and May 16, 2017 meetings. The teleconference will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working group is scheduled to meet via teleconference on Wednesday, August 2, 2017, from 8 a.m. until 5 p.m. and on Thursday, August 3, 2017, from 8 a.m. until 5 p.m. Eastern Standard Time. Please note that this teleconference may adjourn early if the working group has completed its business.

ADDRESSES: To join the teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to obtain the needed information no later than 5 p.m. on July 24, 2017. The number of teleconference lines is limited and will be available on a first-come, first served basis. To physically join those participating from U.S. Coast Guard Headquarters, it will be held in Room 5J16-15, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593-7509 (<http://www.dcms.uscg.mil/Our-Organization/Director-of-Operational-Logistics-DOL/Bases/Base-National-Capital-Region/Visitor/>).

Pre-registration Information: Foreign nationals participating physically at the U.S. Coast Guard Headquarters will be required to pre-register no later than 4 p.m. on July 01, 2017. U.S. citizens participating physically at U.S. Coast Guard Headquarters will be required to pre-register no later than 4 p.m. on July 24, 2017, to be admitted to the meeting. To pre-register, contact Lieutenant Junior Grade James Fortin at 202-372-1128 or james.l.fortin@uscg.mil with

MERPAC in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country of citizenship, and passport number and expiration date. All attendees will be required to provide a government-issued picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the teleconference, but if you want working group committee members to review your comment before the meetings, please submit your comments no later than July 24, 2017. We are particularly interested in comments on the issues in the "Agenda" section below. You must include "Department of Homeland Security" and the docket number USCG–2017–0496 in your comment submission. Written comments may also be submitted using Federal eRulemaking Portal at <http://www.regulations.gov>. If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review the Privacy Act Notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to <http://www.regulations.gov>, type USCG–2017–0496 in the "Search" box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade James Fortin, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509, telephone 202–372–1128, fax 202–372–8385 or james.l.fortin@uscg.mil.

SUPPLEMENTARY INFORMATION: The Merchant Marine Personnel Advisory Committee was established under authority of section 310 of the Howard Coble Coast Guard and Maritime

Transportation Act of 2014, Title 46, United States Code, section 8108, and chartered under the provisions of the Federal Advisory Committee Act, (Title 5, United States Code, Appendix). The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards and other matters as assigned by the Commandant; shall review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards; may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments; shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

DAY 1

The agenda for the August 2, 2017, working group teleconference is as follows:

(1) The working group will meet briefly to discuss Task Statement 98 (All task statements can be found at <https://homeport.uscg.mil/merpac/>);

(2) Reports of working sub-groups. At the end of the day, the working sub-groups will report to the full working group on what was accomplished in their meetings. The full working group will not take action as a result of this working group meeting; action will be taken on day 2 of the meeting.

- (3) Public comment period.
- (4) Adjournment of meeting.

DAY 2

The agenda for the August 3, 2017, working group teleconference is as follows:

(1) The working group will meet briefly to discuss Task Statement 98 (All task statements can be found at <https://homeport.uscg.mil/merpac/>);

(2) Reports of working sub-groups. The working sub-groups will report to the full working group on what was accomplished in their meetings. The full working group will not take action on these reports at this time. Any action taken as a result of this working group meeting will be taken after the public comment period.

- (3) Public comment period.
- (4) Preparation of the meeting report to the full Committee.

- (5) Adjournment of meeting.

A copy of all meeting documentation will be available at <https://homeport.uscg.mil/merpac/>. Alternatively, you may contact Lieutenant Junior Grade James Fortin as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

A public comment period will be held during each day concerning matters being discussed. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment periods will end following the last call for comments. Please contact Lieutenant Junior Grade James Fortin, listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Please note that the teleconference may adjourn early if the work is completed.

Dated: June 20, 2017.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2017–13257 Filed 6–23–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0495]

Merchant Marine Personnel Advisory Committee

AGENCY: Department of Homeland Security, Coast Guard.

ACTION: Notice of Federal Advisory Committee Teleconference meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee working group will meet via teleconference to work on Task Statement 96, review and comment on course and program approval requirements and NVIC 03–14 guidelines for approval of training courses and programs, to complete the discussions from its March 22–23 and May 16, 2017 meetings. The teleconference will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working group is scheduled to meet via teleconference on Tuesday, July 25, 2017, from 8 a.m. until 5 p.m. and on Wednesday, July 26, 2017, from 8 a.m. until 5 p.m. Eastern Standard Time. Please note that this teleconference may adjourn early if the working group has completed its business.

ADDRESSES: To join the teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to obtain the needed information no later than 5 p.m. on July 17, 2017. The number of teleconference lines is limited and will be available on a first-come, first served basis. To physically join those participating from the U.S. Coast Guard National Maritime Center, it will be held at 100 Forbes Drive, Martinsburg, WV 25404-0001 (<https://www.uscg.mil/nmc/>).

Pre-registration Information: Foreign nationals participating physically at the U.S. Coast Guard National Maritime Center will be required to pre-register no later than 4 p.m. on July 01, 2017. U.S. citizens participating physically at the U.S. Coast Guard National Maritime Center will be required to pre-register no later than 4 p.m. on July 17, 2017, to be admitted to the meeting. To pre-register, contact Lieutenant Junior Grade James Fortin at 202-372-1128 or james.l.fortin@uscg.mil with MERPAC in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country of citizenship, and passport number and expiration date. All attendees will be required to provide a government-issued picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Alternate Designated Federal Officer as soon as possible using the contact information provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Instructions: You are free to submit comments at any time, including orally at the teleconference, but if you want working group committee members to review your comment before the meetings, please submit your comments no later than July 17, 2017. We are particularly interested in comments on the issues in the "Agenda" section below. You must include "Department of Homeland Security" and the docket number USCG-2017-0495 in your comment submission. Written comments may also be submitted using Federal eRulemaking Portal at <http://www.regulations.gov>. If you encounter technical difficulties with comments submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review the Privacy Act Notice

regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to <http://www.regulations.gov>, type USCG-2017-0495 in the "Search" box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade James Fortin, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, 2703 Martin Luther King Jr. Ave SE., Stop 7509, Washington, DC 20593-7509, telephone 202-372-1128, fax 202-372-8385 or james.l.fortin@uscg.mil.

SUPPLEMENTARY INFORMATION: The Merchant Marine Personnel Advisory Committee was established under authority of section 310 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014, Title 46, United States Code, section 8108, and chartered under the provisions of the Federal Advisory Committee Act, (Title 5, United States Code, Appendix). The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards and other matters as assigned by the Commandant. The Committee shall also review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards; may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments; and shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

Agenda

DAY 1

The agenda for the July 25, 2017, working group teleconference is as follows:

- (1) The working group will meet briefly to discuss Task Statement 96 (All task statements can be found at <https://homeport.uscg.mil/merpac/>);
- (2) Reports of working sub-groups. At the end of the day, the working sub-

groups will report to the full working group on what was accomplished in their meetings. The full working group will not take action as a result of this working group meeting; action will be taken on day 2 of the meeting.

- (3) Public comment period.
- (4) Adjournment of meeting.

DAY 2

The agenda for the July 26, 2017, working group teleconference is as follows:

- (1) The working group will meet briefly to discuss Task Statement 96 (All task statements can be found at <https://homeport.uscg.mil/merpac/>);
- (2) Reports of working sub-groups. The working sub-groups will report to the full working group on what was accomplished in their meetings. The full working group will not take action on these reports at this time. Any action taken as a result of this working group meeting will be taken after the public comment period.
- (3) Public comment period.
- (4) Preparation of the meeting report to the full Committee.
- (5) Adjournment of meeting.

A copy of all meeting documentation will be available at <https://homeport.uscg.mil/merpac/>. Alternatively, you may contact Lieutenant Junior Grade James Fortin as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

A public comment period will be held during each day during the working group teleconference concerning matters being discussed. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment periods will end following the last call for comments. Please contact Lieutenant Junior Grade James Fortin, listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Please note that the teleconference may adjourn early if the work is completed.

Dated: June 20, 2017.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2017-13258 Filed 6-23-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2017-0422]

Certificate of Alternative Compliance for the TUG INDEPENDENCE

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance (COAC) was issued for the TUG INDEPENDENCE. We are issuing this notice because its publication is required by statute.

DATES: The Certificate of Alternative Compliance was issued on May 9th, 2017.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Mr. Kevin Miller, First District Towing Vessel/Barge Safety Specialist, U.S. Coast Guard; telephone (617) 223-8272, email <Kevin.L.Miller2@uscg.mil>.

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, and sound signal provisions of the 72 COLREGS. Under statutory law¹ and Coast Guard regulation,² a vessel may instead meet alternative requirements and the vessel's owner, builder, operator, or agent may apply for a COAC. For vessels of special construction, the cognizant Coast Guard District Office determines whether the vessel for which the COAC is sought complies as closely as possible with the 72 COLREGS, and decides whether to issue the COAC. Once issued, a COAC remains valid until information supplied in the COAC application or the COAC terms become inapplicable to the vessel. Under the governing statute³ and regulation,⁴ the Coast Guard must publish notice of this action.

The Commandant, U.S. Coast Guard, certifies that the TUG INDEPENDENCE is a vessel of special construction or purpose, and that, with respect to the position of the navigation and towing lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation of the vessel. The Commandant further finds and certifies that the sidelights (13' 2.75"; from the vessel's side mounted on the pilot house) and stern/towing lights (5' 6.5" aft of frame 18 mounted on top of the pilot house) are in the closest possible compliance with the applicable provisions of the 72 COLREGS and that full compliance with the 72 COLREGS

would not significantly enhance the safety of the vessel's operation.

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR 81.

Dated: June 13, 2017.

B.L. Black,

Capt., Chief, Prevention Department, First District, U.S. Coast Guard.

[FR Doc. 2017-13329 Filed 6-23-17; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request; OMB Control No. 1653-0022

AGENCY: U.S. Immigration and Customs Enforcement, Department of Homeland Security.

ACTION: 60-Day Notice of Information collection for review; Form No. I-352, Immigration Bond; OMB Control No. 1653-0022.

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (USICE) will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 25, 2017.

Written comments and suggestions regarding items contained in this notice and especially with regard to the estimated public burden and associated response time should be directed to the PRA Clearance Officer for USICE and sent via electronic mail to forms.ice@ice.dhs.gov.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved information collection.

(2) *Title of the Form/Collection:* Immigration Bond.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* ICE Form I-352; U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households; Business or other for-profit. The data collected on this collection instrument is used by ICE to ensure that the person or company posting the bond is aware of the duties and responsibilities associated with the bond. The collection instrument serves the purpose of instruction in the completion of the form, together with an explanation of the terms and conditions of the bond. Sureties have the capability of accessing, completing and submitting a bond electronically through ICE's eBonds system which encompasses the I-352, while individuals are still required to complete the bond form manually.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 25,000 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 12,500 annual burden hours.

Dated: June 21, 2017.

Scott Elmore,

PRA Clearance Officer, Office of the Chief Information Officer, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2017-13282 Filed 6-23-17; 8:45 am]

BILLING CODE 9111-28-P

¹ 33 U.S.C. 1605(c).

² 33 CFR 81.3.

³ 33 U.S.C. 1605(c).

⁴ 33 CFR 81.18.

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[FWS–HQ–IA–2016–N174;
FXIA1671090000–177–FF09A10000]

Threatened Species; Exemption From Threatened Species Permits for a Qualifying Beluga Sturgeon Aquaculture Facility

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide notice of an exemption to threatened species permit requirements granted under our Endangered Species Act (Act) regulations for beluga sturgeon (*Huso huso*). The exemption is for beluga sturgeon reared in an aquaculture facility in Florida that the Service found meets the criteria under our regulations. The exemption authorizes the facility to take beluga sturgeon from its aquacultured stock for the purpose of harvesting aquacultured beluga sturgeon meat and also authorizes the facility to engage in interstate commerce and export of beluga sturgeon meat, which it harvests from its aquacultured stock without a threatened species permit.

ADDRESSES: Documents and other information submitted with the application are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Scientific Authority, MS: IA, 5275 Leesburg Pike, Falls Church, VA 22041; fax (703) 358–2276.

FOR FURTHER INFORMATION CONTACT: Dr. Rosemarie Gnam, (703) 358–1708 (telephone); (703) 358–2276 (fax); Rosemarie_Gnam@fws.gov (email).

SUPPLEMENTARY INFORMATION:

Background

Under section 4(d) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Service has discretion to issue regulations that we find necessary and advisable to provide for the conservation of threatened wildlife. We may also prohibit by regulation, with respect to threatened wildlife, any act that is prohibited by section 9(a)(1) of the Act for endangered wildlife. In exercising this discretion, the Service enforces general prohibitions that are appropriate for most threatened species. These prohibitions are codified in title 50 of the Code of Federal Regulations at 50

CFR 17.31; threatened species permit requirements are at 50 CFR 17.32. In 2005, the Service promulgated regulations under section 4(d) of the Act for the beluga sturgeon, a threatened species (70 FR 10493, March 4, 2005); these regulations are codified at 50 CFR 17.44(y).

In accordance with 50 CFR 17.44(y)(5), we consider applications for exemptions from threatened species permits for beluga sturgeon caviar and meat obtained from aquaculture facilities located outside the littoral States of Azerbaijan, Bulgaria, Georgia, Islamic Republic of Iran, Kazakhstan, Romania, Russian Federation, Serbia and Montenegro, Turkey, Turkmenistan, and Ukraine. These exemptions are for individual facilities. Through an exemption, the Service may authorize aquacultured beluga sturgeon caviar and meat originating from the facility to be imported, exported, re-exported, or traded in interstate and foreign commerce without threatened species permits issued under 50 CFR 17.32. Additionally, the Service may authorize an exemption for aquaculture facilities within the United States from prohibitions against take for purposes of harvesting caviar or meat or for conducting activities involving research to enhance the survival or propagation of the species.

Under the 4(d) rule, the Service may issue such exemptions only after a facility has satisfactorily demonstrated to us that criteria in § 17.44(y)(5)(i) through (iii) have been met, including: (1) The relevant regulatory authority has certified that the facility implements sufficient controls to prevent the escape of live animals and disease pathogens into local ecosystems; (2) the facility does not rely on wild beluga sturgeon for broodstock; and (3) the facility has entered into a formal agreement with one or more littoral states to study, protect, or otherwise enhance the survival of wild populations of beluga sturgeon. Exemptions granted under § 17.44(y)(5) shall not apply to trade (import, export, re-export, or interstate and foreign commerce) in live beluga sturgeon. Exemptions may be revoked at any time if the Service determines that any of the criteria shown in paragraphs (y)(5)(i) through (iii) are not met by the facility, and applicants are required to submit biennial reports on their compliance. In addition to meeting all requirements of the 4(d) rule, all applicable provisions in 50 CFR parts 13, 14, and 23 remain in effect and must also be met.

On March 6, 2013, we received an application from Sturgeon AquaFarms that requested an exemption from

threatened species permits in accordance with 50 CFR 17.44(y)(5) for Sturgeon AquaFarms' aquaculture facility in Bascom, Florida. In evaluating the application, the Service sought additional information from the applicant, the State of Florida, and the littoral states with which the applicant has entered into formal agreements (the Russian Federation and the Republic of Azerbaijan). We also conducted a site visit at the Sturgeon AquaFarms' aquaculture facility in Bascom, Florida. On June 15, 2016, the Service approved, under certain conditions, the requested exemption from threatened species permitting requirements to allow the take of beluga sturgeon from Sturgeon AquaFarms' aquacultured stock, located at its facility in Bascom, Florida, for the purpose of harvesting beluga meat and to allow for the interstate commerce and export of beluga meat the facility harvests from its aquacultured stock. This exemption applies to aquacultured beluga meat only; it does not apply to trade in beluga caviar or live beluga sturgeon.

Authority: We issue this notice under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and in accordance with 50 CFR 17.44(y)(5)(iv).

Brenda Tapia,

Program Analyst, Division of Management Authority.

[FR Doc. 2017–13232 Filed 6–23–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[FWS–R2–ES–2016–N203;
FXES1113020000–167–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Pima Pineapple Cactus (*Coryphantha scheeri* var. *robustispina*) Draft Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the Fish and Wildlife Service (Service), announce that of our Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*) draft recovery plan is available. The cactus is listed as endangered under the Endangered Species Act of 1973, as amended (Act). This plant species is currently found in southern Arizona and in northern Sonora, Mexico. The draft recovery plan includes specific recovery objectives and criteria to be met in order to enable us to remove this species from the list of endangered and threatened wildlife

and plants. We request that local, State, and Federal agencies; Tribes; and the public review and comment. We will also accept any new species status information throughout its range to assist with recovery plan finalization.

DATES: To ensure consideration, we must receive written comments on or before August 25, 2017. However, we will accept information about any species at any time.

ADDRESSES: *Obtaining Documents:* If you wish to review the draft recovery plan, you may obtain a copy by any one of the following methods:

Internet: Download the file at www.fws.gov/southwest/es/Documents/R2ES/

CoryphanthaScheeriRobustispina_DraftRecoveryPlan_Final_February2015.pdf;

U.S. mail: Request a copy by writing to the Arizona Ecological Services Field Office, Fish and Wildlife Service, 9828 N 31st Ave. #C3, Phoenix, AZ 85051–2517; or

Telephone: Request a copy by calling (602) 242–0210.

Submitting Comments: If you wish to comment on the draft recovery plan, you may submit your comments in writing by any one of the following methods:

U.S. mail: Field Supervisor, at the above address;

Hand-delivery: Arizona Ecological Services Field Office, at the above address;

Fax: (602) 242–2513; or

Email: julie_crawford@fws.gov.

For additional information about submitting comments, see Request for Public Comments.

FOR FURTHER INFORMATION CONTACT:

Steve Spangle, Field Supervisor, Arizona Ecological Services Field Office, at the above address and phone number, or by email at Steve_Spangle@fws.gov.

SUPPLEMENTARY INFORMATION:

Background

A primary goal of our endangered species program and the Act (16 U.S.C. 1531 *et seq.*) is endangered or threatened animals and plants recovery to the point that they are again secure, self-sustaining ecosystem members. Recovery means improving the listed species' status to the point that listing is no longer appropriate under the Act's section 4(a)(1) criteria. The Act requires recovery plans for listed species, unless such a plan would not promote conserving a particular species.

Species History

Coryphantha scheeri var. *robustispina* (Pima pineapple cactus) is found in

lower Sonoran desert-scrubland, desert-grassland, or the ecotone between desert-scrubland and desert-grassland in southeastern Arizona and northern Sonora, Mexico. It was federally listed as endangered on September 23, 1993; critical habitat was not designated. The taxon has been found historically in Pima and Santa Cruz Counties, Arizona, and northern Sonora, Mexico, where it occupies a small area proximal to the U.S. border. *Coryphantha scheeri* var. *robustispina* is not listed under Mexican protected species regulations by the Secretaría de Medio Ambiente y Recursos Naturales. The recovery priority number for *Coryphantha scheeri* var. *robustispina* is 3C, meaning that the listed entity is a subspecies, the level of threat is high, the potential for recovery is high, and there is a conflict with some form of economic activity (urbanization). The first 5-year status review for *Coryphantha scheeri* var. *robustispina* was signed on February 8, 2007. Based on the static or declining status of the species across its range and continued threats, it was recommended in the 5-year review that the taxon remain listed as endangered.

Coryphantha scheeri var. *robustispina* is a small, hemispheric-to-cylindrical stem succulent perennial of the Cactaceae (cactus family). Its stems reach 5 to 46 centimeters (cm) (1.9 to 18.1 inches (in)) in height and 5 to 21 cm (1.9 to 8.3 in) in diameter, are comprised primarily of tough, fleshy pulp, and are protected by a leathery outer skin. Stems may be singular or form clumps. The surface of the stems are covered in 2 to 3 cm (0.8 to 1.2 in) long rounded projections called tubercles, each of which is grooved along the upper surface and contains one to several extra floral nectaries (places that secrete nectar to attract pollinators) along each groove. The flowers of *C. scheeri* var. *robustispina* average 6.5 cm (2.6 in) long with pale yellow tepals (petals and sepals) that are variously tinged with red pigments. Flowers generally open early to mid-July following summer rains.

Coryphantha scheeri var. *robustispina* occurs within two subbasins of the Santa Cruz Watershed: Brawley Wash and the Upper Santa Cruz. These subbasins face largely differing threats and stressors and are managed in differing ways. The major threats within Brawley Wash, which is managed primarily for livestock grazing, include the spread of invasive, non-native grasses and the resultant altered fire regimes and increased competition. A major threat within Upper Santa Cruz, which includes Tucson, Nogales, and the urban areas between, is

urbanization. Throughout the entire range, *C. scheeri* var. *robustispina* is stressed by drought and climate change impacts, as well as predation by mammals and insects.

Plants are found on lands owned or managed by the Federal government (approximately 12 percent), State government (approximately 46 percent), Tribal government (approximately 2 percent), and private entities (approximately 40 percent). *Coryphantha scheeri* var. *robustispina* is typically found widely spaced in the landscape. A total of 6,712 individuals have been documented in our files from surveys of 43,072 hectares (106,433 acres) of suitable habitat. Similarly, as of the summer of 2015, the Arizona Natural Heritage Program database of locations for this taxon consisted of 7,558 records, of which 1,837 were known to no longer exist, primarily due to development and not natural causes.

The principal *C. scheeri* var. *robustispina* recovery strategy is to preserve and restore quality habitat to protect individuals and their seedbanks within two recovery units representing the range of the taxon. Providing conservation and restoration of the taxon and its habitat will allow a stable, self-sustaining population to persist with some level of connectivity and opportunities for expansion and dispersal.

Recovery Plan Goals

The objective of a recovery plan is to provide a framework for the recovery of a species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria and actions necessary for us to be able to reclassify the species to threatened status or remove it from the List of Endangered and Threatened Plants (List) at 50 CFR 17.12(h). Recovery plans help guide our recovery efforts by describing actions we consider necessary for the species' conservation, and by estimating time and costs for implementing needed recovery measures. To achieve its goals, this draft recovery plan identifies the following objectives:

1. *Threat-based objective:* Reduce or mitigate habitat loss and degradation, non-native species spread and the resultant altered fire regimes and increased competition, and other stressors, to enhance the continued survival of *C. scheeri* var. *robustispina* and its pollinators.

2. *Habitat-based objective:* Conserve, restore, and properly manage the quantity and quality of habitat needed

for the continued survival of *C. scheeri* var. *robustispina* and its pollinators.

3. Population-based objective:

Conserve, protect, and restore existing and newly discovered *C. scheeri* var. *robustispina* individuals and their associated seedbanks needed for the continued survival of the taxon. The population must be self-sustaining, of sufficient number to endure climatic variation, stochastic events, and catastrophic losses, and must represent the full range of the species' geographic and genetic variability.

The draft recovery plan focuses on conserving and enhancing habitat quality, protecting the population, managing threats, monitoring progress, and building partnerships to facilitate recovery. When the recovery of *C. scheeri* var. *robustispina* approaches these criteria, we will review the species' status and consider downlisting, and, ultimately, removal from the List.

Request for Public Comments

Section 4(f) of the Act requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (July 1, 1994; 59 FR 34270). In an appendix to the approved recovery plan, we will summarize and respond to the issues raised by the public and peer reviewers. Substantive comments may or may not result in changes to the recovery plan; comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementing recovery actions. Responses to individual commenters will not be provided, but we will provide a summary of how we addressed substantive comments in an appendix to the approved recovery plan.

We invite written comments on the draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species and the costs associated with implementing the recommended recovery actions.

Before we approve our final recovery plan, we will consider all comments we receive by the date specified in **DATES**. Methods of submitting comments are in **ADDRESSES**.

Public Availability of Comments

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.

Comments and materials we receive will be available, by appointment, for public inspection during normal business hours at our office (see **ADDRESSES**).

References Cited

A complete list of all references cited herein is available upon request from the Arizona Ecological Services Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We developed our draft recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 15, 2016.

Benjamin N. Tuggle,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

Editorial Note: The Office of the Federal Register received this document on June 21, 2017.

[FR Doc. 2017-13309 Filed 6-23-17; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. General Electric Co., et al., Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. General Electric Co., et al.*, Civil Action No. 1:17-cv-1146. On June 12, 2017, the United States filed a Complaint alleging that the proposed acquisition by General Electric Co. of Baker Hughes Incorporated, would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed the same time as the Complaint, requires General Electric Co. to sell its GE Water & Process Technologies business, including certain tangible and intangible assets, to one or more acquirers approved by the United States.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact

Statement are available for inspection at the Department of Justice's Web site at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Kathleen S. O'Neill, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 8000, Washington, DC 20530.

Patricia A. Brink,

Director of Civil Enforcement.

United States District Court for the District of Columbia

United States of America, U.S. Department of Justice, Antitrust Division, 450 5th Street NW., Suite 8000, Washington DC 20001, Plaintiff, v. General Electric Co., 41 Farnsworth Street, Boston MA 02210, and Baker Hughes Incorporated, 2929 Allen Parkway, Suite 2100, Houston TX 77019, Defendants.

Case No.: 1:17-cv-01146

Judge: Beryl A. Howell

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to enjoin the acquisition of Baker Hughes Incorporated (“Baker Hughes”) by General Electric Co. (“GE”) and to obtain other equitable relief. The United States alleges as follows:

I. NATURE OF THE ACTION

1. GE's acquisition of Baker Hughes would combine two of the leading providers of refinery process chemicals and services in the United States. Refineries process crude oil and natural gas extracted from wells (“hydrocarbons”) into finished products like gasoline. To perform this process, refineries rely on a variety of special chemicals, collectively known as refinery process chemicals, to remove salts, solids, metals, and other impurities from the hydrocarbons and to prevent corrosion and damage to refinery equipment. Refineries rely on process chemical and service providers to evaluate the specific hydrocarbons flowing into their refineries and to formulate and apply customized

chemical solutions to ensure the safe and efficient processing of those hydrocarbons. To develop the chemical solutions needed to address current and future challenges, these service providers maintain dedicated research and development facilities.

2. Failures can be costly. If the refinery process chemical and service provider selects the wrong chemicals or fails to provide adequate and timely service, the result may be millions of dollars in lost production or damage to the refinery's equipment. For these reasons, oil and gas refiners choose a provider based on a number of factors that include not just pricing but the provider's experience, ability to offer timely and high-quality service, and research and development capabilities.

3. GE and Baker Hughes vigorously compete to win the business of oil and gas refiners. If the transaction is allowed to proceed, this competition will be lost, and the merged firm will control over 50% of the market, leading to higher prices, reduced service quality, and diminished innovation.

4. Accordingly, as alleged more specifically below, the acquisition, if consummated, would likely substantially lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and should be enjoined.

II. DEFENDANTS AND THE TRANSACTION

5. Defendant GE is a New York corporation headquartered in Boston, Massachusetts. GE is a large, diversified corporation that, among other lines of business, supplies the oil and gas industry with refinery process chemicals and services through its GE Water & Process Technologies business unit. GE generated \$16 billion in revenues from oil- and gas-related products and services in 2015.

6. Defendant Baker Hughes is a Delaware corporation headquartered in Houston, Texas. Baker Hughes supplies the oil and gas industry with refinery process chemicals and services through its Downstream Chemicals business, which is part of Baker Hughes's Chemicals and Industrial Services organization. Baker Hughes's 2015 revenues were \$15.7 billion.

7. Pursuant to a Transaction Agreement and Plan of Merger dated October 30, 2016 ("Transaction"), GE will acquire Baker Hughes.

III. JURISDICTION AND VENUE

8. The United States brings this action pursuant to Section 15 of the Clayton Act, as amended, 15 U.S.C. 25, to prevent and restrain Defendants from

violating Section 7 of the Clayton Act, 15 U.S.C. 18.

9. Defendants provide refinery process chemicals and services in the flow of interstate commerce, and their provision of refinery process chemicals and services substantially affects interstate commerce. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

10. Defendants have consented to venue and personal jurisdiction in the District of Columbia for the purpose of this matter. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. 22 and 28 U.S.C. 1391(b) and (c).

IV. RELEVANT MARKET

11. The provision of refinery process chemicals and services is a relevant product market and line of commerce under Section 7 of the Clayton Act. Oil and gas refiners have no reasonable substitutes for refinery process chemicals and services. Because oil and gas refiners have no reasonable alternatives to refinery process chemicals and services, few, if any, would substitute to other products in response to a price increase.

12. Oil and gas refiners choose from those suppliers that have service staff and support infrastructure in their local area. GE and Baker Hughes have such infrastructure and compete with one another for customers in local areas throughout the United States. One well-accepted methodology for assessing whether a group of products and services sold in a particular area constitutes a relevant market under the Clayton Act is to ask whether a hypothetical monopolist over all the products sold in the area would raise prices for a non-transitory period by a small but significant amount, or whether enough customers would switch to other products or services or purchase outside the area such that the price increase would be unprofitable. *Fed. Trade Comm'n & U.S. Dep't of Justice Horizontal Merger Guidelines* (2010). A hypothetical monopolist of refinery process chemicals and services in the United States likely would impose at least a small but significant price increase because few if any customers would substitute to purchasing other products or to purchasing outside the United States. Therefore, the provision of refinery process chemicals and services in the United States is a relevant market under Section 7 of the Clayton Act.

V. LIKELY ANTICOMPETITIVE EFFECTS

13. The relevant market is highly concentrated and would become more concentrated as a result of the Transaction. GE's share of the refinery process chemicals and services market in the United States is approximately 20% while Baker Hughes's is approximately 35%.

14. Concentration in relevant markets is typically measured by the Herfindahl-Hirschman Index ("HHI").¹ Market concentration is one useful indicator of the likely competitive effects of a merger. The more concentrated a market and the more a transaction would increase concentration in a market, the more likely it is that a transaction would result in a meaningful reduction in competition. Markets in which the HHI is above 2,500 points are considered highly concentrated. Transactions that increase the HHI by more than 200 points in highly concentrated markets are presumed likely to enhance market power.

15. The refinery process chemicals and services market in the United States currently is highly concentrated, with an HHI over 2,900. The Transaction would increase the HHI by about 1,450, rendering the Transaction presumptively anticompetitive. *Fed. Trade Comm'n & U.S. Dep't of Justice Horizontal Merger Guidelines* (2010).

16. Defendants are two of a few firms that have the technical capabilities and expertise to provide refinery process chemicals and services in the United States. Defendants vigorously compete on price, service quality, and product development, and customers have benefitted from this competition.

17. The Transaction would eliminate the competition between Defendants to provide refinery process chemicals and services in the United States. After the Transaction, GE would gain the incentive and ability to raise its bid prices significantly above competitive levels, reduce its investment in research

¹ See U.S. Dep't of Justice and Federal Trade Commission, *Horizontal Merger Guidelines* § 5.3 (2010), available at <http://www.justice.gov/atr/public/guidelines/hmg-2010.html>. The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 (30² + 30² + 20² + 20² = 2,600). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

and development, and provide lower levels of service.

VI. ABSENCE OF COUNTERVAILING FACTORS

18. Entry by a new provider of refinery process chemicals and services or expansion of existing marginal providers would not be timely, likely, and sufficient to prevent the substantial lessening of competition caused by the elimination of Baker Hughes as an independent competitor.

19. Successful entry into the provision of refinery process chemicals and services in the United States is difficult, costly, and time consuming. An entrant would need to develop local infrastructure, a full line of chemicals designed for refineries, and a track record of successfully treating the products processed by refineries. Because of the significant investment oil and gas refiners make in acquiring hydrocarbons to process and the high costs of any problem or delay, refinery oil and gas refiners are unlikely to switch away from established providers, making it difficult for new refinery process chemical and service providers to enter the market.

20. Defendants cannot demonstrate cognizable and merger-specific efficiencies that would be sufficient to offset the Transaction's anticompetitive effects.

VII. VIOLATION ALLEGED

21. The effect of the Transaction, if consummated, would likely be to lessen substantially competition for refinery process chemicals and services in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. Unless restrained, the Transaction would likely have the following effects, among others:

(a) Competition in the market for refinery process chemicals and services in the United States would be substantially lessened;

(b) prices for refinery process chemicals and services in the United States would increase;

(c) the quality of refinery process chemicals and services in the United States would decrease; and

(d) innovation in the refinery process chemicals and services market in the United States would diminish.

VIII. REQUESTED RELIEF

22. The United States requests that this Court:

(a) Adjudge GE's proposed acquisition of Baker Hughes to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) Permanently enjoin and restrain Defendants from consummating the

proposed acquisition by GE of Baker Hughes or from entering into or carrying out any contract, agreement, plan, or understanding, the effect of which would be to combine GE and Baker Hughes;

(c) Award the United States its costs for this action; and

(d) Award the United States such other and further relief as the Court deems just and proper.

Dated: June 12, 2017

Respectfully submitted,

FOR PLAINTIFF UNITED STATES:

/s/

Andrew C. Finch,
Acting Assistant Attorney General

/s/

Patricia A. Brink,
Director of Civil Enforcement

/s/

Kathleen S. O'Neill,
Chief, Transportation, Energy & Agriculture
Section

/s/

Robert Lepore,
Assistant Chief, Transportation, Energy &
Agriculture Section

/s/

Tracy Fisher
Tracey Chambers
Jeremy Evans (DC Bar # 478097)
Chinita Sinkler
Trial Attorneys

U.S. Department of Justice, Antitrust
Division, Transportation, Energy &
Agriculture Section, 450 5th Street NW.,
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616-1650, tracy.fisher@usdoj.gov.

United States District Court District of Columbia

United States of America, Plaintiff, v.
*General Electric Co. and Baker Hughes
Incorporated*, Defendants.

Case No.: 1:17-cv-01146

Judge: Beryl A. Howell

FINAL JUDGMENT

Whereas, Plaintiff, United States of America, filed its Complaint on June 12, 2017, the United States and Defendants, General Electric Co. and Baker Hughes Incorporated, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

And whereas, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

And whereas, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is *ordered, adjudged and decreed*:

I. Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II. Definitions

As used in this Final Judgment:

A. "Acquirer" means Suez or another entity to whom Defendants divest any of the Divestiture Assets or with whom Defendants have entered into definitive contracts to sell any of the Divestiture Assets.

B. "GE" means defendant General Electric Co., a New York corporation with its headquarters in Boston, Massachusetts, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Baker Hughes" means defendant Baker Hughes Incorporated, a Delaware corporation with its headquarters in Houston, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Suez" means SUEZ, a French *société anonyme* with its headquarters in Paris, France, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees. Suez is the proposed purchaser of the Divestiture Assets as identified by GE.

E. "GE Water & Process Technologies" means the GE Water & Process Technologies business unit of GE as it operated prior to the filing of the Complaint in this matter, including but not limited to the entities listed in the Appendix.

F. "Divestiture Assets" means all the assets of GE Water & Process Technologies, including:

1. All tangible assets that comprise the GE Water & Process Technologies business, including but not limited to all worldwide manufacturing plants; service centers; labs; warehouse and distribution facilities; offices; the global headquarters located in Trevose, Pennsylvania; all global research and development facilities; manufacturing equipment; tooling and fixed assets; personal property; inventory; office furniture; materials; supplies; other property; all licenses, permits and authorizations issued by any governmental organization relating to GE Water & Process Technologies; assignment and/or transfer of all contracts, agreements (including supply agreements), leases, commitments, certifications, and understandings exclusively relating to GE Water & Process Technologies; all customer lists, contracts, accounts, credit records; all other business and administrative records; and all other assets used exclusively by GE Water & Process Technologies;

2. The following intangible assets:

(a) all intangible assets owned, licensed, controlled, or used primarily by the GE Water & Process Technologies business, including but not limited to all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names (excluding any trademark, trade name, service mark, or service name containing the GE monogram or the names "GE" or "General Electric"), technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information provided by GE Water & Process Technologies to its own employees, customers, suppliers, agents, or licensees, and all research data concerning historic and current research and development efforts relating to the Divestiture Assets, including but not limited to designs of experiments and the results of successful and unsuccessful designs and experiments; and

(b) a worldwide, non-exclusive, royalty-free license to all intellectual property, including but not limited to all patents, copyrights, trademarks, trade names, service marks, service

names, and trade secrets owned by GE or that GE has the right to license and used by the GE Water & Process Technologies business at any time during the period that the GE Water & Process Technologies business has been owned by GE. Such license (except for any license for trademarks, trade names, service marks, and service names containing the names "GE" or "General Electric") shall be perpetual and shall grant the Acquirer the right to make, have made, use, sell or offer for sale, copy, create derivative works, modify, improve, display, perform, and enhance the licensed intangible assets. Any improvements or modifications to these intangible assets developed by the Acquirer shall be owned solely by that Acquirer.

III. Applicability

A. This Final Judgment applies to GE and Baker Hughes, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the acquirers of the assets divested pursuant to this Final Judgment.

IV. Divestitures

A. Defendants are ordered and directed, within 90 calendar days after the signing of the Hold Separate Stipulation and Order in this matter, or five (5) calendar days after notice of the entry of the Final Judgment by the Court, whichever is later, to divest the Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period, not to exceed 90 calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Divestiture Assets as expeditiously as possible.

B. In the event Defendants are divesting the Divestiture Assets to an Acquirer other than Suez, Defendants shall promptly make known, by usual and customary means, the availability of the Divestiture Assets to be divested.

C. Defendants shall inform any person making an inquiry regarding a possible

purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment.

D. In accomplishing the divestiture ordered by this Final Judgment, Defendants shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privileges or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to any other person.

E. Defendants shall provide the Acquirer and the United States information relating to the personnel employed by the Divestiture Assets to enable the Acquirer(s) to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer(s) to employ any defendant employee whose primary responsibility is related to the production, operation, development or sale of products and services by GE Water & Process Technologies.

F. Defendants shall permit the prospective Acquirer of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities of GE Water & Process Technologies; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

G. Defendants shall warrant to the Acquirer that each asset will be operational on the date of sale.

H. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

I. Defendants shall warrant to the Acquirer (1) that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset and (2) that, following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by a Divestiture Trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets and shall be accomplished in

such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable, ongoing business providing refinery process chemicals and services. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the provision of refinery process chemicals and services; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

Any questions that arise concerning whether particular assets are appropriately considered Divestiture Assets subject to Section IV shall be resolved by the United States, in its sole discretion, consistent with the terms of this Final Judgment.

V. Appointment of Divestiture Trustee

A. If Defendants have not divested the Divestiture Assets within the time period specified in Section IV.A, Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a Divestiture Trustee becomes effective, only the Divestiture Trustee shall have the right to sell the Divestiture Assets. The Divestiture Trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section V.D of this Final Judgment, the Divestiture Trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee, reasonably necessary in the Divestiture Trustee's judgment to assist in the divestiture. Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States

approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee on any ground other than the Divestiture Trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the Divestiture Trustee within ten (10) calendar days after the Divestiture Trustee has provided the notice required under Section VI.

D. The Divestiture Trustee shall serve at the cost and expense of Defendants pursuant to a written agreement, on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee, all remaining money shall be paid to Defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee and any professionals and agents retained by the Divestiture Trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the Divestiture Trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the Divestiture Trustee and Defendants are unable to reach agreement on the Divestiture Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within 14 calendar days of appointment of the Divestiture Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee shall, within three (3) business days of hiring any other professionals or agents, provide written notice of such hiring and the rate of compensation to Defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee in accomplishing the required divestiture. The Divestiture Trustee and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Defendants shall develop financial and other information

relevant to such business as the Divestiture Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee's accomplishment of the divestiture.

F. After its appointment, the Divestiture Trustee shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee's efforts to accomplish the divestiture ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Divestiture Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Divestiture Trustee has not accomplished the divestiture ordered under this Final Judgment within six months after its appointment, the Divestiture Trustee shall promptly file with the Court a report setting forth (1) the Divestiture Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Divestiture Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Divestiture Trustee's recommendations. To the extent such reports contains information that the Divestiture Trustee deems confidential, such reports shall not be filed in the public docket of the Court. The Divestiture Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee's appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Divestiture Trustee.

VI. Notice of Proposed Divestiture

A. In the event Defendants are divesting the Divestiture Assets to an Acquirer other than Suez, within two (2) business days following execution of a definitive divestiture agreement, Defendants or the Divestiture Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or Section V of this Final Judgment. If the Divestiture Trustee is responsible, it shall similarly notify Defendants. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such notice, the United States may request from Defendants, the proposed Acquirer(s), any other third party, or the Divestiture Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), and any other potential Acquirer. Defendants and the Divestiture Trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer(s), any third party, and the Divestiture Trustee, whichever is later, the United States shall provide written notice to Defendants and the Divestiture Trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Section V.C of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Defendants under Section V.C, a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. Financing

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or Section V of this Final Judgment.

VIII. Hold Separate

Until the divestiture required by this Final Judgment has been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture ordered by this Court.

IX. Affidavits

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or Section V, Defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or Section V of this Final Judgment. In the event Defendants are divesting the Divestiture Assets to an Acquirer other than Suez, each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. In the event Defendants are divesting the Divestiture Assets to an Acquirer other than Suez, each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by Defendants, including limitation on information, shall be made within fourteen (14) calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the

efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

(1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the

material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(g) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. No Reacquisition

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XIV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

United States District Judge

Appendix

GE Betz, Inc. (US)
 Chemical Water Treatment Investments SRL
 (Argentina)
 GE Betz (UK)
 GE Betz Ireland Limited (Ireland)
 GE Betz South Africa Pty Ltd (South Africa)
 GE Betz Pty Limited (Australia) and GE Betz
 Pty Limited (New Zealand Branch)
 GE Infrastructure (Shanghai) Co. Ltd. (China)
 GE Ionics Hamma Holdings (IRE) Ltd
 (Ireland)

GE Power Controls Portugal Unipessoal LDA
 (Portugal)
 GE Water & Process Technologies (Wuxi) Co.
 Ltd. (China)
 GE Water & Process Technologies Asia Pte.
 Ltd. (Singapore)
 GE Water & Process Technologies Austria
 GmbH (Austria)
 GE Water & Process Technologies BVBA
 (Belgium)
 GE Water & Process Technologies France
 SAS (France)
 GE Water & Process Technologies GmbH
 (Germany)
 GE Water & Process Technologies Hungary
 KFT (Hungary)
 GE Water & Process Technologies Mexico, S.
 de R.L. de C.V. (Mexico)
 GE Water & Process Technologies Middle
 East FZE (Dubai)
 GE Water & Process Technologies
 Netherlands BV (NL)
 General Electric Water & Process
 Technologies Caribbean Holdings BV
 (Netherlands Antilles)
 Ionics Iberica S.L.U. (Spain)
 Water & Process Technologies SRL
 (Argentina)
 Zenon Services Limited (Virgin Islands)
 Zenon Systems Manufacturing and Services
 Limited Liability Company (Hungary)

United States District Court for The District of Columbia

United States of America, Plaintiff, v.
General Electric Co. and *Baker Hughes
 Incorporated*, Defendants.
 Case No.: 1:17-cv-01146
 Judge: Beryl A. Howell

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America ("United States"), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA" or "Tunney Act"), 15 U.S.C. 16(b)-(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendant General Electric Co. ("GE") and Defendant Baker Hughes Incorporated ("Baker Hughes") entered into a Transaction Agreement and Plan of Merger dated October 30, 2016 ("Transaction"). GE and Baker Hughes are two of the leading providers of refinery process chemicals and services used by oil and gas refineries to remove impurities from the oil and gas and to prevent damage to refinery equipment.

The United States filed a civil antitrust Complaint on June 12, 2017 seeking to enjoin the Transaction. The Complaint alleges that the likely effect of the Transaction would be to lessen competition substantially for refinery process chemicals and services in the United States in violation of Section 7

of the Clayton Act, 15 U.S.C. 18, resulting in higher prices, reduced service quality, and diminished innovation.

At the same time the Complaint was filed, the United States also filed a proposed Final Judgment and a Hold Separate Stipulation and Order ("Hold Separate") that are designed to eliminate the anticompetitive effects of the Transaction. Under the proposed Final Judgment, which is explained more fully below, GE is required to divest its GE Water & Process Technologies business unit. Under the terms of the Hold Separate, GE will take certain steps during the pendency of the ordered divestiture to ensure that GE Water & Process Technologies is operated as a competitively independent, economically viable, and ongoing business concern.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO ALLEGED VIOLATION

A. The Defendants and the Proposed Transaction

GE is a New York corporation headquartered in Boston, Massachusetts. GE is a large, diversified corporation that, among other lines of business, supplies the oil supplies the oil and gas industry through a number of business units, including GE Water & Process Technologies, a standalone business unit that sells refinery process chemicals and services. GE earned \$16 billion in revenues from its oil and gas businesses in 2015.

Baker Hughes is a Delaware corporation headquartered in Houston, Texas, with extensive operations in the oil and gas industry, including selling refinery process chemicals and services. Baker Hughes earned \$15.7 billion in revenues in 2015.

The Transaction, as initially agreed to by Defendants, would lessen competition substantially.

B. The Competitive Effects of the Transaction on Refinery Process Chemicals and Services in the United States

The Complaint alleges that the provision of refinery process chemicals

and services is a line of commerce and a relevant market within the meaning of Section 7 of the Clayton Act. Refineries process crude oil and natural gas extracted from wells (“hydrocarbons”) into finished products like gasoline. Refineries rely on a variety of special chemicals, collectively known as refinery process chemicals, to remove salts, solids, metals, and other impurities from the hydrocarbons and to prevent corrosion and damage to refinery equipment. Refineries rely on process chemical and service providers to evaluate the specific hydrocarbons flowing into their refineries and to formulate and apply customized chemical solutions to ensure the safe and efficient processing of those hydrocarbons. To develop the chemical solutions needed to address current and future challenges, these service providers maintain dedicated research and development facilities. Although refinery process chemicals and services represent just a fraction of an oil and gas refiner’s overall cost of processing hydrocarbons, using the wrong chemicals can cost a refiner millions in lost production or compromised equipment. As a result, oil and gas refineries are unlikely to stop using refinery process chemicals or switch to other products in response to a small but significant and non-transitory increase in price.

Oil and gas refiners choose from those suppliers that have service staff and support infrastructure in their local area. GE and Baker Hughes have such infrastructure, and compete with one another for customers, in areas throughout the United States. A hypothetical monopolist of refinery process chemicals and services in the United States likely would impose at least a small but significant price increase because few if any customers would substitute to purchasing other products or to purchasing outside the United States. Therefore, the United States is a relevant geographic market under Section 7 of the Clayton Act for the provision of refinery process chemicals and services.

The market for the provision of refinery process chemicals and services in the United States is highly concentrated and would become more concentrated as a result of the proposed transaction. A combined GE and Baker Hughes would control over 50% of the market for refinery process chemicals and services in the United States. The Transaction would eliminate significant head-to-head competition between GE and Baker Hughes and give the merged firm the incentive and ability to raise its prices above competitive levels, reduce

its investment in research and development, and provide lower levels of service.

Entry by new refinery process chemical and service providers or expansion by existing providers would not be timely, likely, and sufficient to prevent the substantial lessening of competition caused by the Transaction. Successful entry into the refinery process chemicals and services business is difficult, costly, and time consuming. In addition to local infrastructure, a new refinery process chemicals and services provider would have to develop a portfolio of production chemicals and hire experienced staff. In addition, because of the significant investment oil and gas refiners make in infrastructure and the high costs of any problem or delay, refiners disfavor using new providers and typically only switch providers if their existing provider performs poorly over a long period of time. As a result, it is difficult and time consuming for a new provider to enter the market, develop a track record of successful work, and grow its business.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestiture requirement of the proposed Final Judgment will eliminate the anticompetitive effects of the proposed transaction by establishing GE Water & Process Technologies as an independent and economically viable competitor in refinery process chemicals and services. The sale of GE Water & Process Technologies will provide the buyer of the divestiture assets with the necessary assets to maintain a significant presence in the United States and remain an effective competitor.

A. The Divestiture Package

To ensure continued vigorous competition, the proposed Final Judgment requires the divestiture of all of the tangible and intangible assets of GE Water & Process Technologies that are currently used to serve customers. Under the proposed Final Judgment, the tangible assets of GE Water & Process Technologies that must be divested include worldwide manufacturing plants, service centers, labs, warehouse and distribution facilities, and offices, including the business’s global headquarters located in Trevose, Pennsylvania. The transfer will also include all six global research and development facilities. This will ensure that the acquirer of the divestiture assets has the infrastructure necessary to continue providing refinery process chemicals and services to refiners and compete for opportunities.

The proposed Final Judgment also requires the transfer and licensing of intangible assets, such as intellectual property rights, sufficient to allow the buyer to be an effective competitor. GE must fully divest the complete portfolio of intellectual property used primarily by GE Water & Process Technologies. GE will keep intellectual property used primarily by other GE business units in addition to GE Water & Process Technologies, but will grant the buyer of the divestiture assets a perpetual, royalty-free license for the use of such technology.

B. Procedures

The proposed Final Judgment requires Defendants to sell the divestiture package within 90 days after the Court signs the Hold Separate in this matter, subject to one or more extensions up to a total of 90 days by the United States. The proposed Final Judgment contemplates the sale of the divestiture assets to SUEZ, a French *société anonyme*, which GE has identified as the proposed buyer of the divestiture assets. Suez provides water and wastewater treatment and waste management systems to customers throughout the world, and serves a range of industrial customers and **municipalities in the United States**. The proposed Final Judgment also provides for a process to sell the divestiture assets to an alternative acquirer in the event that the proposed sale to Suez is not completed.

The assets must be divested in such a way as to satisfy the United States in its sole discretion that the operations can and will be operated by the purchaser as a viable, ongoing business that can compete effectively to provide refinery process chemicals and services. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

In the event that Defendants do not accomplish the divestiture within the prescribed period, the proposed Final Judgment provides that upon application by the United States, the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that Defendants will pay all of the trustee’s costs and expenses. The trustee will have the authority to divest the divestiture assets to an acquirer acceptable to the United States. The trustee’s commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her

appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six (6) months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment. The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the provision of refinery process chemicals and services in the United States.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the

proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted by mail to:

Kathleen S. O'Neill, Chief,
Transportation, Energy & Agriculture
Section, Antitrust Division, United
States Department of Justice, 450 5th
Street NW., Suite 8000, Washington, DC
20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against the Transaction proposed by Defendants. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition for the provision of refinery process and water treatment chemicals and services in the United States. Thus, the proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of

alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial. 15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.*, No. 08-1965 (JR), 2009-2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.")²

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft*, 56 F.3d at 1458-62. With respect to the adequacy of the relief secured by the decree, a court may not "engage in an

² The 2004 amendments substituted "shall" for "may" in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments "effected minimal changes" to Tunney Act review).

unrestricted evaluation of what relief would best serve the public.” *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court’s role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is “within the reaches of the public interest.” More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).³ In determining whether a proposed settlement is in the public interest, a district court “must accord deference to the government’s predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.” *SBC Commc’ns*, 489 F. Supp. 2d at 17; see also *U.S. Airways*, 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be “deferential to the government’s predictions as to the effect of the proposed remedies”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States’ prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the

³ Cf. *BNS*, 858 F.2d at 464 (holding that the court’s “ultimate authority under the [APPA] is limited to approving or disapproving the consent decree”); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to “look at the overall picture not hypercritically, nor with a microscope, but with an artist’s reducing glass”). See generally *Microsoft*, 56 F.3d at 1461 (discussing whether “the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest’”).

range of acceptability or is ‘within the reaches of public interest.’” *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff’d sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *U.S. Airways*, 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft*, 56 F.3d at 1461); *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *SBC Commc’ns*, 489 F. Supp. 2d at 17.

Moreover, the court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government’s decisions such that its conclusions regarding the proposed settlements are reasonable; *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“the ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). Because the “court’s authority to review the decree depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this Court recently confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc’ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to

require the court to permit anyone to intervene.” 15 U.S.C. 16(e)(2); see also *U.S. Airways*, 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11.⁴ A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways*, 38 F. Supp. 3d at 75.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 12, 2017

Respectfully submitted,

/s/

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⁴ See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the “Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone”); *United States v. Mid-Am. Dairymen, Inc.*, No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (“Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93–298, at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

DEPARTMENT OF JUSTICE**Antitrust Division****United States, et al. v. The Dow Chemical Co., et al., Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Asset Preservation Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States, et al. v. The Dow Chemical Co., et al.*, Civil Action No. 1:17–cv–01176. On June 15, 2017, the United States filed a Complaint alleging that the proposed merger of The Dow Chemical Company (“Dow”) and E.I. DuPont de Nemours and Company (“DuPont”) would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires the defendants to divest DuPont’s Finesse herbicides business and Rynaxypyr insecticides business, and Dow’s acid copolymers and ionomers business.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Department of Justice’s Web site at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division’s Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530 (telephone: 202–307–0924).

Patricia A. Brink,
Director of Civil Enforcement.

United States District Court for The District of Columbia

United States of America, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8700, Washington, DC 20530, State of Iowa, 1305 East Walnut Street, Des Moines, IA 50319, State of Mississippi, 550 High Street, Jackson, MS 39201, State of Montana, 555 Fuller Ave., Helena, MT 59601,

Plaintiffs, v. The Dow Chemical Company, 2030 Dow Center, Midland, MI 48674 and E.I. Du Pont de Nemours and Company, 974 Centre Road, Wilmington, DE 19805, Defendants.

Case No.: 1:17–cv–01176
Judge: Amit Mehta

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, the State of Iowa, the State of Mississippi, and the State of Montana (collectively, “Plaintiff States”), acting by and through their respective Offices of the Attorney General, bring this civil action to enjoin the proposed merger of The Dow Chemical Company (“Dow Chemical”) and E.I. du Pont de Nemours and Company (“DuPont”).

I. INTRODUCTION

1. In December 2015, Dow Chemical and DuPont announced that they had agreed to a merger of equals in a transaction with an estimated value exceeding \$130 billion. Both Dow Chemical and DuPont are among the largest chemical companies in the world.

2. Dow Chemical and DuPont each make a wide variety of innovative crop protection chemicals used by farmers across the United States. Each company also manufactures a number of petrochemicals, including high-pressure ethylene derivatives that are crucial inputs to a number of important products and industries.

3. The agricultural sector is a large and vital part of the American economy. American farmers grow crops to feed consumers in the United States and abroad, to sustain livestock, and to produce alternative energy to power homes, vehicles, and industries. Every year, American farmers plant tens of millions of acres of corn, soybeans, wheat, and specialty crops, such as fruits, nuts, and vegetables. To meet the needs of a growing population, American farmers rely on a variety of effective crop protection chemical products, including herbicides and insecticides, which protect crops from weeds and insects that damage crops and reduce yield.

4. Dow Chemical and DuPont are two of only a handful of chemical companies that manufacture certain types of crop protection chemicals. Vigorous competition between Dow Chemical’s and DuPont’s crop protection chemicals has benefitted farmers through lower prices, more effective solutions to certain pest and weed problems, and superior service. In particular, Dow Chemical and DuPont

compete in the U.S. sales of broadleaf herbicides for winter wheat and insecticides for chewing pests. That competition would be lost if the merger is consummated. Accordingly, the proposed acquisition likely would substantially lessen competition in the markets for certain crop protection chemicals in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

5. Dow Chemical and DuPont also compete in the manufacture and sale of two types of high-pressure ethylene derivative products called acid copolymers and ionomers, which are used in the production of flexible food packaging and other industrial applications. The combination of Dow Chemical and DuPont would result in a merger to monopoly in the production of acid copolymers and ionomers in the United States. Accordingly, the proposed transaction likely would substantially lessen competition in the markets for acid copolymers and ionomers in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

II. DEFENDANTS AND THE TRANSACTION

6. Dow Chemical, founded in 1897, is headquartered in Midland, Michigan, operates in approximately 180 countries, and employs over 50,000 people worldwide. In 2016, Dow Chemical had revenues of approximately \$48 billion. Dow Chemical’s primary lines of business are chemical, plastic, and agricultural products and services. Dow Chemical’s products are used in various industries, ranging from agriculture to consumer goods.

7. DuPont, founded in 1802, is headquartered in Wilmington, Delaware, operates in approximately 90 countries, and employs more than 60,000 people worldwide. In 2016, DuPont reported revenues of \$24.5 billion. DuPont’s primary products include crop protection chemicals and performance products, such as plastics and polymers.

8. Pursuant to a December 11, 2015 agreement, Dow Chemical and DuPont have agreed to an all-stock merger of equals. At the time of the merger announcement, the combined market capitalization of the companies was \$130 billion. The merger plan contemplates spinning off the firms’ combined assets into three separate, publicly-traded companies as soon as feasible. One of those companies would focus on agriculture products (with approximately \$18 billion in revenue), another on material sciences

(approximately \$51 billion in revenue), and a third on “specialty” products, such as organic light-emitting diodes and building wrap (approximately \$13 billion in revenue).

III. JURISDICTION AND VENUE

9. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

10. The Plaintiff States bring this action under Section 16 of the Clayton Act, 15 U.S.C. 26, to prevent and restrain the defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18. The Plaintiff States, by and through their respective Attorneys General, bring this action as *parens patriae* on behalf of and to protect the health and welfare of their citizens and the general economy of each of their states.

11. Defendants Dow Chemical and DuPont sell crop protection chemicals, including herbicides and insecticides, and acid copolymers and ionomers throughout the United States. They are engaged in the regular, continuous, and substantial flow of interstate commerce, and their sales of crop protection chemicals and acid copolymers and ionomers have had a substantial effect on interstate commerce. This Court has subject matter jurisdiction over this action under Section 15 of the Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

12. Defendants have consented to venue and personal jurisdiction in this judicial district. Venue is therefore proper in this district under Section 12 of the Clayton Act, 15 U.S.C. 22, and 28 U.S.C. 1391(c).

IV. CROP PROTECTION CHEMICALS

A. Background

13. Crop protection chemicals are used to protect crops from damage or loss from other biological organisms such as weeds, insects, or disease (*e.g.*, fungus). Crop protection chemicals are critical to protecting crop yield—the total amount of a crop produced at each harvest—which benefits farmers and American consumers.

14. Crop protection chemicals can be separated into three broad categories that have different qualities and attributes: herbicides (to combat weeds); insecticides (to combat insect pests); and fungicides (to combat microbial disease).

15. The key component of any particular crop protection chemical is the “active ingredient,” which is the chemical molecule that produces the desired effect against the targeted weed

or insect pest. Crop protection chemicals are typically sold as “formulated products” that contain the active ingredient and also inactive ingredients such as solvents, fillers, and adjuvants used to stabilize the active ingredient and facilitate its effective use on the intended crops.

16. Both active ingredients and formulated products must be registered with the U.S. Environmental Protection Agency (“EPA”) and approved for use. In order to gain approval, products must meet stringent toxicity and efficacy standards. Approvals are granted on a crop-by-crop basis and contain strict dosage requirements. A farmer wishing to control a certain pest on his or her farm can use only the products and dose-rates that the EPA has approved for the particular crops to which the product will be applied.

17. The crop protection industry includes a handful of large integrated research and development firms (including Dow Chemical and DuPont) that develop, manufacture, and sell crop protection chemicals. While the large research and development firms sometimes sell directly to farmers, their primary customers are large distributors and farmer co-ops that resell products to farmers.

1. Broadleaf Herbicides for Winter Wheat

18. Both Dow Chemical and DuPont produce herbicides for winter wheat. Winter wheat is a type of grass that is planted in autumn and produces an edible grain. In the United States, winter wheat is grown primarily in the Great Plains states, including Kansas, Nebraska, and Texas.

19. Herbicides are chemicals used to combat weeds that harm crops. They can be selective (killing only certain types of plants) or non-selective. Non-selective herbicides kill all plant matter, including weeds and the crop. Because of this, non-selective herbicides are typically used after the crop is harvested, to clear the field of remaining weeds. Selective herbicides target only weeds, and are applied “post-emergence,” or during the growth of the crop.

20. There are three common types of selective herbicide products: broadleaf, grass, and cross-spectrum. Broadleaf herbicides primarily eliminate or suppress broadleaf weeds. Grass herbicides primarily eliminate or suppress grass weeds. Cross-spectrum herbicides are effective on both grass and broadleaf weeds. Each herbicide formulation has a different spectrum of weeds on which it is effective, so a farmer chooses an herbicide based on

the particular kinds of weeds threatening the crop.

21. Herbicides are registered with the EPA for use on particular crops. Because crop choices and weed threats vary from farm to farm, the options available to farmers may vary from location to location, depending on the specific crop/weed combinations a farmer faces.

22. Dow Chemical and DuPont both offer herbicides that are labeled and registered for the control of broadleaf weeds in winter wheat crops. DuPont’s Finesse product is the top broadleaf herbicide used to combat the weed spectrum that typically threatens winter wheat crops. Dow Chemical recently introduced a new broadleaf herbicide for winter wheat, called Quelex.

2. Insecticides for Chewing Pests

23. Dow Chemical and DuPont also sell insecticides for chewing pests. Insecticides are used to suppress or eliminate insect infestations in crops. There are three main classes of insect pests: (1) chewing insects (*e.g.*, moth larvae and beetles); (2) sucking insects (*e.g.*, aphids and stink bugs); and (3) thrips (*i.e.*, thunder flies), which have attributes of both chewing and sucking pests.

24. Insecticide use is particularly important for specialty crop farmers of tree fruit, tree nuts, and other fruits and vegetables (“specialty crops”). Any damage to specialty crops, no matter how slight, can result in the fruit or nut being rejected for sale. Thus, specialty crop farmers are particularly averse to the risk of insect damage when choosing an insecticide. Specialty crop farmers also value selective chemistry insecticides because they are less harmful to beneficial insects (such as bees and parasitic wasps) that not only pollinate fruit, but also help to control damaging insects, such as mites. In contrast, broad spectrum chemistries, such as pyrethroids, kill most of the insects in a field, including beneficial ones. Farmers therefore either minimize their use and/or use them towards the end of a growing season.

25. DuPont produces the active ingredient chlorantraniliprole, which DuPont markets under the trade name, Rynaxypyr. Rynaxypyr is one of the best selling and most effective active ingredients used to combat chewing pests on the market. Rynaxypyr is patent-protected until 2022. In the United States, Rynaxypyr is marketed and sold in formulations under the brand names Altacor, Coragen, and Prevathon. DuPont’s 2015 U.S. insecticides sales totaled \$118 million; of that total, Rynaxypyr sales accounted for \$73 million.

26. Dow Chemical manufactures and sells two active ingredients which are also effective against chewing pests: (1) methoxyfenozide, sold under the brand name Intrepid, and (2) spinetoram, sold under the brand names Delegate and Radiant. In 2015, Dow Chemical had a total of \$165 million in U.S. insecticides sales. Of that total, spinetoram sales accounted for \$57 million and methoxyfenozide sales accounted for \$34 million.

B. Relevant Markets

1. Broadleaf Herbicides for Winter Wheat Sold in the United States

27. To combat broadleaf weeds in winter wheat, particularly in the central plains of the United States, farmers need broadleaf herbicides that are labeled and registered for use on winter wheat. Farmers of winter wheat cannot use grass herbicides to combat broadleaf weeds because they are ineffective. Farmers would not use cross-spectrum herbicides to combat broadleaf weeds, as cross-spectrum herbicides are significantly more expensive and, thus, it would not be cost-justified to use cross-spectrum herbicides for broadleaf weeds alone. Farmers would not forgo using broadleaf herbicides altogether, because doing so would risk significant wheat yield losses.

28. All herbicides sold in the United States must be registered and approved by the EPA. Similar products available in other countries cannot be offered to United States customers due to EPA regulations, so they are not competitive constraints.

29. A small but significant increase in the price of broadleaf herbicides sold in the United States labeled and registered for use on winter wheat would not cause customers of those herbicides to substitute to grass or cross-spectrum herbicides, nor would farmers forgo using herbicides altogether and risk weed damage to their crops. As a result, customers are unlikely to switch away from broadleaf herbicides sold in the United States in volumes sufficient to defeat such a price increase. Accordingly, the development, manufacture, and sale of broadleaf herbicides sold in the United States labeled and registered for use on winter wheat is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

2. Insecticides for Chewing Pests Sold in the United States

30. Insecticides for chewing pests are targeted to combat a particular type of pest, and insecticides for other types of pests cannot, in general, be used as

substitutes. While there are broad-spectrum insecticides which are effective on more than one type of pest, those insecticides tend to kill indiscriminately, including beneficial insects. Specialty crop farmers in California, Washington and elsewhere need beneficial insects such as bees to pollinate their crops. These farmers would not, however, choose to forgo managing the insect pests which attack their crops, because even slight damage can result in an entire harvest being rejected for sale.

31. All insecticides sold in the United States must be registered and approved by the EPA. Similar products available in other countries cannot be offered to United States customers due to EPA regulations, so they are not competitive constraints.

32. A small but significant increase in the price of chewing pest insecticides sold in the United States would not cause customers of those insecticides to substitute to broad-spectrum insecticides, nor would farmers forgo using insecticides altogether and risk severe pest damage to their whole crop, in volumes sufficient to defeat such a price increase. Accordingly, the development, manufacture, and sale of chewing pest insecticides sold in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

C. Anticompetitive Effects of the Proposed Acquisition

1. Broadleaf Herbicides for Winter Wheat

33. Dow Chemical and DuPont are two of the four largest suppliers of broadleaf herbicides for winter wheat crops in the United States. Together they account for over forty percent of the total market, with combined annual sales of \$81 million in 2015. Dow Chemical and DuPont compete head-to-head for the development, manufacture, and sale of broadleaf herbicides for winter wheat. That competition, which would be lost if the merger is consummated, has benefited farmers through lower prices, more effective solutions, and superior service.

34. Competition between Dow Chemical and DuPont has also spurred research, development, and marketing of new and improved broadleaf herbicides for winter wheat. For example, Dow Chemical intends to market its Quelex herbicide, which was recently introduced into the market, to farmers of winter wheat that currently use DuPont's market-leading Finesse product. DuPont considered adopting competitive responses, including price

reductions, to protect its market share from Dow Chemical's Quelex herbicide.

35. The proposed merger, therefore, likely would substantially lessen competition for the development, manufacture, and sale of broadleaf herbicides for winter wheat, in violation of Section 7 of the Clayton Act. This likely would lead to higher prices, less favorable contractual terms, and a reduced incentive to spend significant resources in developing new products.

2. Insecticides for Chewing Pests

36. Dow Chemical and DuPont are the two largest suppliers of insecticides used on chewing pests in the United States. Together they account for \$238 million in annual sales. The merger of Dow Chemical and DuPont likely would substantially lessen competition in the market for the development, manufacture, and sale of chewing pest insecticides.

37. If the merger between Dow Chemical and DuPont is consummated, the combined company will control nearly seventy-five percent of the market for chewing pest insecticides in the United States. Additionally, Dow Chemical and DuPont's closest competitor sells competing products that are mixed with DuPont's Rynaxypyr, for which the competitor has a license. As a result, specialty crop farmers would have little alternative but to accept increased prices post merger.

38. Competition between Dow Chemical and DuPont has benefited customers of chewing pest insecticides through lower prices, more effective solutions, and superior service. Customers also have benefited from the competition between Dow Chemical and DuPont by obtaining more favorable contract terms, such as financing and priority in product shipments to coincide with crop growing seasons. A combined Dow Chemical and DuPont would have the incentive and ability to eliminate or restrict financial and other incentives to customers, extinguishing this competition and those tangible and valuable benefits to customers.

39. The proposed merger, therefore, likely would substantially lessen competition for the development, manufacture, and sale of chewing pest insecticides, in violation of Section 7 of the Clayton Act. This likely would lead to higher prices, less favorable contractual terms, and less innovation.

D. Difficulty of Entry

40. The discovery, development, testing, registration, and commercial launch of a new herbicide or insecticide can take ten to fifteen years and can cost well over \$150 million dollars. Given

the lengthy development cycle, the high hurdles and substantial cost of regulatory approval, entry of additional competitors in the market for either broadleaf herbicides for winter wheat or chewing pest insecticides is not likely to be timely or sufficient to defeat a post-merger price increase.

V. ACID COPOLYMERS AND IONOMERS

41. High-pressure ethylene derivatives (“HiPEDs”) are plastic resins produced by “cracking,” or breaking down, petrochemicals into their constituent parts and combining them with various molecules to produce polymer resins. The resulting resins, such as low density polyethylene, ethylene vinyl acetate, acrylate copolymers, grafted polyolefins, acid copolymers, and ionomers, have different performance characteristics, such as hardness, corrosion resistance or scratch resistance, depending on the materials used in their construction.

42. HiPED resins are mixed with other plastic resins to manufacture numerous plastic products, such as films, bottles, coatings, and packaging. Customers source particular HiPED resins that meet their specific needs and requirements and build their manufacturing process around specific resin combinations that give the final product the desired performance characteristics.

43. Unlike most HiPED resins, where there is substitution possible for both the supply and demand of the products, neither customers nor manufacturers can easily switch between acid copolymers and ionomers (two specific types of HiPED resins) and other HiPED resins.

A. Acid Copolymers

44. Acid copolymers are a specific type of HiPED resin manufactured using highly acidic input products. In order to handle inputs with high acid content, HiPED resin manufacturers must install specific corrosion-resistant equipment that is not used for the manufacture of other HiPED resins. Such equipment can cost millions of dollars.

45. Acidic inputs make acid copolymers both highly adhesive and very durable. As a result, acid copolymers are used to create strong seals between substrates, or “tie layers,” of flexible packaging. Their increased adhesive ability is particularly necessary in applications where packaging will be exposed to challenging environments, such as high levels of grease, oil, acid, or dust.

46. Because of these characteristics, packaging films made using acid copolymers are ideal for use in the food

and beverage industry. Indeed, this industry consumes the vast majority of acid copolymers produced, for use in products such as juice boxes, toothpaste tubes, and meat and cheese wrap, among others. Unlike other plastic films, food and beverage packaging must adhere to strict food safety guidelines, and significant deviations from approved formulas must undergo a rigorous requalification process that can take significant time and expense.

47. Both Dow Chemical and DuPont manufacture acid copolymers in the United States. Dow Chemical manufactures acid copolymers in a dedicated corrosion-resistant facility that is part of its larger chemical complex in Freeport, Texas. DuPont manufactures acid copolymers and other HiPED resins on corrosion-resistant manufacturing lines within facilities located in Sabine, Texas and Victoria, Texas.

B. Ionomers

48. Ionomers are another specific type of HiPED resin. They are directly derived from acid copolymers and are produced by neutralizing acid copolymers with sodium, zinc, magnesium, or other salts. As a result of this process, ionomers are hard and durable. When added to a plastic coating, ionomers make the resulting product more impact- and cut-resistant.

49. Ionomers are used in a multitude of applications, such as decking and automotive parts. Ionomers are preferred for these end uses because their superior toughness and impact resistance protect the underlying product from the repeated blows it is subjected to.

50. Both Dow Chemical and DuPont produce ionomers in the United States. DuPont manufactures ionomers in-line with its acid copolymer production in Sabine, Texas. Dow Chemical manufactures acid copolymers in its Freeport, Texas facility and then ships them to Odessa, Texas, where a third party converts them to ionomers.

C. Relevant Markets

1. Acid Copolymers

51. Food and beverage packaging manufacturers purchase the majority of acid copolymers produced in the United States. These customers rely upon the superior sealant and adhesive characteristics acid copolymers provide as compared to other HiPED resins. Additionally, because food and beverage packaging must adhere to strict food safety guidelines, significant deviations from approved formulas must undergo a rigorous qualification process that can

take significant time and incur additional costs. Most customers therefore would not switch to another product if faced with a significant and non-transitory increase in the price of acid copolymers.

52. Customers have consistently reported that purchasing acid copolymers abroad is not a realistic option for domestic purchasers, due to taxes, tariffs, logistical costs, and the longer lead times associated with importing acid copolymers. Most customers report that it would take considerably more than a small, significant, and non-transitory increase in price to make European suppliers a viable alternative to Dow Chemical and DuPont.

53. A small but significant increase in price for acid copolymers sold in the United States would not cause customers to turn to another product in sufficient numbers to defeat such a price increase. Thus, the development, manufacture, and sale of acid copolymers in the United States constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act.

2. Ionomers

54. Customers purchase ionomers for the superior impact- and cut-resistance characteristics that are not available in other HiPED resins. These customers rely on the hardness and resilience that an ionomer-based coating provides as compared to other coatings. Customers cannot switch to other, less resilient, coatings and cannot forgo the use of protective coatings altogether, as either choice would significantly decrease the useful lifespan of the underlying products. Most customers therefore would not switch to another product if faced with a small but significant and non-transitory increase in the price of ionomers.

55. U.S. customers cannot turn to ionomer suppliers abroad due to taxes, tariffs, logistical costs, and longer lead times associated with importing ionomers. Most customers report that it would take considerably more than a small, significant, and non-transitory increase in price to make European suppliers a viable alternative to Dow Chemical and DuPont.

56. A small but significant increase in price for ionomers sold in the United States would not cause customers to turn to another product in sufficient numbers to defeat such a price increase. Thus, the development, manufacture, and sale of ionomers in the United States constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act.

D. Anticompetitive Effects of the Proposed Transaction

1. Acid Copolymers

57. Dow Chemical and DuPont are the only two manufacturers of acid copolymers in the United States. Dow Chemical controls over 80 percent of the U.S. market and DuPont is responsible for 19 percent of sales (less than one tenth of one percent of acid copolymers are imported). The merger of the only U.S. manufacturers of these products would leave customers with little alternative but to accept increased prices post merger.

58. As a result of head-to-head competition between Dow Chemical and DuPont, customers have obtained better pricing, service, and contract terms. In some cases, customers report that Dow Chemical and DuPont have competed to assist customers with the development of new uses for existing acid copolymer products, allowing customers to expand sales and better serve their own consumers. Customers also have benefited from the development of new acid copolymer products, which has been spurred on by competition between Dow Chemical and DuPont.

59. The proposed merger would likely substantially lessen competition for the development, manufacture, and sale of acid copolymers in violation of Section 7 of the Clayton Act. The U.S. market for acid copolymers is highly concentrated and would become significantly more concentrated as a result of the proposed merger to monopoly: Dow Chemical and DuPont will control over 99 percent of the acid copolymers market in the United States post merger, leading to higher prices and reduced innovation.

2. Ionomers

60. Dow Chemical and DuPont are the only two manufacturers of ionomers in the United States, where the two companies collectively are responsible for all sales. Dow Chemical and DuPont are each other's only competitor for ionomers and customers would have no alternative but to accept increased prices post merger.

61. Customers have benefited from the competition between Dow Chemical and DuPont. Dow Chemical is the only company contesting DuPont's near-monopoly in ionomers. Its presence has resulted in better pricing and contract terms for customers, who otherwise would have no choice but to purchase from DuPont. Customers also have benefited from competition between Dow Chemical and DuPont to develop new products from ionomers and new uses for existing ionomer products.

62. The proposed merger would likely substantially lessen competition for the development, manufacture, and sale of ionomers in violation of Section 7 of the Clayton Act. The market for ionomers is highly concentrated and the proposed merger would result in a monopoly, leading to higher prices and reduced innovation.

E. Difficulty of Entry

1. Acid Copolymers

63. In addition to the specialized equipment required to produce ethylene derivatives generally, acid copolymer manufacturing requires a high-pressure autoclave and all equipment surfaces must be coated with a corrosion-resistant material. Only Dow Chemical and DuPont have both high-pressure autoclaves and corrosion-resistant equipment. The cost associated with upgrading an existing ethylene derivative manufacturing operation to produce acid copolymers is estimated to be in the millions of dollars. If the merged firm were to raise prices, timely and sufficient entry is unlikely to deter or counteract competitive harm.

2. Ionomers

64. The manufacturing of ionomers requires specialized know-how as well as ready and reliable access to acid copolymers, a key input into ionomer manufacturing. Post merger, Dow Chemical and DuPont will effectively control the entire U.S. market for acid copolymers. As such, even if a third party has the technical capability to manufacture ionomers, it would be limited by the amount of acid copolymers it could obtain on the open market—a market primarily controlled by the merged entity. Because of the specialized know-how and the likely foreclosure of access to a key ingredient, if the merged firm were to raise prices, timely and sufficient entry would be unlikely to deter or counteract competitive harm.

VI. VIOLATIONS ALLEGED

65. If allowed to proceed, Dow Chemical and DuPont's proposed merger would likely reduce or eliminate competition in the markets for broadleaf herbicides for winter wheat and chewing pest insecticides, and tend to create a monopoly in the markets for acid copolymers and ionomers, in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

66. Among other things, the transaction would:

(a) eliminate significant present and future head-to-head competition between Dow Chemical and DuPont in

the markets for broadleaf herbicides for winter wheat, chewing pest insecticides, acid copolymers, and ionomers;

(b) likely raise prices for broadleaf herbicides for winter wheat, chewing pest insecticides, acid copolymers, and ionomers;

(c) likely eliminate innovation rivalry by two of the leading developers of new crop protection chemicals;

(d) consolidate the supply of acid copolymers and ionomers under the control of a single firm; and

(e) likely cause the number and quality of advances in acid copolymers and ionomers to decrease.

VII. REQUESTED RELIEF

67. Plaintiffs request that the Court:

(a) adjudge and decree that the proposed merger between Dow Chemical and DuPont is unlawful and in violation of Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) preliminarily and permanently enjoin and restrain defendants and all persons acting on their behalf from entering into any agreement, understanding, or plan whereby Dow Chemical and DuPont would merge or combine;

(c) award Plaintiffs the costs of this action; and

(d) grant Plaintiffs such other and further relief as the Court may deem just and proper.

Dated: June 15, 2017

Respectfully submitted,

For Plaintiff United States of America:

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CERTIFICATE OF SERVICE

I, Lowell Stern, hereby certify that on June 15, 2017, I caused a copy of the foregoing Complaint, Asset Preservation Stipulation and Order, proposed Final Judgment, Competitive Impact Statement, and Explanation of Consent Decree Procedures, to be served upon defendants The Dow Chemical Company and E.I. du Pont de Nemours and Company by mailing the documents electronically to their duly authorized legal representatives, as follows:

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, State of Iowa,
State of Mississippi, and State of Montana,
Plaintiffs, v. The Dow Chemical Company
and E.I. DuPont De Nemours and Company
Defendants.

Case No.: 1:17-cv-01176

Judge: Amit Mehta

PROPOSED FINAL JUDGMENT

WHEREAS, plaintiffs United States of America and the States of Iowa, Mississippi, and Montana (collectively, "Plaintiff States"), filed their Complaint on June 15, 2017, plaintiffs and defendants, The Dow Chemical Company and E.I. du Pont de Nemours and Company, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights and assets by defendants to assure that competition is not substantially lessened;

AND WHEREAS, plaintiffs require defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, defendants have represented to plaintiffs that the divestitures required below can and will be made and that defendants will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against defendants under Section 7 of the Clayton Act, 15 U.S.C. 18.

II. DEFINITIONS

As used in this Final Judgment:

A. "Acquirer" or "Acquirers" means the entity or entities to which defendants divest the Divestiture Assets.

B. "Acquirer of the Crop Protection Divestiture Assets" means the entity to which defendants divest the Crop Protection Divestiture Assets.

C. "Acquirer of the Material Science Divestiture Assets" means the entity to which defendants divest the Material Science Divestiture Assets.

D. "DuPont" means defendant E.I. du Pont de Nemours and Company, a Delaware corporation with its headquarters in Wilmington, Delaware, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

E. "Dow Chemical" means defendant The Dow Chemical Company, a Delaware corporation with its headquarters in Midland, Michigan, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

F. "Calgary Facility" means DuPont's interest in the facility located at 4444 72nd Avenue SE., Calgary, Alberta, Canada T2C 2C1.

G. "Freeport Facility" means Dow Chemical's dedicated acid copolymer production facility located within the B-7700 Block and B-7800 Block of Dow Chemical's integrated chemical site at 2301 Brazosport Blvd., APB Building, Freeport, Texas 77541, including a ground lease to the real property underlying the Freeport Facility, but not including ownership of any underlying real property.

H. "Manati Manufacturing Unit" means the manufacturing unit within DuPont's industrial complex at Km ²/₃ Rr 686, Tierras Nuevas Salientes Ward, Manati, Puerto Rico 00674.

I. "Mobile Facility" means DuPont's facility located at 12650 Highway 43 N, Axis, Alabama 36505.

J. "DuPont's Finesse-formulated products" means all products (including Finesse) packaged at the Calgary Facility and containing the active ingredients Metsulfuron Methyl and Chlorsulfuron Methyl produced at the Manati Manufacturing Unit.

K. "DuPont's Rynaxypyr-formulated products" means all products manufactured at the Mobile Facility that contain the active ingredient Chlorantraniliprole (including Altacor, Coragen, and Prevathon), except seed treatment applications.

L. The "Finesse Business" means:

1. the Manati Manufacturing Unit;
2. the lease to the Calgary Facility;
3. all tangible assets primarily relating to DuPont's Finesse-formulated products, including, but not limited to, manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets at the Manati Manufacturing Unit and at the Calgary Facility used in connection with DuPont's Finesse-formulated products;

all licenses, permits and authorizations issued by any governmental organization primarily relating to DuPont's Finesse-formulated products (to the extent such licenses, permits, and authorizations are capable of assignment or transfer); all contracts (or portions thereof), teaming arrangements, agreements (or portions thereof), leases, commitments, certifications, and understandings, primarily relating to DuPont's Finesse-formulated products, including supply agreements; all customer lists, contracts, accounts, and credit records primarily relating to DuPont's Finesse-formulated products; all repair and performance records and all other records primarily relating to DuPont's Finesse-formulated products; except that defendants may retain copies of or access to any tangible assets primarily relating to DuPont's Finesse-formulated products that are necessary in order to perform any services pursuant to their agreements with the Acquirer of the Crop Protection Divestiture Assets, provided, however, that defendants may not otherwise use any such tangible assets in connection with the development, manufacture, and/or sale of broadleaf herbicides for winter wheat; and

4. all intangible assets owned, licensed, controlled, or used by DuPont, wherever located, primarily relating to DuPont's Finesse-formulated products, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks (including Finesse), trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information DuPont provides to its own employees, customers, suppliers, agents or licensees, and all research data concerning historic and current research and development efforts primarily relating to DuPont's Finesse-formulated products, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments; except that defendants may retain copies of or access to any intangible assets primarily relating to DuPont's Finesse-formulated products that are necessary in order to perform any services pursuant to their agreements with the Acquirer of the Crop Protection Divestiture Assets,

provided, however, that defendants may not otherwise use any such intangible assets in connection with the development, manufacture, and/or sale of broadleaf herbicides for winter wheat.

M. The "Rynaxypyr Business" means:

1. the Mobile Facility;
2. all tangible assets primarily relating to DuPont's Rynaxypyr-formulated products, including, but not limited to, manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property and all assets at the Mobile Facility used in connection with DuPont's Rynaxypyr-formulated products; all licenses, permits, and authorizations issued by any governmental organization primarily relating to DuPont's Rynaxypyr-formulated products (to the extent such licenses, permits, and authorizations are capable of assignment or transfer); all contracts (or portions thereof), teaming arrangements, agreements (or portions thereof), leases, commitments, certifications, and understandings, primarily relating to DuPont's Rynaxypyr-formulated products, including supply agreements; all customer lists, contracts, accounts, and credit records primarily relating to DuPont's Rynaxypyr-formulated products; all repair and performance records and all other records primarily relating to DuPont's Rynaxypyr-formulated products; except that defendants (i) may retain copies of or access to any tangible assets used by DuPont primarily relating to the Rynaxypyr-formulated products that are necessary in order to perform any services pursuant to their agreements with the Acquirer of the Crop Protection Divestiture Assets and (ii) may retain seed treatment assets, provided, however, that defendants may not otherwise use any such tangible assets in connection with the development, manufacture, and/or sale of insecticides for chewing pests; and

3. all intangible assets owned, licensed, controlled, or used by DuPont, wherever located, primarily relating to DuPont's Rynaxypyr-formulated products, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks (including Altacor, Coragen, and Prevathon), trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances,

quality assurance and control procedures, design tools and simulation capability, all manuals and technical information DuPont provides to its own employees, customers, suppliers, agents or licensees; and all research data concerning historic and current research and development efforts primarily relating to DuPont's Rynaxypyr-formulated products, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments; except that defendants (i) may retain copies of or access to any intangible assets used by DuPont relating to DuPont's Rynaxypyr-formulated products that are necessary in order to perform any services pursuant to their agreements with the Acquirer of the Crop Protection Divestiture Assets and (ii) may retain seed treatment assets, provided, however, that defendants may not otherwise use any such intangible assets in connection with the development, manufacture, and/or sale of insecticides for chewing pests.

N. "Crop Protection Divestiture Assets" means:

1. the Finesse Business; and
2. the Rynaxypyr Business.

O. "Material Science Divestiture Assets" means:

1. the Freeport Facility;
2. all tangible assets located at the Freeport Facility and primarily used by Dow Chemical's acid copolymer and ionomers business in the United States, including, but not limited to, research and development assets, manufacturing equipment, tooling and fixed assets, personal property, inventory, office furniture, materials, supplies, and other tangible property, except that the Material Science Divestiture Assets do not include (i) information technology, equipment, and tools (e.g., servers, network equipment, and enterprise workstations) connected to Dow Chemical's network or (ii) tangible assets that will be used by defendants to perform any services pursuant to their agreements with the Acquirer of the Material Science Divestiture Assets, provided, however, that defendants may not use any such tangible assets to develop, manufacture, and/or sell acid copolymers and ionomers; all licenses, permits, and authorizations issued by any governmental organization primarily for the benefit of the acid copolymer and ionomers business in the United States (to the extent such licenses, permits, and authorizations are capable of assignment or transfer); all contracts, teaming arrangements, agreements, including supply agreements, leases, commitments, certifications, and understandings

primarily relating to Dow Chemical's acid copolymer and ionomers business in the United States (collectively "Contracts"), in each case to the extent relating to the acid copolymer and ionomers business, provided that to the extent transfer of any Contract requires the consent of another party, Dow Chemical shall satisfy its obligation by using reasonable best efforts to obtain such consent; all customer lists, accounts, and credit records, in each case to the extent relating to the acid copolymer and ionomers business; all records primarily relating to the acid copolymer and ionomers business in the United States, including repair and performance records, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, manuals and technical information Dow Chemical provides to its own employees, customers, suppliers, agents or licensees of such acid copolymer and ionomers business, and research data concerning historic and current research and development efforts, including but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments, in each case to the extent relating to the acid copolymer and ionomers business, except that defendants may retain copies of or access to (i) any such records used by defendants' retained businesses other than Dow Chemical's acid copolymer and ionomers business and (ii) any such records used in connection with an OSA or to perform any services pursuant to their agreements with the Acquirer of the Material Science Divestiture Assets, provided, however, that defendants may not use any such records to develop, manufacture, and/or sell acid copolymers and ionomers; and

3. all intangible assets primarily used by Dow Chemical in connection with the development, manufacture, and/or sale of acid copolymers and ionomers in the United States, including, but not limited to, patents, licenses and sublicenses, intellectual property, copyrights, trademarks (including Primacor), trade names, service marks, service names, technical information, know-how, and trade secrets, except that, to the extent any intangible assets primarily used by Dow Chemical's acid copolymer and ionomers business in the United States are also used by other Dow Chemical businesses or are necessary to perform any services

pursuant to defendants' agreements with the Acquirer of the Material Science Divestiture Assets, defendants will receive a license to use such intangible assets from the Acquirer of the Material Science Divestiture Assets, provided, however, that defendants may not use any such intangible assets to develop, manufacture, and/or sell acid copolymers and ionomers.

P. "Divestiture Assets" means the Crop Protection Divestiture Assets and the Material Science Divestiture Assets.

III. APPLICABILITY

A. This Final Judgment applies to DuPont and Dow Chemical, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV, V, and VI of this Final Judgment, defendants sell or otherwise dispose of all or substantially all of their assets or lesser business units that include the Divestiture Assets, they shall require the purchaser or purchasers to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirers of the assets divested pursuant to this Final Judgment.

IV. CROP PROTECTION DIVESTITURE

A. Defendants are ordered and directed, within thirty (30) calendar days after the consummation of the merger of Dow Chemical and DuPont, or sixty (60) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Crop Protection Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion, after consultation with the Plaintiff States. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendants agree to use their best efforts to divest the Crop Protection Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by Section IV of this Final Judgment, to the extent they have not done so prior to the filing of the Complaint, defendants promptly shall make known, by usual and customary means, the availability of the Crop Protection Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Crop Protection Divestiture Assets that they are being

divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers of the Crop Protection Divestiture Assets, subject to customary confidentiality assurances, all information and documents relating to the Crop Protection Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person.

C. To the extent they have not done so prior to the filing of the Complaint, defendants shall provide to the prospective Acquirer of the Crop Protection Divestiture Assets and the United States information relating to the personnel involved in the development, manufacture, and/or sale of the Crop Protection Divestiture Assets to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer of the Crop Protection Divestiture Assets to employ any defendant employee whose primary responsibility is the development, manufacture, and/or sale of the Crop Protection Divestiture Assets.

D. Defendants shall permit the Acquirer of the Crop Protection Divestiture Assets to have reasonable access to personnel and to make inspections of the Manati Manufacturing Unit, the Calgary Facility, and the Mobile Facility; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer of the Crop Protection Divestiture Assets that each asset will be operational in all material respects on the date of sale.

F. Defendants shall not take any action that will impede in any material way the permitting, operation, or divestiture of the Crop Protection Divestiture Assets.

G. At the option of the Acquirer of the Crop Protection Divestiture Assets, defendants shall enter into a contract for formulation services for the Finesse-formulated products at DuPont's El Paso, Illinois facility and the Rynaxypyr-formulated products at DuPont's Valdosta, Georgia facility. The formulation services agreement shall be in effect for one year after all necessary

regulatory approvals for a new formulation site have been granted by jurisdictions where the Finesse-formulated products and the Rynaxypyr-formulated products are currently registered (or such lesser period of time as mutually expected by the defendants and the Acquirer of the Crop Protection Divestiture Assets). At the request of the Acquirer, the United States in its sole discretion may approve an extension of the term of the formulation services agreement not to exceed two (2) years, provided that the Acquirer of the Crop Protection Divestiture Assets notifies the United States in writing at least four (4) months prior to the date the agreement expires. The United States shall respond to any such request for extension in writing at least three (3) months prior to the date the formulation services agreement expires. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market conditions for formulation services.

H. Defendants shall warrant to the Acquirer of the Crop Protection Divestiture Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Crop Protection Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Crop Protection Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Divestiture Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire Crop Protection Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that the Crop Protection Divestiture Assets can and will be used by the Acquirer as part of a viable, ongoing business in the development, manufacture, and sale in the United States of (1) broadleaf herbicides for winter wheat and (2) insecticides for chewing pests. The divestiture, whether pursuant to Section IV or Section VI of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, after consultation with the Plaintiff States, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the businesses of developing, manufacturing, and selling (a) broadleaf

herbicides for winter wheat and (b) insecticides for chewing pests; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, after consultation with the Plaintiff States, that none of the terms of any agreement between the Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

V. MATERIAL SCIENCE DIVESTITURE

A. Defendants are ordered and directed, within thirty (30) calendar days after the consummation of the merger of Dow Chemical and DuPont, or sixty (60) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest the Material Science Divestiture Assets in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances.

Defendants agree to use their best efforts to divest the Material Science Divestiture Assets as expeditiously as possible.

B. In accomplishing the divestiture ordered by Section V of this Final Judgment, to the extent they have not done so prior to the filing of the Complaint, defendants promptly shall make known, by usual and customary means, the availability of the Material Science Divestiture Assets. Defendants shall inform any person making an inquiry regarding a possible purchase of the Material Science Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendants shall offer to furnish to all prospective Acquirers of the Material Science Divestiture Assets, subject to customary confidentiality assurances, all information and documents relating to the Material Science Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to plaintiffs at the same time that such information is made available to any other person.

C. To the extent they have not done so prior to the filing of the Complaint, defendants shall provide the Acquirer of the Material Science Divestiture Assets and the United States information

relating to personnel whose primary responsibility is the development, manufacture, and/or sale of the Material Science Divestiture Assets, excluding Dow Chemical employees who will provide services under the OSA, to enable the Acquirer to make offers of employment. Defendants will not interfere with any negotiations by the Acquirer of the Material Science Divestiture Assets to employ any defendant employee whose primary responsibility is the development, manufacture, and/or sale of the Material Science Divestiture Assets, excluding Dow Chemical employees who will provide services under the OSA.

D. Defendants shall permit the Acquirer of the Material Science Divestiture Assets to have reasonable access to personnel and to make inspections of the Freeport Facility; access to any and all environmental, zoning, and other permit documents and information related to the Freeport Facility; and access to any and all financial, operational, or other documents and information related to the Freeport Facility; in each case as customarily provided as part of a due diligence process.

E. Defendants shall warrant to the Acquirer of the Material Science Divestiture Assets that such assets will be in substantially the same operating condition on the date of sale as they were on February 1, 2017.

F. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Material Science Divestiture Assets.

G. At the option of the Acquirer of the Material Science Divestiture Assets, defendants shall enter into an operating services agreement ("OSA") with the Acquirer sufficient to meet the Acquirer's needs for assistance in matters relating to the operation of the Material Science Divestiture Assets. If the Acquirer elects to self-operate the Material Science Divestiture Assets, defendants may require the written execution of an agreement by the Acquirer to indemnify defendants for breaches of any environmental permits that result from the operation of the Material Science Divestiture Assets by an operator other than defendants.

H. Defendants shall warrant to the Acquirer of the Material Science Divestiture Assets that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Material Science Divestiture Assets, defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits

relating to the operation of the Material Science Divestiture Assets.

I. Unless the United States otherwise consents in writing, the divestiture pursuant to Section V, or by Divestiture Trustee(s) appointed pursuant to Section VI, of this Final Judgment, shall include the entire Material Science Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Material Science Divestiture Assets can and will be used by the Acquirer of the Material Science Divestiture Assets as part of a viable, ongoing business in the development, manufacture, and sale of acid copolymers and ionomers in the United States. The divestiture, whether pursuant to Section V or Section VI of this Final Judgment,

(1) shall be made to an Acquirer that, in the United States' sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of developing, manufacturing, and selling acid copolymers and ionomers; and

(2) shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer and defendants give defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer to compete effectively.

VI. APPOINTMENT OF DIVESTITURE TRUSTEE(S)

A. If defendants have not divested the Crop Protection or Material Science Divestiture Assets within the time periods specified in Paragraphs IV(A) and V(A), defendants shall notify plaintiffs of that fact in writing. Upon application of the United States, the Court shall appoint a Divestiture Trustee or Trustees selected by the United States and approved by the Court to effect the divestiture of the remaining Divestiture Asset(s).

B. After the appointment of Divestiture Trustee(s) becomes effective, only the Divestiture Trustee(s) shall have the right to sell the relevant Divestiture Assets. The Divestiture Trustee(s) shall have the power and authority to accomplish the divestitures to Acquirer(s) acceptable to the United States, after consultation with the Plaintiff States, at such price and on such terms as are then obtainable upon reasonable effort by the Divestiture Trustee(s), subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate.

Subject to Paragraph VI(D) of this Final Judgment, the Divestiture Trustee(s) may hire at the cost and expense of defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the Divestiture Trustee(s), and are reasonably necessary in the Divestiture Trustee(s)' judgment to assist in the divestiture(s). Any such investment bankers, attorneys, or other agents shall serve on such terms and conditions as the United States approves including confidentiality requirements and conflict of interest certifications.

C. Defendants shall not object to a sale by the Divestiture Trustee(s) on any ground other than the Divestiture Trustee(s)' malfeasance. Any such objections by defendants must be conveyed in writing to United States and the Divestiture Trustee(s) within ten (10) calendar days after the Divestiture Trustee(s) have provided the notice required under Section VII.

D. The Divestiture Trustee(s) shall serve at the cost and expense of defendants pursuant to a written agreement, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The Divestiture Trustee(s) shall account for all monies derived from the sale of the assets sold by the Divestiture Trustee(s) and all costs and expenses so incurred. After approval by the Court of the Divestiture Trustee(s)' accounting, including fees for their services yet unpaid and those of any professionals and agents retained by the Divestiture Trustee(s), all remaining money shall be paid to defendants and the trust shall then be terminated. The compensation of the Divestiture Trustee(s) and any professionals and agents retained by the Divestiture Trustee(s) shall be reasonable in light of the value of the relevant Divestiture Asset(s) and based on a fee arrangement providing the Divestiture Trustee(s) with an incentive based on the price and terms of the divestitures and the speed with which they are accomplished, but timeliness is paramount. If the Divestiture Trustee(s) and defendants are unable to reach agreement on the Divestiture Trustee(s)' or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Divestiture Trustee(s), the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Divestiture Trustee(s) shall, within three (3) business days of hiring any other professionals or agents,

provide written notice of such hiring and the rate of compensation to defendants and the United States.

E. Defendants shall use their best efforts to assist the Divestiture Trustee(s) in accomplishing the required divestiture(s). The Divestiture Trustee(s) and any consultants, accountants, attorneys, and other agents retained by the Divestiture Trustee(s) shall have full and complete access to the personnel, books, records, and facilities of the Divestiture Asset(s), and defendants shall develop financial and other information relevant to the Divestiture Asset(s) as the Divestiture Trustee(s) may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Divestiture Trustee(s)' accomplishment of the divestiture(s).

F. After their appointment, the Divestiture Trustee(s) shall file monthly reports with the United States and, as appropriate, the Court setting forth the Divestiture Trustee(s)' efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the Divestiture Trustee(s) deem confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Asset(s), and shall describe in detail each contact with any such person. The Divestiture Trustee(s) shall maintain full records of all efforts made to divest the Divestiture Asset(s).

G. If the Divestiture Trustee(s) have not accomplished the divestitures ordered under this Final Judgment within six months after their appointment, the Divestiture Trustee(s) shall promptly file with the Court a report setting forth (1) the Divestiture Trustee(s)' efforts to accomplish the required divestiture(s), (2) the reasons, in the Divestiture Trustee(s)' judgment, why the required divestiture(s) have not been accomplished, and (3) the Divestiture Trustee(s)' recommendations. To the extent such report contains information that the Divestiture Trustee(s) deem confidential, such report shall not be filed in the public docket of the Court. The Divestiture Trustee(s) shall at the same time furnish such report to the

United States which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the Divestiture Trustee(s)' appointment by a period requested by the United States.

H. If the United States determines that the Divestiture Trustee(s) have ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint substitute Divestiture Trustee(s).

VII. NOTICE OF PROPOSED DIVESTITURES

A. Within two (2) business days following execution of any definitive divestiture agreement, defendants or the Divestiture Trustee(s), whichever is then responsible for effecting the divestitures required herein, shall notify plaintiffs of any proposed divestiture required by Section IV, V, or VI of this Final Judgment. If the Divestiture Trustee(s) are responsible, they shall similarly notify defendants. The notice shall set forth the details of the proposed divestitures and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Asset(s), together with full details of the same.

B. Within fifteen (15) calendar days of receipt by plaintiffs of such notice, the United States, after consultation with the Plaintiff States, may request from defendants, the proposed Acquirer, any other third party, or the Divestiture Trustee(s), if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendants and the Divestiture Trustee(s) shall furnish any additional information requested, except such information or documents subject to the attorney-client privilege or work-product doctrine, within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from defendants, the proposed Acquirer, any third party, and the Divestiture Trustee(s), whichever is later, the United States shall provide written notice to defendants and the Divestiture Trustee(s), if there is one or more,

stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, a divestiture may be consummated, subject only to defendants' limited right to object to the sale under Paragraph VI(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, divestiture proposed under Section IV, V, or VI shall not be consummated. Upon objection by defendants under Paragraph VI(C), a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV, V or VI of this Final Judgment.

IX. ASSET PRESERVATION

Until the divestitures required by this Final Judgment have been accomplished, defendants shall take all steps necessary to comply with the Asset Preservation Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

X. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestitures have been completed under Section IV, V, and/or VI, defendants shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV, V, and/or VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the United States to information provided by defendants, including limitation on information, shall be made within fourteen (14)

calendar days of receipt of such affidavit.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions defendants have taken and all steps defendants have implemented on an ongoing basis to comply with Section IX of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in defendants' earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestitures have been completed.

XI. APPOINTMENT OF MONITORING TRUSTEE(S)

A. Upon application of the United States, the Court shall appoint a Monitoring Trustee or Trustees selected by the United States and approved by the Court.

B. The Monitoring Trustee(s) shall have the power and authority to monitor defendants' compliance with the terms of this Final Judgment and the Asset Preservation Stipulation and Order entered by this Court, and shall have such other powers as this Court deems appropriate. The Monitoring Trustee(s) shall be required to investigate and report on the defendants' compliance with this Final Judgment and the Asset Preservation Stipulation and Order and the defendants' progress toward effectuating the purposes of this Final Judgment.

C. Subject to Paragraph XI(E) of this Final Judgment, the Monitoring Trustee(s) may hire at the cost and expense of defendants any consultants, accountants, attorneys, or other agents, who shall be solely accountable to the Monitoring Trustee(s), as reasonably necessary in the Monitoring Trustee(s)' judgment. Any such consultants, accountants, attorneys, or other agents shall serve on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications.

D. Defendants shall not object to actions taken by the Monitoring Trustee(s) in fulfillment of the Monitoring Trustee(s)' responsibilities under any Order of this Court on any ground other than the Monitoring Trustee(s)' malfeasance. Any such objections by defendants must be conveyed in writing to the United States

and the Monitoring Trustee(s) within ten (10) calendar days after the action taken by the Monitoring Trustee(s) giving rise to the defendants' objection.

E. The Monitoring Trustee(s) shall serve at the cost and expense of defendants pursuant to a written agreement with defendants and on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The compensation of the Monitoring Trustee(s) and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee(s) shall be on reasonable and customary terms commensurate with the individuals' experience and responsibilities. If the Monitoring Trustee(s) and defendants are unable to reach agreement on the Monitoring Trustee(s)' or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Monitoring Trustee(s), the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court. The Monitoring Trustee(s) shall, within three (3) business days of hiring any consultants, accountants, attorneys, or other agents, provide written notice of such hiring and the rate of compensation to defendants and the United States.

F. The Monitoring Trustee(s) shall have no responsibility or obligation for the operation of defendants' businesses.

G. Defendants shall use their best efforts to assist the Monitoring Trustee(s) in monitoring defendants' compliance with their individual obligations under this Final Judgment and under the Asset Preservation Stipulation and Order. The Monitoring Trustee(s) and any consultants, accountants, attorneys, and other agents retained by the Monitoring Trustee(s) shall have full and complete access to the personnel, books, records, and facilities relating to compliance with this Final Judgment, subject to reasonable protection for trade secret or other confidential research, development, or commercial information or any applicable privileges. Defendants shall take no action to interfere with or to impede the Monitoring Trustee(s)' accomplishment of their responsibilities.

H. After their appointment, the Monitoring Trustee(s) shall file reports monthly, or more frequently as needed, with the United States and, as appropriate, the Court setting forth defendants' efforts to comply with their obligations under this Final Judgment

and under the Asset Preservation Stipulation and Order. To the extent such reports contain information that the Monitoring Trustee(s) deem confidential, such reports shall not be filed in the public docket of the Court.

I. The Monitoring Trustee(s) shall serve for at least six (6) months after the divestiture of the Divestiture Assets is finalized pursuant to either Section IV, V and/or VI of this Final Judgment. The United States, in its sole discretion, may extend this time period.

J. If the United States determines that the Monitoring Trustee(s) have ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint substitute Monitoring Trustee(s).

XII. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as any Asset Preservation Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants, be permitted:

(1) access during defendants' office hours to inspect and copy, or at the option of the United States, to require defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of defendants, relating to any matters contained in this Final Judgment; and

(2) to interview, either informally or on the record, defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, defendants shall submit written reports or response to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by the United States to any person other than an

authorized representative of the executive branch of the United States, or of the Plaintiff States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to the United States, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," then the United States shall give defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XIII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIV. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XV. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XVI. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

United States District Judge

United States District Court for The District of Columbia

United States of America, State of Iowa, State of Mississippi and State of Montana, Plaintiffs, v. The Dow Chemical Company and E.I. Du Pont de Nemours and Company, Defendants.

Case No.: 1:17-cv-01176

Judge: Amit Mehta

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (“United States”), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (“APPA” or “Tunney Act”), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

In December 2015, The Dow Chemical Company (“Dow Chemical”) and E.I. du Pont de Nemours and Company (“DuPont”) announced that they had agreed to a merger of equals in a deal estimated to be valued at over \$130 billion. If consummated, the merged entity would be one of the largest chemical companies in the world.

Plaintiffs filed a civil antitrust Complaint on June 15, 2017, seeking to enjoin the proposed acquisition. The Complaint alleges that the acquisition would likely reduce or eliminate competition in the markets for broadleaf herbicides for winter wheat and chewing pest insecticides, and tend to create a monopoly in the markets for acid copolymers and ionomers, in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. That loss of competition likely would result in increased prices and a reduction in service and innovation for the customers who rely upon these products.

At the same time the Complaint was filed, the Plaintiffs filed a proposed Final Judgment and an Asset Preservation Stipulation and Order which, together, are designed to eliminate the anticompetitive effects of the acquisition. Under the proposed Final Judgment, which is explained more fully below, DuPont is required to divest its Finesse-formulated herbicide products (active ingredients Metsulfuron Methyl and Chlorsulfuron Methyl), and its Rynaxypyr-formulated insecticide products, along with the assets used to develop, manufacture,

and sell those products. Dow Chemical is required to divest its Freepoint, Texas acid copolymers and ionomers manufacturing unit and associated assets. Under the terms of the Asset Preservation Stipulation and Order, DuPont and Dow Chemical will also take certain steps to ensure that the divestiture assets are operated as competitively independent, economically viable, and ongoing business concerns; that they remain uninfluenced by the consummation of the acquisition; and that competition is maintained during the pendency of the ordered divestiture.

The plaintiffs and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. The Defendants and the Proposed Transaction

Dow Chemical, founded in 1897, is headquartered in Midland, Michigan, operates in approximately 180 countries, and employs over 50,000 people worldwide. In 2016, Dow Chemical had revenues of approximately \$48 billion. Dow Chemical’s primary lines of business are chemical, plastic, and agricultural products and services. Dow Chemical’s products are used in various industries, ranging from agriculture to consumer goods.

DuPont, founded in 1802, is headquartered in Wilmington, Delaware, operates in approximately 90 countries, and employs more than 60,000 people worldwide. In 2016, DuPont reported revenues of \$24.5 billion. DuPont’s primary products include crop protection chemicals and performance products, such as plastics and polymers.

Pursuant to a December 11, 2015 agreement, Dow Chemical and DuPont have agreed to an all-stock merger of equals. At the time of the merger announcement, the combined market capitalization of the companies was \$130 billion. The merger plan contemplates spinning off the firms’ combined assets into three separate, publicly-traded companies as soon as feasible. One of those companies would focus on agriculture products (with

approximately \$18 billion in revenue), another on material sciences (approximately \$51 billion in revenue), and a third on “specialty” products, such as organic light-emitting diodes and building wrap (approximately \$13 billion in revenue).

B. Crop Protection Chemicals

1. Background

Crop protection chemicals are used to protect crops from damage or loss from other biological organisms such as weeds, insects, or disease (e.g., fungus). Crop protection chemicals are critical to protecting crop yield—the total amount of a crop produced at each harvest—which benefits farmers and American consumers. Crop protection chemicals can be separated into three broad categories that have different qualities and attributes: Herbicides (to combat weeds); insecticides (to combat insect pests); and fungicides (to combat microbial disease).

The key component of any particular crop protection chemical is the “active ingredient,” which is the chemical molecule that produces the desired effect against the targeted weed or insect pest. Crop protection chemicals are typically sold as “formulated products” that contain the active ingredient and also inactive ingredients such as solvents, fillers, and adjuvants used to stabilize the active ingredient and facilitate its effective use on the intended crops.

Both active ingredients and formulated products must be registered with the U.S. Environmental Protection Agency (“EPA”) and approved for use. In order to gain approval, products must meet stringent toxicity and efficacy standards. Approvals are granted on a crop-by-crop basis and contain strict dosage requirements. A farmer wishing to control a certain pest on his or her farm can use only the products and dose-rates that the EPA has approved for the particular crops to which the product will be applied.

The crop protection industry includes a handful of large integrated research and development firms (including Dow Chemical and DuPont) that develop, manufacture, and sell crop protection chemicals. While the large research and development firms sometimes sell directly to farmers, their primary customers are large distributors and farmer co-ops that resell products to farmers.

a. Broadleaf Herbicides for Winter Wheat

Both Dow Chemical and DuPont produce herbicides for winter wheat.

Winter wheat is a type of grass that is planted in autumn and produces an edible grain. In the United States, winter wheat is grown primarily in the Great Plains states, including Kansas, Nebraska, and Texas.

Herbicides are chemicals used to combat weeds that harm crops. They can be selective (killing only certain types of plants) or non-selective. Non-selective herbicides kill all plant matter, including weeds and the crop. Because of this, non-selective herbicides are typically used after the crop is harvested, to clear the field of remaining weeds. Selective herbicides target only weeds, and are applied “post-emergence,” or during the growth of the crop.

There are three common types of selective herbicide products: Broadleaf, grass, and cross-spectrum. Broadleaf herbicides primarily eliminate or suppress broadleaf weeds. Grass herbicides primarily eliminate or suppress grass weeds. Cross-spectrum herbicides are effective on both grass and broadleaf weeds. Each herbicide formulation has a different spectrum of weeds on which it is effective, so a farmer chooses an herbicide based on the particular kinds of weeds threatening the crop.

Herbicides are registered with the EPA for use on particular crops. Because crop choices and weed threats vary from farm to farm, the options available to farmers may vary from location to location, depending on the specific crop/weed combinations a farmer faces.

Dow Chemical and DuPont both offer herbicides that are labeled and registered for the control of broadleaf weeds in winter wheat crops. DuPont’s Finesse product is the top broadleaf herbicide used to combat the weed spectrum that typically threatens winter wheat crops. Dow Chemical recently introduced a new broadleaf herbicide for winter wheat, called Quelex.

b. Insecticides for Chewing Pests

Dow Chemical and DuPont also sell insecticides for chewing pests. Insecticides are used to suppress or eliminate insect infestations in crops. There are three main classes of insect pests: (1) Chewing insects (*e.g.*, moth larvae and beetles); (2) sucking insects (*e.g.*, aphids and stink bugs); and (3) thrips (*i.e.*, thunders flies), which have attributes of both chewing and sucking pests.

Insecticide use is particularly important for specialty crop farmers of tree fruit, tree nuts, and other fruits and vegetables (“specialty crops”). Any damage to specialty crops, no matter how slight, can result in the fruit or nut

being rejected for sale. Thus, specialty crop farmers are particularly averse to the risk of insect damage when choosing an insecticide. Specialty crop farmers also value selective chemistry insecticides because they are less harmful to beneficial insects (such as bees and parasitic wasps) that not only pollinate fruit, but also help to control damaging insects, such as mites. In contrast, broad spectrum chemistries, such as pyrethroids, kill most of the insects in a field, including beneficial ones. Farmers therefore either minimize their use and/or use them towards the end of a growing season.

DuPont produces the active ingredient chlorantraniliprole, which DuPont markets under the trade name, Rynaxypyr. Rynaxypyr is one of the best selling and most effective active ingredients used to combat chewing pests on the market. Rynaxypyr is patent-protected until 2022. In the United States, Rynaxypyr is marketed and sold in formulations under the brand names Altacor, Coragen, and Prevathon. DuPont’s 2015 U.S. insecticides sales totaled \$118 million; of that total, Rynaxypyr sales accounted for \$73 million.

Dow Chemical manufactures and sells two active ingredients which are also effective against chewing pests: (1) Methoxyfenozide, sold under the brand name Intrepid, and (2) spinetoram, sold under the brand names Delegate and Radiant. In 2015, Dow Chemical had a total of \$165 million in U.S. insecticides sales. Of that total, spinetoram sales accounted for \$57 million and methoxyfenozide sales accounted for \$34 million.

2. Relevant Markets

a. Broadleaf Herbicides for Winter Wheat Sold in the United States

To combat broadleaf weeds in winter wheat, particularly in the central plains of the United States, farmers need broadleaf herbicides that are labeled and registered for use on winter wheat. Farmers of winter wheat cannot use grass herbicides to combat broadleaf weeds because they are ineffective. Farmers would not use cross-spectrum herbicides to combat broadleaf weeds, as cross-spectrum herbicides are significantly more expensive and, thus, it would not be cost-justified to use cross-spectrum herbicides for broadleaf weeds alone. Farmers would not forgo using broadleaf herbicides altogether, because doing so would risk significant wheat yield losses.

All herbicides sold in the United States must be registered and approved by the EPA. Similar products available

in other countries cannot be offered to United States customers due to EPA regulations, so they are not competitive constraints.

A small but significant increase in the price of broadleaf herbicides sold in the United States labeled and registered for use on winter wheat would not cause customers of those herbicides to substitute to grass or cross-spectrum herbicides, nor would farmers forgo using herbicides altogether and risk weed damage to their crops. As a result, customers are unlikely to switch away from broadleaf herbicides sold in the United States in volumes sufficient to defeat such a price increase. Accordingly, the development, manufacture, and sale of broadleaf herbicides sold in the United States labeled and registered for use on winter wheat is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

b. Insecticides for Chewing Pests Sold in the United States

Insecticides for chewing pests are targeted to combat a particular type of pest, and insecticides for other types of pests cannot, in general, be used as substitutes. While there are broad-spectrum insecticides which are effective on more than one type of pest, those insecticides tend to kill indiscriminately, including beneficial insects. Specialty crop farmers in California, Washington and elsewhere need beneficial insects such as bees to pollinate their crops. These farmers would not, however, choose to forgo managing the insect pests which attack their crops, because even slight damage can result in an entire harvest being rejected for sale.

All insecticides sold in the United States must be registered and approved by the EPA. Similar products available in other countries cannot be offered to United States customers due to EPA regulations, so they are not competitive constraints.

A small but significant increase in the price of chewing pest insecticides sold in the United States would not cause customers of those insecticides to substitute to broad-spectrum insecticides, nor would farmers forgo using insecticides altogether and risk severe pest damage to their whole crop, in volumes sufficient to defeat such a price increase. Accordingly, the development, manufacture, and sale of chewing pest insecticides sold in the United States is a line of commerce and relevant market within the meaning of Section 7 of the Clayton Act.

3. Anticompetitive Effects of the Proposed Acquisition

a. Broadleaf Herbicides for Winter Wheat

Dow Chemical and DuPont are two of the four largest suppliers of broadleaf herbicides for winter wheat crops in the United States. Together they account for over forty percent of the total market, with combined annual sales of \$81 million in 2015. Dow Chemical and DuPont compete head-to-head for the development, manufacture, and sale of broadleaf herbicides for winter wheat. That competition, which would be lost if the merger is consummated, has benefited farmers through lower prices, more effective solutions, and superior service.

Competition between Dow Chemical and DuPont has also spurred research, development, and marketing of new and improved broadleaf herbicides for winter wheat. For example, Dow Chemical intends to market its Quelex herbicide, which was recently introduced into the market, to farmers of winter wheat that currently use DuPont's market-leading Finesse product. DuPont considered adopting competitive responses, including price reductions, to protect its market share from Dow Chemical's Quelex herbicide.

The proposed merger, therefore, likely would substantially lessen competition for the development, manufacture, and sale of broadleaf herbicides for winter wheat, in violation of Section 7 of the Clayton Act. This likely would lead to higher prices, less favorable contractual terms, and a reduced incentive to spend significant resources in developing new products.

b. Insecticides for Chewing Pests

Dow Chemical and DuPont are the two largest suppliers of insecticides used on chewing pests in the United States. Together they account for \$238 million in annual sales. The merger of Dow Chemical and DuPont likely would substantially lessen competition in the market for the development, manufacture, and sale of chewing pest insecticides.

If the merger between Dow Chemical and DuPont is consummated, the combined company will control nearly seventy-five percent of the market for chewing pest insecticides in the United States. Additionally, Dow Chemical and DuPont's closest competitor sells competing products that are mixed with DuPont's Rynaxypyr, for which the competitor has a license. As a result, specialty crop farmers would have little alternative but to accept increased prices post merger.

Competition between Dow Chemical and DuPont has benefited customers of chewing pest insecticides through lower prices, more effective solutions, and superior service. Customers also have benefited from the competition between Dow Chemical and DuPont by obtaining more favorable contract terms, such as financing and priority in product shipments to coincide with crop growing seasons. A combined Dow Chemical and DuPont would have the incentive and ability to eliminate or restrict financial and other incentives to customers, extinguishing this competition and those tangible and valuable benefits to customers.

The proposed merger, therefore, likely would substantially lessen competition for the development, manufacture, and sale of chewing pest insecticides, in violation of Section 7 of the Clayton Act. This likely would lead to higher prices, less favorable contractual terms, and less innovation.

4. Difficulty of Entry

The discovery, development, testing, registration, and commercial launch of a new herbicide or insecticide can take ten to fifteen years and can cost well over \$150 million dollars. Given the lengthy development cycle, the high hurdles and substantial cost of regulatory approval, entry of additional competitors in the market for either broadleaf herbicides for winter wheat or chewing pest insecticides is not likely to be timely or sufficient to defeat a post-merger price increase.

C. Acid Copolymers and Ionomers

High-pressure ethylene derivatives ("HiPEDs") are plastic resins produced by "cracking," or breaking down, petrochemicals into their constituent parts and combining them with various molecules to produce polymer resins. The resulting resins, such as low density polyethylene, ethylene vinyl acetate, acrylate copolymers, grafted polyolefins, acid copolymers, and ionomers, have different performance characteristics, such as hardness, corrosion resistance or scratch resistance, depending on the materials used in their construction.

HiPED resins are mixed with other plastic resins to manufacture numerous plastic products, such as films, bottles, coatings, and packaging. Customers source particular HiPED resins that meet their specific needs and requirements and build their manufacturing process around specific resin combinations that give the final product the desired performance characteristics.

Unlike most HiPED resins, where there is substitution possible for both

the supply and demand of the products, neither customers nor manufacturers can easily switch between acid copolymers and ionomers (two specific types of HiPED resins) and other HiPED resins.

1. Acid Copolymers

Acid copolymers are a specific type of HiPED resin manufactured using highly acidic input products. In order to handle inputs with high acid content, HiPED resin manufacturers must install specific corrosion-resistant equipment that is not used for the manufacture of other HiPED resins. Such equipment can cost millions of dollars.

Acidic inputs make acid copolymers both highly adhesive and very durable. As a result, acid copolymers are used to create strong seals between substrates, or "tie layers," of flexible packaging. Their increased adhesive ability is particularly necessary in applications where packaging will be exposed to challenging environments, such as high levels of grease, oil, acid, or dust.

Because of these characteristics, packaging films made using acid copolymers are ideal for use in the food and beverage industry. Indeed, this industry consumes the vast majority of acid copolymers produced, for use in products such as juice boxes, toothpaste tubes, and meat and cheese wrap, among others. Unlike other plastic films, food and beverage packaging must adhere to strict food safety guidelines, and significant deviations from approved formulas must undergo a rigorous requalification process that can take significant time and expense.

Both Dow Chemical and DuPont manufacture acid copolymers in the United States. Dow Chemical manufactures acid copolymers in a dedicated corrosion-resistant facility that is part of its larger chemical complex in Freeport, Texas. DuPont manufactures acid copolymers and other HiPED resins on corrosion-resistant manufacturing lines within facilities located in Sabine, Texas and Victoria, Texas.

2. Ionomers

Ionomers are another specific type of HiPED resin. They are directly derived from acid copolymers and are produced by neutralizing acid copolymers with sodium, zinc, magnesium, or other salts. As a result of this process, ionomers are hard and durable. When added to a plastic coating, ionomers make the resulting product more impact- and cut-resistant. Ionomers are used in a multitude of applications, such as decking and automotive parts. Ionomers are preferred for these end uses because

their superior toughness and impact resistance protect the underlying product from the repeated blows it is subjected to.

Both Dow Chemical and DuPont produce ionomers in the United States. DuPont manufactures ionomers in-line with its acid copolymer production in Sabine, Texas. Dow Chemical manufactures acid copolymers in its Freeport, Texas facility and then ships them to Odessa, Texas, where a third party converts them to ionomers.

3. *Relevant Markets*

a. Acid Copolymers

Food and beverage packaging manufacturers purchase the majority of acid copolymers produced in the United States. These customers rely upon the superior sealant and adhesive characteristics acid copolymers provide as compared to other HiPED resins. Additionally, because food and beverage packaging must adhere to strict food safety guidelines, significant deviations from approved formulas must undergo a rigorous qualification process that can take significant time and incur additional costs. Most customers therefore would not switch to another product if faced with a significant and non-transitory increase in the price of acid copolymers.

Customers have consistently reported that purchasing acid copolymers abroad is not a realistic option for domestic purchasers, due to taxes, tariffs, logistical costs, and the longer lead times associated with importing acid copolymers. Most customers report that it would take considerably more than a small, significant, and non-transitory increase in price to make European suppliers a viable alternative to Dow Chemical and DuPont.

A small but significant increase in price for acid copolymers sold in the United States would not cause customers to turn to another product in sufficient numbers to defeat such a price increase. Thus, the development, manufacture, and sale of acid copolymers in the United States constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act.

b. Ionomers

Customers purchase ionomers for the superior impact- and cut-resistance characteristics that are not available in other HiPED resins. These customers rely on the hardness and resilience that an ionomer-based coating provides as compared to other coatings. Customers cannot switch to other, less resilient, coatings and cannot forego the use of

protective coatings altogether, as either choice would significantly decrease the useful lifespan of the underlying products. Most customers therefore would not switch to another product if faced with a small but significant and non-transitory increase in the price of ionomers.

U.S. customers cannot turn to ionomer suppliers abroad due to taxes, tariffs, logistical costs, and longer lead times associated with importing ionomers. Most customers report that it would take considerably more than a small, significant, and non-transitory increase in price to make European suppliers a viable alternative to Dow Chemical and DuPont.

A small but significant increase in price for ionomers sold in the United States would not cause customers to turn to another product in sufficient numbers to defeat such a price increase. Thus, the development, manufacture, and sale of ionomers in the United States constitutes a relevant product market and line of commerce under Section 7 of the Clayton Act.

4. *Anticompetitive Effects of the Proposed Transaction*

a. Acid Copolymers

Dow Chemical and DuPont are the only two manufacturers of acid copolymers in the United States. Dow Chemical controls over 80 percent of the U.S. market and DuPont is responsible for 19 percent of sales (less than one tenth of one percent of acid copolymers are imported). The merger of the only U.S. manufacturers of these products would leave customers with little alternative but to accept increased prices post merger.

As a result of head-to-head competition between Dow Chemical and DuPont, customers have obtained better pricing, service, and contract terms. In some cases, customers report that Dow Chemical and DuPont have competed to assist customers with the development of new uses for existing acid copolymer products, allowing customers to expand sales and better serve their own consumers. Customers also have benefited from the development of new acid copolymer products, which has been spurred on by competition between Dow Chemical and DuPont.

The proposed merger would likely substantially lessen competition for the development, manufacture, and sale of acid copolymers in violation of Section 7 of the Clayton Act. The U.S. market for acid copolymers is highly concentrated and would become significantly more concentrated as a result of the proposed merger to

monopoly: Dow Chemical and DuPont will control over 99 percent of the acid copolymers market in the United States post merger, leading to higher prices and reduced innovation.

b. Ionomers

Dow Chemical and DuPont are the only two manufacturers of ionomers in the United States, where the two companies collectively are responsible for all sales. Dow Chemical and DuPont are each other's only competitor for ionomers and customers would have no alternative but to accept increased prices post merger.

Customers have benefited from the competition between Dow Chemical and DuPont. Dow Chemical is the only company contesting DuPont's near-monopoly in ionomers. Its presence has resulted in better pricing and contract terms for customers, who otherwise would have no choice but to purchase from DuPont. Customers also have benefited from competition between Dow Chemical and DuPont to develop new products from ionomers and new uses for existing ionomer products.

The proposed merger would likely substantially lessen competition for the development, manufacture, and sale of ionomers in violation of Section 7 of the Clayton Act. The market for ionomers is highly concentrated and the proposed merger would result in a monopoly, leading to higher prices and reduced innovation.

5. *Difficulty of Entry*

a. Acid Copolymers

In addition to the specialized equipment required to produce ethylene derivatives generally, acid copolymer manufacturing requires a high-pressure autoclave and all equipment surfaces must be coated with a corrosion-resistant material. Only Dow Chemical and DuPont have both high-pressure autoclaves and corrosion-resistant equipment. The cost associated with upgrading an existing ethylene derivative manufacturing operation to produce acid copolymers is estimated to be in the millions of dollars. If the merged firm were to raise prices, timely and sufficient entry is unlikely to deter or counteract competitive harm.

b. Ionomers

The manufacturing of ionomers requires specialized know-how as well as ready and reliable access to acid copolymers, a key input into ionomer manufacturing. Post merger, Dow Chemical and DuPont will effectively control the entire U.S. market for acid copolymers. As such, even if a third party has the technical capability to

manufacture ionomers, it would be limited by the amount of acid copolymers it could obtain on the open market—a market primarily controlled by the merged entity. Because of the specialized know-how and the likely foreclosure of access to a key ingredient, if the merged firm were to raise prices, timely and sufficient entry would be unlikely to deter or counteract competitive harm.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The divestitures required by the proposed Final Judgment will eliminate the anticompetitive effects of the merger between Dow Chemical and DuPont by establishing two new, independent, and economically viable competitors. The Crop Protection Divestiture Assets include DuPont's Finesse-formulated herbicide products, which contain the active ingredients Metsulfuron Methyl and Chlorsulfuron Methyl, and its Rynaxypyr-formulated insecticide products, along with the assets which facilitate the development, manufacture, and sale of those products. The Material Science Divestiture Assets include Dow's Freeport, Texas acid copolymers and ionomers manufacturing unit and associated assets. Both of these divestitures must be sold as viable ongoing businesses.

Prior to divestiture, defendants must maintain the Crop Protection Divestiture Assets and Material Science Divestiture Assets under an Asset Preservation Stipulation and Order ("APSO"). Under the APSO, defendants must preserve, maintain, and continue to operate both sets of assets as ongoing, economically viable competitive product lines. This includes the requirement that defendants appoint a person or persons to oversee the Crop Protection and Material Science Divestiture Assets. This person or persons shall have complete managerial responsibility for each asset package, subject to the provisions of the proposed Final Judgment, and shall make all business decisions relating to the operation of the assets, including all production, sale, pricing, and discounting decisions, independent of defendants.

The assets must also be divested in such a way as to satisfy the United States in its sole discretion, that each business can and will be operated by the Acquirers as viable, ongoing businesses that can compete effectively in the relevant markets (in the case of the Crop Protection Divestiture Assets, the United States will exercise its discretion after consultation with the Plaintiff States). Defendants must take all reasonable steps necessary to

accomplish the divestitures quickly and shall cooperate with prospective purchasers.

Pursuant to Paragraphs IV(A) and V(A) of the proposed Final Judgment, both the Crop Protection Divestiture and Material Science Divestiture must be completed within thirty (30) days after the consummation of the merger of Dow Chemical and DuPont, or sixty (60) days after notice of the entry of the Final Judgment by the Court, whichever is later. Each divestiture package remedies a separate competitive harm alleged in the complaint and must be sold to an Acquirer that will operate the business as a viable, ongoing business. The two asset packages relate to different industries with different customers, market conditions, and required expertise. In order to ensure that the each divestiture package is operated as a viable, ongoing business, the Crop Protection and Material Science Divestiture Assets will likely be sold to different Acquirers.

These divestiture periods are longer than those often found in Antitrust Division consent decrees, but are warranted in this case. Transfer of the Crop Protection Divestiture Assets and the Material Science Divestiture Assets are both subject to numerous government approvals, including approvals from authorities outside the United States. The longer divestiture period allows defendants and the Acquirer(s) to obtain these regulatory approvals, but still ensures that the divestitures are made as quickly as possible, thus reducing the risk that the assets will decrease in value.

Paragraph IV(G) provides that the Acquirer of the Crop Protection Divestiture Assets may contract with the defendants for the provision of formulation services for a transitional period. Formulation is the process of adding inert chemicals to the active ingredients that provide the efficacy of crop protection products. Providers of crop protection products routinely use third parties for formulation services in order to optimize supply chains and minimize shipping costs on completed products. However, formulation services must be provided at a facility that has received the appropriate regulatory approvals in the United States (through the United States Environmental Protection Agency) and abroad, a process that may be time-consuming. So, the Acquirer of the Crop Protection Divestiture Assets may choose to enter a formulation services agreement with the defendants prior to being in a position to formulate the acquired products at an approved facility of its own choosing. The formulation services

agreement shall be in effect for one (1) year after all necessary regulatory approvals have been granted by jurisdictions where the Finesse-formulated products and the Rynaxypyr-formulated products are currently registered. During the term of the formulation services agreement, defendants shall implement and maintain procedures to preclude the sharing of information between defendants and the Acquirer. The United States, in its sole discretion, may approve an extension of the formulation services agreement for a period not to exceed two (2) years.

Paragraph V(G) provides that the Acquirer of the Material Science Divestiture Assets may contract with the defendants for the provision of operating services that include the operation of process controls at the acid copolymer production facility under the management and supervision of the Acquirer. The Acquirer of the Material Science Divestiture Assets may choose to enter an operating services agreement with the defendants because the Material Science Divestiture Assets are located within a significantly larger chemical complex in Freeport, Texas where such services can be more efficiently provided across multiple facilities. Dow offers similar services on an arms-length basis to other firms that own manufacturing assets within the larger chemical complex in Freeport, Texas. During the term of the operating services agreement, defendants shall implement and maintain procedures to preclude the sharing of information between defendants and the Acquirer.

Given the complexity of these industries, Section XI of the proposed Final Judgment also provides that the United States may appoint a Monitoring Trustee(s). Because of the size and complexity of the divestitures, separate Monitoring Trustees are required for the Crop Protection Divestiture Assets and Material Science Divestiture Assets. The Monitoring Trustees will have the power and authority to investigate and report on the defendants' compliance with the terms of the proposed Final Judgment and the APSO during the pendency of the divestiture, including the ability to hire at the cost and expense of defendants any consultants, accountants, attorneys, or other agents necessary in the Monitoring Trustees' judgment. The Monitoring Trustees would not have any responsibility or obligation for the operation of the parties' businesses. The Monitoring Trustees will serve at defendants' expense, on such terms and conditions as the United States approves, and defendants must assist the trustees in

fulfilling their obligations. The Monitoring Trustees will file monthly reports and will serve for at least six (6) months following the divestiture of all Divestiture Assets, a period which may be extended by the United States, in its sole discretion.

Finally, in the event that defendants do not accomplish the divestiture within the periods prescribed in Paragraphs IV(A) and V(A) of the proposed Final Judgment, Section VI of the proposed Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture. If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After his or her appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six (6) months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

The divestiture provisions of the proposed Final Judgment will eliminate the anticompetitive effects of the acquisition in the provision of broadleaf herbicides for winter wheat, insecticides for chewing pests, acid copolymers, and ionomers in the United States.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The plaintiffs and defendants have stipulated that the proposed Final

Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The plaintiffs considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants. The plaintiffs could have continued the litigation and sought preliminary and permanent injunctions against the merger between Dow Chemical and DuPont. The plaintiffs are satisfied, however, that the divestiture of assets described in the proposed Final Judgment will preserve competition in the markets for broadleaf herbicides for winter wheat, insecticides for chewing pests, acid copolymers, and ionomers. Thus, the proposed Final Judgment would achieve all or

substantially all of the relief the plaintiffs would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.*, 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.*, No. 08-1965 (JR), 2009-2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether

the mechanism to enforce the final judgment are clear and manageable.”¹

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government’s complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not “engage in an unrestricted evaluation of what relief would best serve the public.” *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir. 1981)); see also *Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court’s role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is “within the reaches of the public interest.” More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).² In determining whether a proposed settlement is in the public interest, a district court “must accord deference to the government’s predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.” *SBC Commc’ns*, 489 F. Supp. 2d at 17.

¹ The 2004 amendments substituted “shall” for “may” in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. Compare 15 U.S.C. 16(e) (2004), with 15 U.S.C. 16(e)(1) (2006); see also *SBC Commc’ns*, 489 F. Supp. 2d at 11 (concluding that the 2004 amendments “effected minimal changes” to Tunney Act review).

² Cf. *BNS*, 858 F.2d at 464 (holding that the court’s “ultimate authority under the [APPA] is limited to approving or disapproving the consent decree”); *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to “look at the overall picture not hypercritically, nor with a microscope, but with an artist’s reducing glass”). See generally *Microsoft*, 56 F.3d at 1461 (discussing whether “the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest’”).

Commc’ns, 489 F. Supp. 2d at 17; see also *U.S. Airways*, 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft*, 56 F.3d at 1461 (noting the need for courts to be “deferential to the government’s predictions as to the effect of the proposed remedies”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States’ prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. “[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is ‘within the reaches of public interest.’” *United States v. Am. Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff’d sub nom. Maryland v. United States*, 460 U.S. 1001 (1983); see also *U.S. Airways*, 38 F. Supp. 3d at 74 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft*, 56 F.3d at 1461); *United States v. Alcan Aluminum Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States “need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” *SBC Commc’ns*, 489 F. Supp. 2d at 17.

Moreover, the court’s role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to “construct [its] own hypothetical case and then evaluate the decree against that case.” *Microsoft*, 56 F.3d at 1459; see also *U.S. Airways*, 38 F. Supp. 3d at 74 (noting that the court must simply determine whether there is a factual foundation for the government’s decisions such that its conclusions regarding the proposed settlements are reasonable; *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 (“the ‘public interest’ is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged”). Because the “court’s authority to review the decree

depends entirely on the government’s exercising its prosecutorial discretion by bringing a case in the first place,” it follows that “the court is only authorized to review the decree itself,” and not to “effectively redraft the complaint” to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60. As this court recently confirmed in *SBC Communications*, courts “cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.” *SBC Commc’ns*, 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that “[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.” 15 U.S.C. § 16(e)(2); see also *U.S. Airways*, 38 F. Supp. 3d at 75 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: “[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.” 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court’s “scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.” *SBC Commc’ns*, 489 F. Supp. 2d at 11.³ A court can make its public interest determination based on the competitive impact statement and

³ See *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the “Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone”); *United States v. Mid-Am. Dairymen, Inc.*, No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (“Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.”); S. Rep. No. 93–298, at 6 (1973) (“Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.”).

response to public comments alone.
U.S. Airways, 38 F. Supp. 3d at 75.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 15, 2017

Respectfully submitted,

/s/

Lowell R. Stern (DC Bar #440487)
United States Department of Justice,
Antitrust Division, Litigation II Section, 450
Fifth Street NW., Suite 8700, Washington, DC
20530, (202) 514-3676, (202) 514-9033
(Facsimile), lowell.stern@usdoj.gov.

[FR Doc. 2017-13326 Filed 6-23-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1125-0005]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Request To Be Included on the List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings (Form EOIR-56)

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), 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 August 25, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Jean King, General Counsel, USDOJ-EOIR-OGC, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia, 20530; telephone: (703) 305-0470.

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 Bureau of Justice Statistics, 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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:

1. *Type of Information Collection:* Revision of a currently approved collection.
2. *The Title of the Form/Collection:* Request to be Included on the List of Pro Bono Legal Service Providers for Individuals in Immigration Proceedings.
3. *The agency form number:* EOIR-56 (OMB #1125-0015).
4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Legal service providers seeking to be included on the List of Pro Bono Legal Service Providers ("List"), a list of persons who have indicated their availability to represent aliens on a pro bono basis. Abstract: EOIR seeks to replace the current paper version of the EOIR Forms-56, with an electronic system to make an initial application and apply for continued participation in the List. Form EOIR-56 will be mandatory, and is intended to elicit, in a uniform manner, all of the required information for EOIR to determine whether an applicant meets the eligibility requirements for inclusion on the List.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 161 respondents will complete each form within approximately 30 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* 80.5 annual burden hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice

Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 21, 2017.

Melody D. Braswell,

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

[FR Doc. 2017-13251 Filed 6-23-17; 8:45 am]

BILLING CODE 4410-30-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report on Occupational Employment and Wages

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, "Report on Occupational Employment and Wages," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 26, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201705-1220-003 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance

Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA to revise the Report on Occupational Employment and Wages information collection. The Occupational Employment Statistics (OES) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current detailed occupational employment and wages for each Metropolitan Statistical Area and Metropolitan Division as well as by detailed industry classification. OES survey data assists in the development of employment and training programs established by the Perkins Vocational Education Act of 1998. This ICR has been classified as a revision, because the OES program seeks to change its OMB clearance to test the efficiency of using email to contact respondents in lieu of mailing paper forms and to conduct a non-response analysis survey. Wagner-Peyser Act section 15 authorizes this information collection. See 29 U.S.C. 491-2.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220-0042. The current approval is scheduled to expire on March 31, 2020; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the *Federal Register* on April 22, 2016 (81 FR 23753).

Interested parties are encouraged to send comments to the OMB, Office of

Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the *Federal Register*. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220-0042. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-BLS.

Title of Collection: Report on Occupational Employment and Wages.

OMB Control Number: 1220-0042.

Affected Public: Federal Government; State, Local, and Tribal Governments; and Private Sector—businesses or other for-profits, not-for-profit institutions.

Total Estimated Number of Respondents: 307,822.

Total Estimated Number of Responses: 307,822.

Total Estimated Annual Time Burden: 153,911 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 20, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-13272 Filed 6-23-17; 8:45 am]

BILLING CODE 4510-24-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Records of Tests and Examinations of Mine Personnel Hoisting Equipment

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, "Records of Tests and Examinations of Mine Personnel Hoisting Equipment," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 26, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201612-1219-001 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Records of Tests and Examinations of Mine Personnel Hoisting Equipment information collection. Various MSHA regulations make it mandatory for a covered mine operator to make and to maintain records of specific tests and inspections of mine personnel hoisting systems, including wire ropes, to ensure each system remains safe to operate while in use. Federal Mine Safety and

Health Act of 1977 section 103(h) authorizes this information collection. See 30 U.S.C. 813(h).

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 1219-0034.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 7, 2017 (82 FR 12852).

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 1219-0034. 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-MSHA.

Title of Collection: Records of Tests and Examinations of Mine Personnel Hoisting Equipment.

OMB Control Number: 1219-0034.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 225.

Total Estimated Number of Responses: 61,366.

Total Estimated Annual Time Burden: 5,133 hours.

Total Estimated Annual Other Costs Burden: \$270,000.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 19, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-13238 Filed 6-23-17; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Logging Operations Standard

ACTION: Notice.

SUMMARY: On June 30, 2017, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Logging Operations Standard," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 31, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1218-003 (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 to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT:

Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Logging Operations Standard information collection requirements codified in regulations 29 CFR 1910.266(f), (g), and (i). The Standard requires an Occupational Safety and Health Act (OSH Act) covered employer subject to the Standard to assure operating and maintenance instructions are available on a machine or in the area where the machine is operated. For vehicles, the employer must assure that operating and maintenance instructions are available for each vehicle. The standard also requires an employer to provide training to workers and to certify that the training has been provided. OSH Act sections 2(b)(3), 6(b), and 8(c) authorize this information collection. See 29 U.S.C. 651(b)(3), 655(b) 657(c).

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 OMB Control Number 1218-0198.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on

June 30, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 9, 2017 (82 FR 13141).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs by July 31, 2017. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218-0198. 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-OSHA.

Title of Collection: Logging Operations Standard.

OMB Control Number: 1218-0198.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 7,908.

Total Estimated Number of Responses: 50,440.

Total Estimated Annual Time Burden: 1,603 hours.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 20, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017-13273 Filed 6-23-17; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building

ACTION: Notice.

SUMMARY: On June 30, 2017, the Department of Labor (DOL) will submit the Office of the Assistant Secretary for Administration and Management (OASAM) sponsored information collection request (ICR) titled, "Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building," to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: Submit comments on or before July 31, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201706-1225-001 (this link will only become active as of July 1, 2017) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-DM, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-6881 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building, Form DL1-6062B, a non-DOL entity uses for applying to use conference and meeting capabilities located in the DOL headquarters building. This application is an information collection 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 1225-0087. The current approval is scheduled to expire on June 30, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 28, 2017 (82 FR 19753).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by July 31, 2017. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1225-0087. 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–OASAM.

Title of Collection: Application for Use of Public Space by Non-DOL Agencies in the Frances Perkins Building.

OMB Control Number: 1225–0087.

Affected Public: Private Sector—not-for-profit institutions.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 1 hour.

Total Estimated Annual Other Costs Burden: \$0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: June 19, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–13239 Filed 6–23–17; 8:45 am]

BILLING CODE 4510–23–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Finance Committee will meet telephonically on July 10, 2017. The meeting will commence at 3:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately “MUTE” your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda
2. Discussion regarding recommendations for LSC's Fiscal Year (FY) 2019 budget request

3. Public comment regarding FY 2019 budget request
4. Consider and act on FY 2019 Budget Request *Resolution 2017–XXX*
5. Additional public comment
6. Consider and act on other business
7. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION:

Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to FR_NOTICE_QUESTION@lsc.gov.

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or FR_NOTICE_QUESTION@lsc.gov, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: June 21, 2017.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2017–13350 Filed 6–22–17; 11:15 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of June 19, 26, July 3, 10, 17, 24, 31, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 19, 2017

Thursday, June 22, 2017

1:55 p.m. Affirmation Session (Public Meeting) (Tentative); Waste Control Specialists LLC (Consolidated Interim Storage Facility) (Joint Request to Withdraw the **Federal Register** Notice) (Tentative)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>. Thursday, June 22, 2017

2:00 p.m. Briefing on Human Capital and Equal Employment

Opportunity (Public Meeting) (Contact: Tanya Parwani-Jaimes: 301–287–0730)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

Additional Information

By a vote of 3–0 on June 21, 2017, the Commission determined pursuant to U.S.C. 552b(e) and '9.107(a) of the Commission's rules that the above referenced Affirmation Session be held with less than one week notice to the public. The meeting is scheduled on Thursday, June 22, 2017

Week of June 26, 2017

There are no meetings scheduled for the week of June 26, 2017.

Week of July 3, 2017—Tentative

There are no meetings scheduled for the week of July 3, 2017.

Week of July 10, 2017—Tentative

There are no meetings scheduled for the week of July 10, 2017.

Week of July 17, 2017—Tentative

There are no meetings scheduled for the week of July 17, 2017.

Week of July 24, 2017—Tentative

There are no meetings scheduled for the week of July 24, 2017.

Week of July 31, 2017—Tentative

There are no meetings scheduled for the week of July 31, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at Denise.McGovern@nrc.gov.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at Kimberly.Meyer-Chambers@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or email Brenda.Akstulewicz@nrc.gov or Patricia.Jimenez@nrc.gov.

Dated: June 21, 2017.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017-13372 Filed 6-22-17; 11:15 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2016-0205]

Information Collection: Design Information Questionnaire—IAEA N-71 and Associated Forms N-72, N-73, N-74, N-75, N-76, N-77, N-91, N-92, N-93, and N-94

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Design Information Questionnaire—IAEA N-71 and Associated Forms N-72, N-73, N-74, N-75, N-76, N-77, N-91, N-92, N-93, and N-94.”

DATES: Submit comments by July 26, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Aaron Szabo, Desk Officer, Office of Information and Regulatory Affairs, Docket ID NRC-2016-0205, NEOB-10202, Office of Management and Budget, Washington, DC 20503; telephone: 202-395-3621, email: oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2016-0205 when contacting the NRC about the availability of information for this

action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2016-0205.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at: <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or via email to pdr.resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML17129A399. The supporting statement is available in ADAMS under Accession No. ML17130A678.

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

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Please include Docket ID NRC-2016-0205 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <http://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not

routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, “Design Information Questionnaire—IAEA N-71 and Associated Forms N-72, N-73, N-74, N-75, N-76, N-77, N-91, N-92, N-93, and N-94.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on March 3, 2017 (82 FR 12473).

1. *The title of the information collection:* “Design Information Questionnaire—IAEA N-71 and Associated Forms N-72, N-73, N-74, N-75, N-76, N-77, N-91, N-92, N-93, and N-94.”

2. *OMB approval number:* 3150-0056.

3. *Type of submission:* Extension.

4. *The form number if applicable:* IAEA Form N-71 (and the appropriate associated IAEA Form) or Form N-91, to provide information concerning their installation for use by the IAEA.

5. *How often the collection is required or requested:* It is estimated that this collection is required approximately 1 time per year.

6. *Who will be required or asked to respond:* Licensees of facilities on the U.S. eligible list who have been notified in writing by the NRC to submit the form.

7. *The estimated number of annual responses:* 2.

8. *The estimated number of annual respondents:* 2.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 360 reporting hours.

10. *Abstract:* In order for the United States to fulfill its responsibilities as a participant in the US/International Atomic Energy Agency (IAEA) Safeguards Agreement, the NRC must collect information from licensees about their installations and provide it to the IAEA. Licensees of facilities that appear on the U.S. eligible list and have been notified in writing by the NRC are required to complete and submit a Design Information Questionnaire, IAEA Form N-71 (and the appropriate

associated IAEA Form) or Form N-91, to provide information concerning their installation for use by the IAEA.

Dated at Rockville, Maryland, this 21st day of June 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017-13316 Filed 6-23-17; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: OPM Form 1203-FX (Occupational Questionnaire)

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Automated Systems Management Group, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR), OPM Form 1203-FX (Occupational Questionnaire).

DATES: Comments are encouraged and will be accepted until July 26, 2017.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oir_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** (82 FR 15243) on March 27, 2017, allowing for a 60-day public comment period. This process was conducted in accordance with 5 CFR 1320.1. No comments were received for

this information collection (OMB No. 3206-0040). The purpose of this notice is to allow an additional 30 days for public comments.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

The Occupational Questionnaire is an optical scan form designed to collect applicant information and qualifications in a format suitable for automated processing and to create applicant records for an automated examining system. The 1203 series was commonly referred to as the "Qualifications and Availability Form C." OPM re-titled the series as "Occupational Questionnaire" to fit a more generic need. OPM uses this form to carry out its responsibility for open competitive examining for admission to the competitive service in accordance with Section 3304, Title 5, United States Code. One change has been made to the form under *Section 14, Veterans' Preference*. The addition of *Sole Survivorship Preference* was added to reflect the amended eligibility categories for veterans' preference per Public Law 110-317, the Hubbard Act. Subparagraph (H) established the new category for veterans released or discharged from a period of active duty from the armed forces, after August 29, 2008, by reason of a "sole survivorship discharge."

Analysis

Agency: Automated Systems Management Group, Office of Personnel Management.

Title: Occupational Questionnaire, OPM Form 1203-FX.

OMB Number: 3206-0040.

Affected Public: Individuals or households.

Number of Respondents:

approximately 11,400,000.

Estimated Time per Respondent: 40 minutes.

Total Burden Hours: 7,600,000 hours.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017-13310 Filed 6-23-17; 8:45 am]

BILLING CODE 6325-43-P

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235-0704, SEC File No. 270-654]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension:

Rule 506(e) of Regulation D Felons and Other Bad Actors Disclosure Statement.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget the following request for an extension of the previously approved collection of information discussed below.

Regulation 506(e) of Regulation D (17 CFR 230.506(e)) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) requires the issuer to furnish to each purchaser, a reasonable time prior to sale, a description in writing of any matters that would have triggered disqualification under Rule 506(d)(1) of Regulation D, but occurred before September 23, 2013. The disclosure required by Rule 506(e) is not filed with the Commission, but serves as an important investor protection tool to inform investors of an issuer's and its covered persons, involvement in past "bad actor" disqualifying events such as pre-existing criminal convictions, court injunctions, disciplinary proceedings, and other sanctions enumerated in Rule 506(d). Without the mandatory written statement requirements set forth in Rule 506(e), purchasers may have the impression that all bad actors are disqualified from participation in Rule 506 offerings.

We estimate there are 19,908 respondents that will conduct a one-hour factual inquiry to determine whether the issuer and its covered persons have had pre-existing

disqualifying events before September 23, 2013. Of those 19,908 respondents, we estimate that 220 respondents with disqualifying events will spend ten hours to prepare a disclosure statement describing the matters that would have triggered disqualification under 506(d)(1) of Regulation D, except that these disqualifying events occurred before September 23, 2013, the effective date of the Rule 506 amendments. An estimated 2,200 burden hours are attributed to the 220 respondents with disqualifying events in addition to the 19,908 burden hours associated with the one-hour factual inquiry. In sum, the total annual increase in paperwork burden for all affected respondents to comply with the Rule 506(e) disclosure statement is estimated to be approximately 22,108 hours of company personnel time.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Shagufta_Ahmed@omb.eop.gov; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Comments must be submitted to OMB within 30 days of this notice.

Dated: June 19, 2017.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-13227 Filed 6-23-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 32687; 812-14682]

1889 BDC, Inc., et al.; Notice of Application

June 21, 2017.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the

Investment Company Act of 1940 (the “Act”) and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit business development companies (“BDCs”) to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: 1889 BDC, Inc. (the “Fund”), 1889 Adviser, LLC (the “BDC Adviser”), on behalf of itself and its successors,¹ Angelo Gordon & Co., L.P., (the “Existing Affiliated Adviser”), on behalf of itself and its successors, AG Diversified Credit Strategies Master, L.P., AG Diversified Income Master Fund, L.P., AG Super Fund, L.P., AG Super Fund International Partners, L.P., AG Direct Lending Fund, L.P., AG DLI Investments, L.P., AG GTDL Fund, L.P., AG KFHD Fund, L.P., AG Mountain Laurel Direct Lending Fund, L.P., AG Centre Street Partnership, L.P., AG Direct Lending Fund II, L.P., AG Direct Lending Fund II (Unlevered), L.P., AG DLI Investments II, L.P., AG DLI Investments II (Unlevered), L.P., and AG GTDL Fund II, L.P. (collectively, the “Existing Affiliated Funds”).

FILING DATES: The application was filed on August 5, 2016 and amended on December 12, 2016, April 21, 2017 and May 11, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 17, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549-1090. Applicants: 245 Park Avenue, 26th Floor, New York, NY 10167.

¹ The term “successor,” as applied to each Adviser (defined below), means an entity that results from a reorganization into another jurisdiction or change in the type of business organization.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 551-6817 or David J. Marcinkus, Branch Chief, at (202) 551-6821 (Chief Counsel’s Office, Division of Investment Management).

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

Applicants’ Representations

1. The Fund is a Delaware corporation organized as a closed-end management investment company that has elected to be regulated as a BDC under Section 54(a) of the Act.² The Fund’s Objectives and Strategies³ are to generate consistent absolute returns through cash coupons, fees and when available equity co-investments, while minimizing the risk of loss and to generate consistent absolute returns. The Fund invests in senior secured debt second lien loans mezzanine loans, senior secured stretch and unitranche facilities as well as, to a lesser extent, equity co-investments. The board of directors of the Fund (the “Board”) is comprised of 4 directors, 3 of whom are not “interested persons,” within the meaning of Section 2(a)(19) of the 1940 Act (the “Independent Directors”), of the Fund.

2. The BDC Adviser is a Delaware limited liability company which will be registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the “Advisers Act”) prior to commencement of operations of the Fund. The BDC Adviser serves as investment adviser to the Fund and is a wholly-owned subsidiary of the Existing Affiliated Adviser.

3. Each Existing Affiliated Fund is an entity that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act. The Existing Affiliated Funds pursue strategies focused on investing in a variety of fixed income and credit investments.

² Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

³ “Objectives and Strategies” means a Regulated Fund’s investment objectives and strategies, as described in the Regulated Fund’s registration statement on Form N-2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the “Securities Act”), or under the Securities Exchange Act of 1934 and the Regulated Fund’s reports to shareholders.

4. The Existing Affiliated Adviser is a Delaware limited partnership and is registered as an investment adviser under the Advisers Act. The Existing Affiliated Adviser serves as investment adviser to each of the Existing Affiliated Funds.

5. Applicants seek an order (“Order”) to permit a Regulated Fund⁴ and one or more Regulated Funds and/or one or more Affiliated Funds⁵ to co-invest with each other in securities issued by issuers in private placement transactions in which the Adviser to the Regulated Fund negotiates terms in addition to price;⁶ and (b) make additional investments in securities of such issuers, including through the exercise of warrants, conversion privileges, and other rights to purchase securities of the issuers (“Follow-On Investments”) through a proposed co-investment program (the “Co-Investment Program”) where such participation would otherwise be prohibited under section 57(a)(4) and rule 17d-1 and the rules under the 1940 Act. The term “Co-Investment Transaction” means any transaction in which a Regulated Fund (or its Wholly-Owned Investment Subsidiary, as defined below) participate together with one or more other Regulated Funds and/or one or more Affiliated Funds in reliance on the requested Order. Potential Co-Investment Transaction” means any investment opportunity in which a Regulated Fund (or its Wholly-Owned Investment Subsidiary, as defined below) could not participate together with one or more other Regulated Funds and/or one or more other Affiliated Funds without obtaining and relying on the Order.⁷

⁴ The term “Regulated Fund” means the Fund and any Future Regulated Fund. “Future Regulated Fund” means any closed-end management investment company (a) that is registered under the Act or has elected to be regulated as a BDC, (b) whose investment adviser is an Adviser, and (c) that intends to participate in the Co-Investment Program.

The term “Adviser” means the BDC Adviser, the Existing Affiliated Adviser and any future investment adviser that (i) controls, is controlled by, or is under common control with the Existing Affiliated Adviser and (ii) is registered as an investment adviser under the Advisers Act.

⁵ “Affiliated Fund” means the Existing Affiliated Funds and any entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the 1940 Act, and (c) that intends to participate in the Co-Investment Program.

⁶ The term “private placement transactions” means transactions in which the offer and sale of securities by the issuer are exempt from registration under the Securities Act.

⁷ All existing entities that currently intend to rely upon the requested Order have been named as applicants. Any other existing or future entity that subsequently relies on the Order will comply with the terms and conditions of the application.

6. Applicants state that a Regulated Fund may, from time to time, form a Wholly-Owned Investment Subsidiary.⁸ Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any other Regulated Fund or Affiliated Fund because it would be a company controlled by its parent Regulated Fund for purposes of section 57(a)(4) and rule 17d-1. Applicants request that each Wholly-Owned Investment Subsidiary be permitted to participate in Co-Investment Transactions in lieu of its parent Regulated Fund and that the Wholly-Owned Investment Subsidiary’s participation in any such transaction be treated, for purposes of the requested Order, as though the parent Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund’s investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Regulated Fund’s Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub’s participation in a Co-Investment Transaction, and the Regulated Fund’s Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund’s place. If the Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

7. When considering Potential Co-Investment Transactions for any Regulated Fund, the Adviser will consider only the Objectives and Strategies, investment policies, investment positions, capital available for investment, and other pertinent factors applicable to that Regulated Fund. The Adviser expects that any portfolio company that is an appropriate investment for a Regulated Fund should

⁸ The term “Wholly-Owned Investment Sub” means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund; (iii) with respect to which the Regulated Fund’s Board has the sole authority to make all determinations with respect to the entity’s participation under the conditions of the Application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

also be an appropriate investment for one or more other Regulated Funds and/or one or more Affiliated Funds, with certain exceptions based on available capital or diversification.⁹

8. Other than pro rata dispositions and Follow-On Investments as provided in conditions 7 and 8, and after making the determinations required in conditions 1 and 2(a), the Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board eligible to vote under section 57(o) of the Act (“Eligible Directors”), and the “required majority,” as defined in section 57(o) of the Act (“Required Majority”)¹⁰ will approve each Co-Investment Transaction prior to any investment by the participating Regulated Fund.

9. With respect to the pro rata dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Regulated Fund and Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund’s participation in pro rata dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such disposition or Follow-On Investment will be submitted to the Regulated Fund’s Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata dispositions and Follow-On Investments with the result that all dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

10. No Independent Director of a Regulated Fund will have a direct or indirect financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

11. Applicants also represent that if the Advisers or its principal owners (“Principals”) or any person controlling, controlled by, or under common control with the Advisers or the Principals, and

⁹ The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

¹⁰ In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to Section 57(o).

the Affiliated Funds (collectively, the "Holders") own in the aggregate more than 25 percent of the outstanding voting securities of a Regulated Fund ("Shares"), then the Holders will vote such Shares as required under Condition 14. Applicants believe that this condition will ensure that the Independent Directors will act independently in evaluating the Co-Investment Program, because the ability of the Advisers or the Principals to influence the Independent Directors by a suggestion, explicit or implied, that the Independent Directors can be removed will be limited significantly. Applicants represent that the Non-Interested Directors will evaluate and approve any such independent party, taking into account its qualifications, reputation for independence, cost to the shareholders, and other factors that they deem relevant.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the Regulated Funds and Affiliated Funds be deemed to be a person related to each Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d-1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d-1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d-1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d-1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such

participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

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

1. Each time an Adviser considers a Potential Co-Investment Transaction for an Affiliated Fund or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for such Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, it will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Affiliated Funds, collectively, in the same transaction, exceeds the amount of the investment opportunity, the investment opportunity will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for

compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute written information concerning the Potential Co-Investment Transaction (including the amount proposed to be invested by each participating Regulated Fund and Affiliated Fund) to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Affiliated Funds only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its shareholders and do not involve overreaching in respect of the Regulated Fund or its shareholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the shareholders of the Regulated Fund; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by any other Regulated Funds or Affiliated Funds would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of other Regulated Funds or Affiliated Funds; provided that, if any other Regulated Fund or Affiliated Fund, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition 2(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the applicable Adviser agrees to, and does, provide periodic reports to the Regulated Fund's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any Affiliated Fund or any Regulated Fund or any affiliated person

of any Affiliated Fund or any Regulated Fund receives in connection with the right of an Affiliated Fund or a Regulated Fund to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Affiliated Funds (who each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Affiliated Funds or the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by sections 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds or Affiliated Funds during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8,¹¹ a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Affiliated Fund, or any affiliated person of another Regulated Fund or Affiliated Fund is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the

terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Affiliated Fund. The grant to an Affiliated Fund or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7. (a) If any Affiliated Fund or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the disposition.

(b) Each Regulated Fund will have the right to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to the participating Affiliated Funds and any other Regulated Fund.

(c) A Regulated Fund may participate in such disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such disposition is proportionate to its outstanding investments in the issuer immediately preceding the disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all dispositions made in accordance with this condition. In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Affiliated Fund and each Regulated Fund will bear its own expenses in connection with any such disposition.

8. (a) If any Affiliated Fund or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Regulated Fund and each Affiliated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; and (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application). In all other cases, the Adviser will provide its written recommendation as to the Regulated Fund's participation to the Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the opportunity is not based on the Regulated Funds' and the Affiliated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Affiliated Funds in the same transaction, exceeds the amount of the opportunity; then the amount invested by each such party will be allocated among them pro rata based on each participant's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Non-Interested Directors of each Regulated Fund will be provided quarterly for review all information

¹¹ This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by other Regulated Funds or Affiliated Funds that the Regulated Fund considered but declined to participate in, so that the Non-Interested Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Non-Interested Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Non-Interested Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an "affiliated person" (as defined in the Act), of an Affiliated Fund.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act) will, to the extent not payable by the Advisers under their respective investment advisory agreements with Affiliated Funds and the Regulated Funds, be shared by the Regulated Funds and the Affiliated Funds in proportion to the relative amounts of the securities held or to be acquired or disposed of, as the case may be.

13. Any transaction fee¹² (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Regulated Funds and Affiliated Funds on a pro rata basis based on the amounts they invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by such Adviser at a bank or

banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Regulated Funds and Affiliated Funds based on the amounts they invest in such Co-Investment Transaction. None of the Affiliated Funds, the Advisers, the other Regulated Funds or any affiliated person of the Regulated Funds or Affiliated Funds will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Regulated Funds and the Affiliated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C); and (b) in the case of an Adviser, investment advisory fees paid in accordance with the agreement between the Adviser and the Regulated Fund or Affiliated Fund.

14. If the Holders own in the aggregate more than 25 percent of the Shares of a Regulated Fund, then the Holders will vote such Shares as directed by an independent third party when voting on (1) the election of directors; (2) the removal of one or more directors; or (3) any other matter under either the Act or applicable State law affecting the Board's composition, size or manner of election.

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

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-13263 Filed 6-23-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80975; File No. SR-FINRA-2017-018]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Implementation Date for Trade Modifiers When Reporting Transactions in U.S. Treasury Securities

June 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 12, 2017, Financial Industry Regulatory

Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(6) thereunder.⁴ 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

FINRA is proposing to establish an implementation date for certain trade modifiers required on trade reports to the Transaction Reporting and Compliance Engine ("TRACE") involving U.S. Treasury Securities. The proposed rule change does not make any changes to the text of FINRA rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On October 18, 2016, the Commission approved a proposed rule change to require FINRA members to report certain transactions in U.S. Treasury Securities to TRACE.⁵ The new rules included two new trade modifiers, which are described below, for use on certain types of trades in U.S. Treasury Securities reported to TRACE. On October 19, 2016, FINRA announced that the reporting requirements would

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ See Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of File No. SR-FINRA-2016-027) ("Original Filing"). The Original Filing stated that the implementation date for the new rules would be no later than 365 days following Commission approval. FINRA is filing the current proposed rule change to extend the implementation date for the trade modifiers beyond the 365-day period set forth in the Original Filing.

¹² Applicants are not requesting and the staff is not providing any relief for transaction fees received in connection with any Co-Investment Transaction.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

be implemented beginning July 10, 2017; however, FINRA noted that, although the two new trade modifiers could be used by members when reporting trades beginning on July 10, 2017, FINRA would announce at a later time when the modifiers would be required.⁶ The current proposed rule change establishes February 5, 2018, as the implementation date for the two new modifiers.

The Original Filing amended the TRACE rules to require that transactions in U.S. Treasury Securities, as defined in Rule 6710, be reported to TRACE. To effectuate this requirement, the Original Filing amended the definition of “TRACE-Eligible Security” to include U.S. Treasury Securities and amended the definition of “U.S. Treasury Security” to exclude savings bonds. The term “U.S. Treasury Securities” therefore includes Treasury bills, notes, and bonds, as well as separate principal and interest components of a U.S. Treasury Security separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the Treasury Dept.⁷

The Original Filing also included amendments to Rule 6730 to require the use of two new modifiers, when applicable, to reported transactions in U.S. Treasury Securities. When proposing the rule, FINRA noted that transactions in U.S. Treasury Securities that are executed as part of larger trading strategies can often be priced away from the current market for legitimate reasons.⁸ FINRA therefore adopted two new modifiers to require members to indicate that particular transactions are part of larger trading strategies.

First, the amendments require that members append a “.B” modifier to a trade report if the transaction being reported is part of a series of transactions where at least one of the transactions involves a futures contract (e.g., a “basis” trade). Second, the amendments require that members append a “.S” modifier to a trade report if the transaction being reported is part of a series of transactions and may not be priced based on the current market (e.g., a fixed price transaction in an “on-

the-run” security as part of a transaction in an “off-the-run” security).

FINRA noted that the use of these modifiers on TRACE trade reports involving U.S. Treasury Securities will allow FINRA to better understand and evaluate execution prices for specific transactions that may otherwise appear aberrant if, for example, they are significantly outside of the price range for that security at that time. Among other things, these modifiers should reduce the number of false positive results that could be generated through automated surveillance patterns that include the price as part of the pattern.

As noted above, the new TRACE reporting requirements for U.S. Treasury Securities are scheduled to be implemented beginning July 10, 2017,⁹ and the proposed rule change establishes February 5, 2018, as the implementation date for the two new modifiers.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be February 5, 2018.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹⁰ which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Based on discussions with multiple FINRA members, FINRA believes that providing members with an additional six months after the implementation of the new TRACE requirements to report transactions in U.S. Treasury Securities to report the trade modifiers on applicable transactions will give them sufficient time to program systems to comply with the requirement.

B. Self-Regulatory Organization’s Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

As noted in the Original Filing, the new modifiers may introduce additional complexity to the proposed reporting, as traders at FINRA-member firms must apply the modifiers correctly and consistently to ensure meaningful data collection. FINRA noted that, in discussions with market participants,

larger firms, for example, indicated that U.S. Treasury Securities are typically traded across many desks within the firm and this increases compliance costs because the new modifiers need to be identified by individual traders, as they are uniquely situated to know whether a specific trade is associated with a cross-instrument strategy that would require the modifier.¹¹ Some firms also suggested that it may be difficult for a trader to know at the time of a trade whether it is part of a cross-instrument strategy, thus increasing complexity and their regulatory risk. When proposing the requirements, FINRA noted that it planned to phase in the modifiers to simplify the immediate implementation of the proposed rule change and provide firms additional time to make the necessary changes to implement the new modifiers.¹² The proposed rule change is consistent with these representations and provides firms with additional time after they begin reporting transactions in U.S. Treasury Securities to TRACE to implement the requirement to append modifiers if applicable.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

¹¹ See Securities Exchange Act Release No. 78359 (July 19, 2016), 81 FR 48465, 48471 (July 25, 2016).

¹² See *id.* at 48469, n.25; see also Original Filing, *supra* note 5, at 73170.

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA complied with this requirement.

⁶ See *Regulatory Notice* 16–39 (October 2016).

⁷ The STRIPS program is a program operated by the Treasury Dept. under which eligible securities are authorized to be separated into principal and interest components and transferred separately. See 31 CFR 356.2; see generally 31 CFR 356.31 (providing details on how the STRIPS program works).

⁸ See Securities Exchange Act Release No. 78359 (July 19, 2016), 81 FR 48465, 48468 (July 25, 2016) (Notice of Filing of SR–FINRA–2016–027).

⁹ See *Regulatory Notice* 16–39 (October 2016).

¹⁰ 15 U.S.C. 78o-3(b)(6).

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-FINRA-2017-018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-FINRA-2017-018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. 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-FINRA-

2017-018, and should be submitted on or before July 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-13230 Filed 6-23-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80978; File No. SR-ICEEU-2017-003]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Amendment No. 1 and Order Approving Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to ICE Clear Europe's End-of-Day Price Discovery Policy

June 20, 2017.

I. Introduction

On March 10, 2017, ICE Clear Europe Limited ("ICE Clear Europe") 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 (SR-ICEEU-2017-003) to amend ICE Clear Europe's CDS End-of-Day Price Discovery Policy ("EOD Price Discovery Policy") to implement a new price submission process for Clearing Members. The proposed rule change was published for comment in the **Federal Register** on March 23, 2017.³ The Commission did not receive comments regarding the proposed changes. On May 1, 2017, the Commission extended the period in which to approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to June 21, 2017.⁴ On June 9, 2017, ICE Clear Europe filed Amendment No. 1 to the proposal.⁵ For the reasons discussed below, the

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-80269 (March 17, 2017), 82 FR 14925 (March 23, 2017) (SR-ICEEU-2017-003) ("Notice").

⁴ Securities Exchange Act Release No. 34-80566 (May 1, 2017), 82 FR 21287 (May 5, 2017).

⁵ ICE Clear Europe filed Amendment No. 1 to clarify that the implementation date for the proposed rule change will be July 10, 2017, and to note that ICE Clear Europe will issue a circular confirming this timeline in advance of the July 10, 2017 implementation date. Because Amendment No. 1 is a clarifying amendment that does not alter the substance of the proposed rule change the Commission is not publishing it for comment.

Commission is approving the proposed rule changes, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

ICE Clear Europe has proposed changes to its EOD Price Discovery Policy that are designed to implement a new price submission process. As part of its current price submission process, ICE Clear Europe requires Clearing Members to submit certain required price information to an intermediary, which ICE Clear Europe then obtains and uses as part of its price discovery process. The proposed rule changes would eliminate the use of the intermediary in the price submission process and instead require Clearing Members to submit required price information directly to ICE Clear Europe. In order to implement the direct price submission process, ICE Clear Europe proposed to amend its EOD Price Discovery Policy to (1) require Clearing Members establish direct connectivity with ICE Clear Europe and use a FIX API to provide ICE Clear Europe with the required price information, (2) add references to FIX API terminology, and (3) make revisions reflecting the replacement of existing trade date files with FIX API firm trade messages.⁶ Moreover, ICE Clear Europe proposed amending the Pricing Policy to note that ICE Clear Europe will send FIX API messages directly to Clearing Members, and to remove references to the intermediary and its "Valuation Service API" that ICE Clear Europe previously used.⁷ Although ICE Clear Europe proposed additional minor changes to the timing of various steps in the pricing process, these proposed changes would not affect the actual settlement submission windows.⁸

In addition to the changes described above, ICE Clear Europe also proposed changes with respect to the format of information required to be submitted by Clearing Members for the CDX.NA.HY index. Moreover, ICE Clear Europe proposed modifications to the process for distributing end-of-day prices, which will result in ICE Clear Europe publishing separate messages setting forth end-of-day price information for single name and index CDS to Clearing Members.⁹

⁶ Notice, 82 FR at 14925.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹⁰ Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.¹¹ Rule 17Ad-22(e)(17) requires, in relevant part, that a registered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risk by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls, and by ensuring that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.¹²

The Commission finds that the proposed rule change, which modifies ICE Clear Europe's EOD Price Discovery Policy to implement a direct price submission process for Clearing Members, is consistent with Section 17A of the Act and Rule 17Ad-22 thereunder. The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. By reducing operational risk the proposed rule changes reduce the likelihood that ICE Clear Europe will be unable to complete its end-of-day price discovery process. Completion of the end-of-day price discovery process is a necessary and essential element in ICE Clear Europe's clearance and settlement processes. The Commission believes that the proposed changes should enhance ICE Clear Europe's ability to complete the necessary pricing process effectively and thereby promote the prompt and accurate clearance and settlement of derivative agreements, contracts and

transactions consistent with Section 17A(b)(3)(F).

For similar reasons, the proposed rule changes are also consistent with Rule 17Ad-22(e)(17) in that they are designed to reduce operational risk outside of ICE Clear Europe's control.¹³ The proposed rule changes are intended to reduce ICE Clear Europe's external operational risk by implementing an appropriate system that will allow ICE Clear Europe to exert greater control over the price submission process by requiring direct connection and communication between ICE Clear Europe and its Clearing Members instead of relying on an intermediary to collect price information needed for ICE Clear Europe's price discovery process. As a result, because ICE Clear Europe will be able to reduce its reliance on intermediaries, and thereby reduce operational risk that is outside of its control, the Commission finds that the proposed rule changes are consistent with the requirements of Rule 17Ad-22(e)(17).

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-ICEEU-2017-003), as amended by Amendment No. 1 thereto, be, and hereby is, approved.¹⁴

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-13231 Filed 6-23-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80976; File No. SR-BatsEDGA-2017-18]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related To Amend Its Fee Schedule To Replace Current Inverted Pricing Model With Low Fee Model

June 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,²

¹³ *Id.*

¹⁴ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on June 12, 2017, Bats EDGA Exchange, Inc. (the "Exchange" or "EDGA") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fee schedule to replace its current inverted pricing model with a simple, low fee model.

The text of the proposed rule change is available at the Exchange's Web site at www.bats.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Most exchanges today utilize maker-taker pricing under which they provide a rebate to orders that add liquidity and charge a fee to orders that remove liquidity. The Exchange currently incorporates an inverse of that pricing model under which it charges a fee to add liquidity and provides a rebate to remove liquidity. As described below, the Exchange proposes to amend its fee schedule to replace its current inverted

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

¹⁰ 15 U.S.C. 78s(b)(2)(C).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 17 CFR 240.17Ad-22(e)(17).

pricing model with a simple, low fee model.

The Exchange submits this proposal in response to the industry feedback and the debate regarding exchange fee structures. Rule 610 of Regulation NMS limits the fees that a Trading Center⁵ may charge for accessing its Protected Quotation at \$0.0030 per share.⁶ This fee cap has served to create a cap on rebates with exchange's charging at or near the access fee cap to remove liquidity and providing a rebate to orders that add liquidity. Recent industry discourse has focused on fee structures and their purported effect on liquidity provision, liquidity taking, potential conflicts and order routing in the U.S. equity market. In addition, the Commission's Equity Market Structure Advisory Committee ("EMSAC") recommended that the Commission propose a pilot program to adjust the access fee cap under Rule 610 of Regulation NMS to better understand these dynamics.⁷ In addition, some exchanges have experimented with solutions, such as the recent pilot implemented by the Nasdaq Stock Market LLC ("Nasdaq"), with limited success. Other exchanges have proposed to not offer rebates and implemented a low fee model⁸ as the Exchange proposes herein. The Exchange now proposes to amend its fee schedule to no longer provide rebates and to modify or eliminate other types of incentive pricing under its current taker-maker pricing model. As amended, the Exchange would adopt a new low fee pricing model under which it would charge a low fee or provide the execution free of charge. The proposed low fee model is described below.

Displayed Order Fee Change

In securities priced at or above \$1.00, the Exchange currently charges a fee of \$0.0005 per share for Displayed orders that add liquidity and provides a rebate \$0.0002 per share for Displayed orders that remove liquidity. Receipt of this removal rebate is contingent on the attributed Market Participant Identifier ("MPID") adding (including Non-Displayed⁹) and/or routing an ADV¹⁰ of

at least 50,000 shares. Any attributed MPID not meeting this criteria is charged \$0.0030 per share for removing liquidity for securities priced \$1.00 and over and 0.20% of dollar value for securities priced less than \$1.00. The Exchange now proposes to charge a fee of \$0.00030 per share to all Displayed¹¹ orders in securities priced above \$1.00, regardless of whether they add or remove liquidity. The Exchange does not propose any contingency requirements or conditions that Members must satisfy to receive the proposed rates. Therefore, the Exchange proposes to delete footnote 1¹² of the fee schedule as receipt of the proposed fee would not be contingent on the MPID adding (including Non-Displayed) and/or routing an ADV of at least 50,000 shares. All Displayed orders in securities priced below \$1.00 would continue to be free and not be contingent to any minimum volume requirements.

As a result of the proposed change, the Exchange proposes to make corresponding changes to the following fee codes for securities priced at or above \$1.00:

- Fee code 3, which is appended to orders that add liquidity on the Exchange in Tape A and C securities outside of Regular Trading Hours,¹³ are currently charged a fee of \$0.00050 per share. Orders that yield fee code B would now be charged the proposed standard fee of \$0.00030 per share.
- Fee code 4, which is appended to orders that add liquidity on the Exchange in Tape B securities outside of Regular Trading Hours, are currently charged a fee of \$0.00050 per share. Orders that yield fee code 4 would now be charged the proposed standard fee of \$0.00030 per share.
- Fee code 6, which is appended to orders that remove liquidity from the Exchange in all securities outside of Regular Trading Hours, are currently provided a rebate of \$0.00020 per share. Orders that yield fee code 6 would now be charged the proposed standard fee of \$0.00030 per share.
- Fee code B, which is appended to orders that add liquidity on the Exchange in Tape B securities during

Regular Trading Hours, are currently charged a fee of \$0.00050 per share. Orders that yield fee code B would now be charged the proposed standard fee of \$0.00030 per share.

- Fee code BB, which is appended to orders that remove liquidity from the Exchange in Tape B securities during of Regular Trading Hours, are currently provided a rebate of \$0.00020 per share. Orders that yield fee code BB would now be charged the proposed standard fee of \$0.00030 per share.

- Fee code CR, which is appended to orders that remove liquidity from the Exchange using an eligible routing strategy, are currently provided a rebate of \$0.00020 per share. Under footnote 12, the eligible routing strategies for fee code CR are ROUT, RDOT, ROUE, ROUC, and ROCO. The Exchange proposes to delete fee code CR and footnote 12 as orders that remove liquidity from the Exchange, regardless of whether any portion of that order is routed away would now be charged the proposed standard fee of \$0.00030 per share as set forth under the Standard Rates table. The Exchange also proposes to delete fee code CR from the Standard Rate table.

- Fee code N, which is appended to orders that remove liquidity from the Exchange in Tape C securities during of Regular Trading Hours, are currently provided a rebate of \$0.00020 per share. Orders that yield fee code N would now be charged the proposed standard fee of \$0.00030 per share.

- Fee code PR, which is appended to orders that remove liquidity from the Exchange using an eligible routing strategy, are currently provided a rebate of \$0.00020 per share. Under footnote 6, the eligible routing strategies for fee code PR are ROUZ, ROUD, and ROUQ. The Exchange proposes to delete fee code PR and footnote 6 as orders that remove liquidity from the Exchange, regardless of whether any portion of that order is routed away would now be charged the proposed standard fee of \$0.00030 per share as set forth under the Standard Rates table. The Exchange also proposes to delete fee code PR from the Standard Rate table.

- Fee code V, which is appended to orders that add liquidity on the Exchange in Tape A securities during Regular Trading Hours, are currently charged a fee of \$0.00050 per share. Orders that yield fee code V would now be charged the proposed standard fee of \$0.00030 per share.

- Fee code W, which is appended to orders that remove liquidity from the Exchange in Tape A securities during of Regular Trading Hours, are currently provided a rebate of \$0.00020 per share.

⁵ See 17 CR 242.600(b)(78).

⁶ See 17 CFR 242.610(c).

⁷ See EMSAC's Regulation NMS Subcommittee, Recommendation for an Access Fee Pilot, June 10, 2016, available at <https://www.sec.gov/spotlight/emsac/emsac-regulation-nms-recommendation-61016.pdf>.

⁸ See the Investors Exchange, Inc. fee schedule available at <https://iextrading.com/trading/> (dated August 19, 2016).

⁹ See Exchange Rule 11.6(e)(2).

¹⁰ ADV means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or

subset thereof, per day. See the Exchange's fee schedule available at http://www.bats.com/us/equities/membership/fee_schedule/edga/.

¹¹ See Exchange Rule 11.6(e)(1).

¹² Due to the deletion of footnote 1, as well as the proposed deletion of other footnotes described herein, the Exchange proposes to renumber the remaining footnotes and corresponding reference to those footnote throughout the fee schedule accordingly.

¹³ Regular Trading Hours is defined as "the time between 9:30 a.m. and 4:00 p.m. Eastern Time." See Exchange Rule 1.5(y).

Orders that yield fee code W would now be charged the proposed standard fee of \$0.00030 per share.

- Fee code XR, which is appended to orders that remove liquidity from the Exchange using an eligible routing strategy, are currently provided a rebate of \$0.00020 per share. Under footnote 7, the eligible routing strategies for fee code PR are DIRC, ROUX, RDOX, INET, ROBB, SWPA, and SWPB. The Exchange proposes to delete fee code XR and footnote 7 as orders that remove liquidity from the Exchange, regardless of whether any portion of that order is routed away would now be charged the proposed standard fee of \$0.00030 per share as set forth under the Standard Rates table. The Exchange also proposes to delete fee code XR from the Standard Rate table.

- Fee code Y, which is appended to orders that add liquidity on the Exchange in Tape C securities during Regular Trading Hours, are currently charged a fee of \$0.00050 per share. Orders that yield fee code Y would now be charged the proposed standard fee of \$0.00030 per share.

The Exchange determines the liquidity adding reduced fee that it will charge Members using a tiered pricing structure. Currently, the Exchange charges reduced fee of \$0.00030 per share under three Volume Tiers and two Step-Up tiers described in footnote 4 of the Fee Schedule. The Exchange proposes to delete all tiers listed under footnote 4 as all Displayed orders would be charged a fee of \$0.00030 per share regardless of whether the Member or MPID achieves certain volume criteria. A description of each tier under footnote 4 that is to be deleted is below.

- Under Volume Tier 1, a Member must add an ADV equal to or greater than 1% of the TCV,¹⁴ including orders with a Non-Displayed instruction that add liquidity.

- Under Volume Tier 2, a Members must add an ADV equal to or greater than 0.25% of the TCV, including orders with a Non-Displayed instruction that add liquidity; and removes an ADV of at least 0.25% of the TCV.

- Under Volume Tier 3, a Member must add an ADV equal to or greater than 0.15% of TCV, including Non-Displayed orders that add liquidity; and has an “added liquidity” as a percentage of “added plus removed liquidity” of at least 85%.

- Under Step-Up Tier 1, the MPID must add an ADV equal to or greater than 0.10% of the TCV more than the MPID’s December 2012 added ADV as a percentage of TCV or September 2013

added ADV as a percentage of TCV, whichever is lower.

- Under Step-Up Tier 2, the MPID adds an ADV equal to or greater than 0.05% of the TCV more than the MPID’s December 2012 added ADV as a percentage of TCV or September 2013 added ADV as a percentage of TCV, whichever is lower; and an “added liquidity” as a percentage of “added plus removed liquidity” equal to or greater than 85%.

Non-Displayed Order Fee Change

In securities priced at or above \$1.00, the Exchange currently charges a fee of \$0.0010 per share for Non-Displayed orders that add or remove liquidity. The Exchange now proposes to charge a fee of \$0.00050 per share to Non-Displayed orders in securities priced above \$1.00 that remove liquidity (other than for fee code DT, which will be charged no fee, as described below) and to charge no fee or rebate for Non-Displayed orders that add liquidity. Unless noted below, the Exchange does not propose to amend the fees charged for Non-Displayed orders in securities priced below \$1.00.

As a result of the proposed change, the Exchange proposes to make corresponding changes to the following fee codes for securities priced at or above \$1.00:

- Fee code DM is appended to Non-Displayed orders that add liquidity using MidPoint Discretionary Orders.¹⁵ Orders that yield fee code DM in securities priced at or above \$1.00 are charged a fee of \$0.00050 per share and orders in securities priced below \$1.00 are charged a fee equal to 0.05% of the transaction’s dollar value. Orders that yield fee code DM would now be free for all securities regardless of whether they are priced above or below \$1.00.

- Fee code DT is appended to Non-Displayed orders that remove liquidity using MidPoint Discretionary Orders. Orders that yield fee code DT in securities priced at or above \$1.00 are charged a fee of \$0.00050 per share and orders in securities priced below \$1.00 are charged a fee equal to 0.05% of the transaction’s dollar value. Orders that yield fee code DT would now be free for all securities regardless of whether they are priced above or below \$1.00.

- Fee code HA is appended to Non-Displayed orders that add liquidity. Orders that yield fee code HA in securities priced at or above \$1.00 are charged a fee of \$0.00100 per share and orders in securities priced below \$1.00 are charged a fee equal to 0.10% of the transaction’s dollar value. Orders that

yield fee code HA would now be free for all securities regardless of whether they are priced above or below \$1.00.

- Fee code HR is appended to Non-Displayed orders that remove liquidity. Orders that yield fee code HR in securities priced at or above \$1.00 are charged a standard fee of \$0.0010 per share and orders in securities priced below \$1.00 are charged a fee equal to 0.10% of the transaction’s dollar value. Orders in securities priced at or above \$1.00 that yield fee code HR would now be charged the proposed standard fee of \$0.00050 per share. Orders in securities priced below \$1.00 would be charged 0.05% of the transaction’s dollar value.

- Fee code RP, which is appended to Non-Displayed orders that add liquidity using Supplemental Peg Orders,¹⁶ are charged a fee of \$0.00040 per share. Orders that yield fee code RP would now be free.

In securities priced at or above \$1.00, the Exchange currently charges a fee of \$0.00080 per share for Non-Displayed orders that add or remove liquidity using MidPoint Peg Orders.¹⁷ The Exchange now proposes to charge a fee of \$0.00050 per share to MidPoint Peg Orders in securities priced above \$1.00 that remove liquidity and to charge no fee or rebate for MidPoint Peg Orders that add liquidity. The Exchange does not propose to amend the fees charged for MidPoint Peg Orders in securities priced below \$1.00. As a result of the proposed change, the Exchange proposes to make corresponding changes to the following fee codes for securities priced at or above \$1.00:

- Fee code MM is appended to Non-Displayed orders that add liquidity using MidPoint Peg Orders. Orders in securities priced at or above \$1.00 that yield fee code MM are currently charged a fee of \$0.00080 per share. Orders in securities below \$1.00 that yield fee code MT are currently charged a fee equal to 0.08% of the transaction’s dollar value. Orders that yield fee code MM would now be free for all securities regardless of whether they are priced above or below \$1.00.

- Fee code MT is appended to Non-Displayed orders that remove liquidity using MidPoint Peg Orders. Orders in securities priced at or above \$1.00 that yield fee code MT are currently charged a fee of \$0.00080 per share. Orders in securities below \$1.00 that yield fee code MT are currently charged a fee equal to 0.08% of the transaction’s dollar value. Orders that yield fee code

¹⁶ The operation of Supplemental Peg Orders is described in Exchange Rule 11.8(g).

¹⁷ The operation of MidPoint Peg Orders is described in Exchange Rule 11.8(d).

¹⁴ *Id.*

¹⁵ The operation of MidPoint Discretionary Orders is described in Exchange Rule 11.8(e).

MT in securities priced at or above \$1.00 would now be charged the proposed standard fee of \$0.00050 per share. Orders in securities priced below \$1.00 would be charged 0.05% of the transaction's dollar value.

- Fee code PA, which is appended to orders that add liquidity using the RMPT or RMPL routing strategies,¹⁸ are charged a fee of \$0.00080 per share. Orders that yield fee code PA would now be charged no fee.

- Fee code PT, which is appended to orders that add liquidity using the RMPT or RMPL routing strategies, are charged a fee of \$0.00100 per share. Orders that yield fee code PT would now be charged the proposed standard fee of \$0.00050 per share.

Currently footnote 2 of the fee schedule states that the rates for fee codes HA, HR, MM and MT are contingent upon Member adding or removing an ADV of at least 1,000,000 shares Non-Displayed (yields fee codes HA, HR, DM, DT, MM, MT and RP) or Member adding an ADV of at least 8,000,000 shares (Displayed and Non-Displayed). For securities priced at or above \$1.00, Members not meeting either minimum are currently charged \$0.0030 per share for fee codes HA, HR, MM and MT. For securities priced below \$1.00, Members not meeting either minimum are currently charged 0.30% of the dollar value of the transaction. The Exchange does not propose any contingency requirements or conditions that Members must satisfy to receive the proposed rates for Non-Displayed orders. Therefore, the Exchange proposes to delete footnote 2 of the fee schedule as receipt of the proposed rates would not be contingent on the Member meeting any volume requirements. All Non-Displayed orders in securities priced below \$1.00 would not be contingent to any minimum volume requirements and subject to the current rates set forth in the applicable fee code.

The Exchange also proposes to modify or delete tiers applicable to Non-Displayed Orders. The Exchange currently offers two tiers under footnote 3, the RMPT/RMPL Tiers, under which a Member receives a discounted fee of either \$0.0006 or \$0.0008 per share for orders yielding fee codes PT or PX where that Member satisfies certain

criteria. Under Tier 1, a Member receives a reduced fee of \$0.0008 per share where they add or remove an ADV greater than or equal to 2,000,000 shares using the RMPT or RMPL routing strategy. Under Tier 2, a Member receives a reduced fee of \$0.0006 per share where they add or remove an ADV greater than or equal to 4,000,000 shares using the RMPT or RMPL routing strategy. As described above, fee codes PT and PX are appended to orders that remove liquidity or are routed, respectively, using the RMPT or RMPL routing strategies. Orders that yield fee code PT would be charged a fee of \$0.00050 as proposed herein. Orders that yield fee code PX would continue to be charged a fee of \$0.00120 per share. Because the fee for orders that yield fee code PT would be lower than the reduced fee provided by the two RMPT/RMPL Tiers, the Exchange proposes to only apply the reduced fee for those tiers to orders that yield fee code PX as those orders would be charged a higher fee of \$0.00120 per share if they do not achieve the RMPT/RMPL tier's criteria.

The Exchange also offers two tiers under footnote 13, the Midpoint Add and Remove Tiers, under which a Member receives a reduced fee of \$0.0006 or \$0.0004 per share for orders that yield fee code MM or MT where that Member satisfies certain criteria. As described above, fee codes MM and MT are appended to Midpoint Peg Orders that add or remove liquidity, respectively. Under Tier 1, Members are charged a reduced fee of \$0.0006 per share where the Member has an ADV equal to or greater than 1,200,000 shares in orders that yield fee codes MM or MT. Under Tier 2, Members are charged a reduced fee of \$0.0004 per share where the Member has an ADV equal to or greater than 2,500,000 shares in orders that yield fee codes MM or MT. The Exchange proposes to delete all tiers listed under footnote 13 as all MidPoint Peg orders that remove liquidity would be charged the proposed standard rates regardless of whether the Member achieves certain volume criteria—a fee of \$0.00050 per share and those orders that add liquidity would be charged no fee.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on immediately.¹⁹

¹⁹ The Exchange initially filed the proposal on June 1, 2017. (SR-BatsEDGA-2017-17). On June 12, 2017, the Exchange withdrew SR-BatsEDGA-2017-17 and submitted this filing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,²⁰ in general, and furthers the objectives of Section 6(b)(4),²¹ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also believes the proposed rule change is not unfairly discriminatory as it would apply to all Members.

The Exchange believes its proposal to replace its current taker-maker pricing model with a new low fee model where it would charge a fee or provide the execution free of charge is equitable and reasonable as it would serve to simply its fee schedule to provide low standard rates for Displayed and Non-Displayed orders while also eliminating rebates and other pricing incentives. The Exchange submits this proposal in response to the industry feedback and the debate regarding exchange fee structures. Recent industry discourse has focused on fee structures and their purported effect on liquidity provision, liquidity taking, potential conflicts and order routing in the U.S. equity market. In addition, the Commission's EMSAC recommended that the Commission propose a pilot program to adjust the access fee cap under Rule 610 of Regulation NMS to better understand these dynamics.²² Other exchanges have proposed to not offer rebates and implemented a low fee model²³ as the Exchange proposes herein. The Exchange submits this proposal in response to the industry feedback and debate regarding exchange fee structures and to move the discussion closer to a market practice of reduced transaction costs.

The proposed fee structure provides a simple, straight forward low cost model that seeks to treat both liquidity providers and removers equally. Adopting a low fee model under which Displayed orders are charged the same low fee regardless of whether they add or remove liquidity will serve to provide an equal economic incentive to Members that not only seek to remove liquidity, but also to add liquidity to the Exchange. The Exchange believes that reducing the standard fee for Displayed orders and charging no fee for Non-Displayed orders that add liquidity will

²⁰ 15 U.S.C. 78f.

²¹ 15 U.S.C. 78f(b)(4).

²² See *supra* note 7.

²³ See the Investors Exchange, Inc. fee schedule available at <https://iextrading.com/trading/> (dated August 19, 2016).

¹⁸ The RMPL and RMPT routing strategies utilize a MidPoint Peg Order to check the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA Book as a MidPoint Peg Order, unless otherwise instructed by the User. See Exchange Rule 11.11(g)(13).

seek to further incentives Members to add liquidity to the Exchange. The potential increase in posted liquidity would serve to improve price discovery, depth of liquidity, and overall execution quality on the Exchange. The Exchange further believes that it is equitable and reasonable to charge no fee for orders that yield fee code DT, which is appended to Non-Displayed orders that remove liquidity using MidPoint Discretionary Orders, as it is intended to incentivize the use of MidPoint Discretionary Orders and improve liquidity at the midpoint of the NBBO. Charging no fee for orders that yield fee code DT is designed to encourage the posting of contra-side orders that add liquidity at the midpoint of the NBBO as such orders could receive increased execution opportunities thought the possible increase in entry of MidPoint Discretionary Orders.

The modification and elimination of certain reduced fees via the current tiered pricing model as proposed herein is also equitable and reasonable because it would aid in simplifying the fee schedule and result in all Member's being charged the same rates for all transactions regardless of their monthly volumes. The Exchange generally believes that volume-based pricing provides benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) the introduction of higher volumes of orders into the price and volume discovery processes. However, the elimination of the Exchange's current tiered pricing is consistent with the proposed fee model which is designed to attract additional order flow through low fees for both adding and removing liquidity.

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 Act. The Exchange does not believe that this change represents a significant departure from previous pricing offered by the Exchange's competitors. The proposed rates would apply uniformly to all Members, and Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. Further, excessive

fees would serve to impair an exchange's ability to compete for order flow and members rather than burdening competition. The Exchange believes that its proposal would not burden intramarket competition because the proposed rate would apply uniformly to all Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²⁴ and paragraph (f) of Rule 19b-4 thereunder.²⁵ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File No. SR-BatsEDGA-2017-18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File No. SR-BatsEDGA-2017-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's

Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsEDGA-2017-18, and should be submitted on or before July 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-13228 Filed 6-23-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80977; File No. SR-BatsEDGX-2017-30]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use on Bats EDGX Exchange, Inc.

June 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 12, 2017, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member

²⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁴ 15 U.S.C. 78s(b)(3)(A).

²⁵ 17 CFR 240.19b-4(f).

due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act³ and Rule 19b-4(f)(2) thereunder,⁴ which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members⁵ and non-Members of the Exchange pursuant to EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at www.bats.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform ("EDGX Equities") to: (i) Modify the rates associated with fee codes AA, RA and RR; and (ii) decrease the condition necessary to qualify for the enhanced rebate provided pursuant to the Investor Depth Tier under footnote 1. The Exchange notes that Bats EDGA Exchange, Inc. ("EDGA") is implementing certain pricing changes effective June 1, 2017, including modification of various fees and rebates to add and remove liquidity with a displayed or IOC order to a flat fee of \$0.0003 per share to add or remove

liquidity with a displayed or IOC order.⁶ The proposed changes to AA, RA, and RR are proposed in light of these changes.

Fee Code AA

The Exchange proposes to modify the rate associated with orders yielding fee code AA, which results from an order routed to EDGA using ALLB routing strategy,⁷ from a \$0.0002 per share rebate to a fee of \$0.0003 per share for securities priced at or above \$1.00. The Exchange does not propose to modify the rate for orders yielding fee code AA for securities priced below \$1.00, which are currently not charged a fee nor provided a rebate.

Fee Code RA

The Exchange proposes to decrease the fee associated with orders yielding fee code RA, which results from an order routed to EDGA which adds liquidity, from a fee of \$0.0005 per share to a fee of \$0.0003 per share for securities priced at or above \$1.00. The Exchange does not propose to modify the rate for orders yielding fee code RA for securities priced below \$1.00, which are currently not charged a fee nor provided a rebate.

Fee Code RR

The Exchange proposes to decrease the rate associated with orders yielding fee RR, which result from an order routed to EDGA using the Destination Specific routing strategy (also known as "DIRC"),⁸ from a rebate of \$0.0002 per share to a fee of \$0.0003 per share for all securities priced at or above \$1.00. The Exchange does not propose to modify the rate for securities priced below \$1.00.

Single MPID Investor Tier

The Exchange currently offers nine Add Volume Tiers under footnote 4, which provide enhanced rebates ranging from \$0.0025 to \$0.0032 per share for qualifying orders which yield fee codes

B,⁹ V,¹⁰ Y,¹¹ 3¹² and 4.¹³ The Exchange proposes to modify the criteria necessary to achieve the Investor Depth Tier as described below.

- Currently, under the Investor Depth Tier a Member may be provided an enhanced rebate of \$0.0033 per share where that Member: (i) Adds an ADV¹⁴ greater than or equal to 0.15% of the TCV;¹⁵ (ii) has an "added liquidity" as a percentage of "added plus removed liquidity" greater than or equal to 85%; and (iii) adds an ADV greater than or equal to 400,000 shares as non-displayed orders that yield fee code HA,¹⁶ HI,¹⁷ and/or MM.¹⁸ As amended, under the Investor Depth Tier a Member may be provided an enhanced rebate of \$0.0033 per share where that Member: (i) Adds an ADV greater than or equal to 0.12% of the TCV; (ii) has an "added liquidity" as a percentage of "added plus removed liquidity" greater than or equal to 85%; and (iii) adds an ADV greater than or equal to 400,000 shares as non-displayed orders that yield fee code HA, HI, and/or MM.

⁹ Fee code B is appended to displayed orders which add liquidity to Tape B and is provided a rebate of \$0.0020 per share. See the Exchange's fee schedule available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.

¹⁰ Fee code V is appended to displayed orders which add liquidity to Tape A and is provided a rebate of \$0.0020 per share.

¹¹ Fee code Y is appended to displayed orders which add liquidity to Tape C and is provided a rebate of \$0.0020 per share. *Id.*

¹² Fee code 3 is appended to displayed orders which add liquidity to Tape A or C during the post-market or pre-market sessions and is provided a rebate of \$0.0020 per share. *Id.*

¹³ Fee code 4 is appended to displayed orders which add liquidity to Tape B during the post-market or pre-market sessions and is provided a rebate of \$0.0020 per share. *Id.*

¹⁴ "ADV" means average daily volume calculated as the number of shares added to, removed from, or routed by, the Exchange, or any combination or subset thereof, per day. ADV is calculated on a monthly basis. *Id.*

¹⁵ "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. See the Exchange's fee schedule available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.

¹⁶ Fee code HA is appended to non-displayed orders which add liquidity on the Exchange and are provided an enhanced rebate of \$0.0015 for securities priced at or above \$1.00, and \$0.0003 for securities priced below \$1.00. *Id.*

¹⁷ Fee code HI is appended to non-displayed orders which receive price improvement and add liquidity on the Exchange and are neither charged a fee nor provided a rebate. *Id.*

¹⁸ Fee code MM is appended to non-displayed orders which add liquidity on the Exchange using Mid-Point Peg and are provided an enhanced rebate of \$0.0015 for securities priced at or above \$1.00, and \$0.0003 for securities priced below \$1.00. *Id.*

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

⁶ See Press Release, Bats Announces Fee Overhaul of EDGA Equities Exchange (May 30, 2017), available at <http://ir.cboe.com/press-releases/2017/05-30-2017.aspx>.

⁷ ALLB is a routing option under which the order checks the System for available shares and is then sent to the Bats BYX Exchange, Inc. ("BYX"), EDGA, and Bats BZX Exchange, Inc. ("BZX" collectively with the Exchange, BYX, and EDGA, the "BGM Affiliated Exchanges"). See the Exchange's routing strategies available at http://cdn.batstrading.com/resources/features/bats_exchange_routing-strategies.pdf. See also Exchange Rule 11.11(g)(3).

⁸ See the Exchange's routing strategies available at http://cdn.batstrading.com/resources/features/bats_exchange_routing-strategies.pdf. See also Rule 11.11(g)(14).

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.¹⁹

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,²⁰ in general, and furthers the objectives of Section 6(b)(4),²¹ in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

Modification of the Investor Depth Add Tier

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes.

¹⁹ The Exchange initially submitted the proposed fee change on June 1, 2017. (SR-Bats EDGX-2017-27). On, June 12, 2017 the Exchange withdrew SR-Bats EDGX-2017-27 and submitted this filing.

²⁰ 15 U.S.C. 78f.

²¹ 15 U.S.C. 78f(b)(4).

Fee Codes AA, RA, and RR

As noted above, EDGA is implementing certain pricing changes effective June 1, 2017, including modification of various fees and rebates to and remove liquidity with a displayed or IOC order to a flat fee of \$0.0003 per share to add or remove liquidity with a displayed or IOC order.²² The changes to fee codes AA, RA, and RR are proposed in light of these changes and reflect a pass-through of the pricing provided by EDGA. As the pricing in securities priced at or above \$1.00 reflects the same pricing a Member would receive for participation on EDGA directly and the pricing in securities priced below \$1.00 is based on the current pricing model applied by the Exchange, the Exchange believes the proposed fees are reasonable and equitably allocated. The Exchange further believes the proposed fees are non-discriminatory because they apply uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of the proposed changes to the Exchange's routing pricing burden competition, as they are based on the pricing on other venues. Similarly, the Exchange does not believe that the proposed change to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of EDGX by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

²² See *supra*, note 4.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²³ and paragraph (f) of Rule 19b-4 thereunder.²⁴ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File No. SR-BatsEDGX-2017-30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File No. SR-BatsEDGX-2017-30. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

²³ 15 U.S.C. 78s(b)(3)(A).

²⁴ 17 CFR 240.19b-4(f).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-BatsEDGX-2017-30, and should be submitted on or before July 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-13229 Filed 6-23-17; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15172 and #15173; Tennessee Disaster #TN-00103]

Administrative Declaration of a Disaster for the State of Tennessee

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Tennessee dated 06/16/2017.

Incident: Severe Thunderstorms with Damaging Winds.

Incident Period: 05/27/2017 through 05/28/2017.

DATES: Effective 06/16/2017.

Physical Loan Application Deadline Date: 08/15/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 03/16/2018.

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, (202) 205-6734.

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: Blount

Contiguous Counties:

Tennessee: Knox, Loudon, Monroe, Sevier

North Carolina: Graham, Swain

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	3.875
Homeowners without Credit Available Elsewhere	1.938
Businesses with Credit Available Elsewhere	6.430
Businesses without Credit Available Elsewhere	3.215
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.215
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15172 B and for economic injury is 15173 O.

The States which received an EIDL Declaration # are Tennessee, North Carolina

(Catalog of Federal Domestic Assistance Number 59008)

Dated: June 16, 2017.

Linda E. McMahon,
Administrator.

[FR Doc. 2017-13205 Filed 6-23-17; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice: 10047]

Digital Sequence Information on Genetic Resources Public Meeting

AGENCY: Department of State.

ACTION: Notice of public meeting.

SUMMARY: The Department of State will hold an information session regarding an ongoing process under the Convention on Biological Diversity concerning the use of "digital sequence

information on genetic resources," also known as genetic sequence data.

DATES: The meeting will be held on July 11, 2017, 1-3 p.m.

ADDRESSES: The meeting will be held at the Harry S. Truman Main State Building, Room 3940, 2201 C Street NW., Washington, DC 20520.

FOR FURTHER INFORMATION CONTACT: If you would like to participate in this meeting, please send your (1) name, (2) organization/affiliation, (3) business email address, and (4) business phone number, as well as any requests for reasonable accommodation, to Stephanie Aktipis at AktipisS@state.gov or 202-647-4827 and Kayla Young at YoungKM@state.gov or 202-647-1804.

SUPPLEMENTARY INFORMATION: The Secretariat of the Convention on Biological Diversity (CBD) released a call (<https://www.cbd.int/doc/notifications/2017/ntf-2017-037-abs-en.pdf>) for views on potential implications of the use of digital sequence information on genetic resources for the three objectives of the CBD and the objective of the Nagoya Protocol on Access and Benefit Sharing (Nagoya Protocol). The input received on this issue will be used to inform decisions by the Parties to the CBD and the Nagoya Protocol at the 2018 Conference of Parties to the CBD and the Conference of Parties serving as the meeting of the Parties to the Nagoya Protocol.

We will provide a brief overview of the use of digital sequence information on genetic resources in the context of the CBD and the Nagoya Protocol and will listen to your comments, concerns, and questions about this issue. The information obtained from this meeting and any subsequent related meetings will inform the U.S. submission to the CBD. It will also help us prepare for U.S. participation in international meetings, specifically U.S. participation in future CBD and Nagoya Protocol meetings. Documents and other information related to the CBD and Nagoya Protocol can be found at this Web site: www.cbd.int.

The personal information requested above is being collected pursuant to 22 U.S.C. 2651a and 22 U.S.C. 4802 for the purpose of screening and pre-clearing participants to enter the host venue at the U.S. Department of State. The Department of State will use this information consistent with the routine uses set forth in the System of Records Notices for Protocol Records (STATE-33) and Security Records (State-36). Provision of this information is voluntary, but failure to provide

²⁵ 17 CFR 200.30-3(a)(12).

accurate information may impede your ability to register for the event.

Reasonable Accommodation: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other reasonable accommodation should be directed to (see **FOR FURTHER INFORMATION**) at least 5 days prior to the meeting date. Requests received after that date will be considered but might not be possible to fulfill.

Christine Dawson,

Director, Office of Conservation and Water Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 2017-13306 Filed 6-23-17; 8:45 am]

BILLING CODE 4710-09-P

DEPARTMENT OF STATE

[Public Notice: 10028]

30-Day Notice of Proposed Information Collection: Birth Affidavit

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to July 26, 2017.

ADDRESSES: Direct comments to the Department of State 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:* oir_submission@omb.eop.gov. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202-395-5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, by mail to PPT Forms Officer, U.S. Department of State, CA/PPT/S/L/LA, 44132 Mercure Cir, P.O. Box 1227, Sterling, VA 20166-1227, by phone at

(202) 485-6538, or by email at PPTFormsOfficer@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Birth Affidavit.
- *OMB Control Number:* 1405-0132.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Department of State, Bureau of Consular Affairs, Passport Services, Office of Legal Affairs and Law Enforcement Liaison (CA/PPT/S/L).
- *Form Number:* DS-10.
- *Respondents:* Individuals.
- *Estimated Number of Respondents:* 22,056.
- *Estimated Number of Responses:* 22,056.
- *Average Time per Response:* 40 minutes.
- *Total Estimated Burden Time:* 14,711 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The Birth Affidavit is submitted in conjunction with an application for a U.S. passport, and is used by Passport Services to collect information for the purpose of establishing the U.S. nationality of a passport applicant who has not submitted an acceptable birth certificate with his/her passport application. The Secretary of State is authorized to issue U.S. passports under 22 U.S.C. 211a et seq, 8 U.S.C. 1104, and Executive Order 11295 (August 5, 1966). Pursuant to 22 U.S.C. 212 and 22 CFR 51.2, only U.S. nationals may be issued a U.S. passport. Most passport applicants show U.S. nationality by

providing a birth certificate, filed within a year of their birth, showing the applicant was born in the United States or outlying possession. Some applicants, however, may have been born in the United States or outlying possession, but were never issued a birth certificate, or have a late filed birth certificate. Form DS-10 is a form affidavit for completion by a witness to the birth of such an applicant; it collects information relevant to establishing the identity of the affiant, and the birth circumstances of the passport applicant. If credible, the affidavit may permit the applicant to show U.S. nationality based on the applicant's birth in the United States or outlying possession, despite never having been issued a birth certificate or possessing a late filed birth certificate. We use the information collected on the person completing the affidavit to confirm that individual's identity, which is relevant to confirming his or her relationship to the applicant and the likelihood that the affiant has actual knowledge of the circumstances of the applicant's birth.

Methodology: When needed, a Birth Affidavit is completed at the time a person applies for a U.S. passport.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2017-13328 Filed 6-23-17; 8:45 am]

BILLING CODE 4710-06-P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2017-3)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board approves the third quarter 2017 Rail Cost Adjustment Factor (RCAF) and cost index filed by the Association of American Railroads. The third quarter 2017 RCAF (Unadjusted) is 0.903. The third quarter 2017 RCAF (Adjusted) is 0.375. The third quarter 2017 RCAF-5 is 0.357.

DATES: *Effective Date:* July 1, 2017.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245-0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877-8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision, which is available on our Web site, <http://www.stb.gov>. Copies of the decision may be purchased by contacting the Office of

Public Assistance, Governmental Affairs, and Compliance at (202) 245-0238. Assistance for the hearing impaired is available through FIRS at (800) 877-8339.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Decided: June 20, 2017. By the Board, Board Members Begeman, Elliott, and Miller. **Marline Simeon**, Clearance Clerk.

[FR Doc. 2017-13281 Filed 6-23-17; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourteenth RTCA SC-228 Plenary Session

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

ACTION: Fourteenth RTCA SC-228 Plenary Session.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Fourteenth RTCA SC-228 Plenary Session.

DATES: The meeting will be held July 14, 2017, 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Al Secen at asecen@rtca.org or 202-330-0647, or 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>.

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 Fourteenth RTCA SC-228 Plenary Session. The agenda will include the following:

Friday, July 14, 2017 9:00 a.m.–5:00 p.m.

1. Welcome and Introductions
2. Agenda Overview
3. DAA MOPS Approval
4. WG-1 White Paper Status Update—FRAC Announcement
5. WG-2 White Paper Status Update—FRAC Announcement
6. SC-228 and WG-105 Leadership Coordination
7. Leadership Meeting Update
8. Action Item Review
9. 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. Persons wishing 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 June 21, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG-A17 NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017-13259 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourth Drone Advisory Committee (DAC) Meeting

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

ACTION: Fourth DAC Meeting.

SUMMARY: The FAA is issuing this notice to advise the public of the Fourth DAC Meeting.

DATES: The meeting will be held on July 21, 2017, 11:00 a.m.–2:30 p.m. EDT.

ADDRESSES: The meeting will be held as a virtual meeting only. Contact RTCA for dial-in information.

FOR FURTHER INFORMATION CONTACT: Al Secen at asecen@rtca.org or 202-330-0647, or 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>.

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 of the Fourth DAC Meeting. The DAC is a component of RTCA, which is a Federal Advisory Committee. The agenda will likely include, but may not be limited to, the following:

Friday, July 21, 2017

- Official Statement of the Designated Federal Official
- Welcome and Introductions, Review of the Third DAC Meeting
- Approval of Minutes from the Third DAC Meeting
- Report out of DAC Subcommittee (SC) Task Group (TG) 3 (UAS Funding)
- Discussion of TG3 Recommendations
- Report out of DACSC TG1 (Roles and Responsibilities)

- Discussion of TG1 Recommendations
- New Assignments/Agenda Topics
- Adjourn

Attendance is open to the interested public. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing 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 June 20, 2017.

Christopher W. Harm,

Unmanned Aircraft Systems (UAS) Stakeholder and Committee Liaison, AUS-10, UAS Integration Office, FAA.

[FR Doc. 2017-13301 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Thirtieth RTCA SC-225 Rechargeable Lithium Batteries and Battery Systems Plenary

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

ACTION: Thirtieth RTCA SC-225 Rechargeable Lithium Batteries and Battery Systems Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Thirtieth RTCA SC-225 Rechargeable Lithium Batteries and Battery Systems Plenary.

DATES: The meeting will be held July 11, 2017, 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held virtually at: <https://rtca.webex.com/rtca/j.php?MTID=m59d3f531a9ceafdb01cddb64c4c513ceb>. Join by phone, 1-877-668-4493 Call-in toll-free number (US/Canada), 1-650-479-3208 Call-in toll number (US/Canada), Access code: 638 701 429, Meeting Password: fEMApqR8.

FOR FURTHER INFORMATION CONTACT:

Karan Hofmann at khofmann@rtca.org or 202-330-0680, or 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>.

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 Thirtieth RTCA SC-225 Rechargeable Lithium

Batteries and Battery Systems Plenary. The agenda will include the following:

Tuesday, July 11, 2017—9:00 a.m.—5:00 p.m.

1. Welcome and Administrative Remarks (Including DFO & RTCA Statement)
2. Introductions
3. Agenda Review
4. Meeting-Minutes Review
5. Final Review and Comment (FRAC) Resolution Review
6. Approval of DO-311A for Submission to RTCA PMC
7. Action Item Review
8. Any Other Business
9. 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. Persons wishing 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 June 21, 2017.

John Raper,

Branch Manager—Forecasting, Planning and Reporting (ANG-A15), Branch Manager (acting)—Partnership Contracts Branch (ANG-A17), Management Services Office, NextGen Organization, Federal Aviation Administration.

[FR Doc. 2017-13274 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2017-0176]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Daimler Trucks North America LLC

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) requests public comment on an application for exemption from Daimler Trucks North America LLC (DTNA) to allow its Attention Assist and Lane Departure Warning system camera to be mounted lower in the windshield on DTNA's commercial motor vehicles (CMVs) than is currently permitted.

DATES: Comments must be received on or before July 26, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2017-0176 using any of the following methods:

- *Web site:* <http://www.regulations.gov>

Follow the instructions for submitting comments on the Federal electronic docket site.

- *Fax:* 1-202-493-2251.

• *Mail:* Docket Management Facility, U.S. Department of Transportation, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

• *Hand Delivery:* Ground Floor, Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday-Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the "Public Participation" heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the "Privacy Act" heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12-140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: 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 www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You may find electronic submission and retrieval help and guidelines under the "help" section of the <http://www.regulations.gov> Web site as well as the DOT's <http://docketsinfo.dot.gov> Web site. If you would like notification that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Jose R. Cestero, Vehicle and Roadside

Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-5541, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) [Pub. L. 105-178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must specify the effective period of the exemption (up to 5 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

DTNA's Application for Exemption

The Federal Motor Carrier Safety Regulations (FMCSRs) require devices meeting the definition of "vehicle safety technology," including DTNA's Attention Assist and Lane Departure Warning system, to be mounted (1) not more than 4 inches below the upper edge of the area swept by the windshield wipers, or (2) not more than 7 inches above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Because the camera would be mounted outside of the driver's normal sight lines

to the road ahead, highway signs and signals, and all mirrors, DTNA believes that the exemption would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

DTNA has applied for an exemption from 49 CFR 393.60(e)(1) to allow an Attention Assist and Lane Departure Warning system camera to be mounted lower in the windshield than is currently permitted. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. Section 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in § 390.5 as including "a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, and transponder." Section 393.60(e)(1)(ii) requires devices with vehicle safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers, or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

In its application, DTNA states:

The proposed exemption will increase safety by providing Attention Assist and Lane Departure Warning. The exemption will also allow DTNA to enable additional safety features in the future that will provide further safety benefits such as traffic sign recognition, active lane keeping, video capture, and intelligent headlight control. This safety device will become a critical enabler for future technology such as Autonomous Vehicles.

In the DTNA installation, the camera housing is approximately 102 mm (4.01 inches) wide by 177 mm (6.97 inches) tall. We propose to mount the camera such that it is in the approximate center of the top of the windshield and such that the bottom edge of the camera is approximately 7 inches below the upper edge of the windshield, outside of the driver's (and passenger's) normal sight lines to the road ahead, highway signs and signals, and all mirrors. This location will allow for the optimal functionality of the advanced safety systems supported by the camera.

DTNA has created a CAD layout of a typical DTNA conventional type truck to verify that the safety device does not significantly obstruct the FMVSS 104 specified zones A, B, or C for passenger cars of 1730 or more mm overall width. (See Figure 1.) In fact, the device only obstructs 0.0% of zone C, 1.2% of zone B, and 2.8% of zone A.

DTNA has installed prototype camera housings in fifteen DTNA conventional type vehicles and assessed the impact of the camera on driver and passenger visibility on over 50 CDL drivers and over 900,000 miles. This includes over-the-road mileage accumulation through a mixture of mountain, freeway, highway, and city routes. (See Figure 2 for a photograph taken from the driver seat.) All drivers and passengers agreed that there was no noticeable obstruction to the normal sight lines to the road ahead, highway signs, signals, or any mirrors. Driver comments included: "The position of the MPC1 camera system does not negatively impact visibility."

While the application states that the camera will be mounted 7 inches below the upper edge of the windshield, DTNA provided supplemental information to clarify that the camera system will be mounted 8.5 inches below the upper edge of the area swept by the windshield wipers.

The exemption would apply to all CMV operators driving DTNA vehicles with the Attention Assist and Lane Departure Warning system camera installed. Daimler believes that mounting the system as described would maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on DTNA's application for an exemption from 49 CFR 393.60. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: June 15, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017-13126 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0051]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on June 7, 2017, National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA-2017-0051.

Applicant: National Railroad Passenger Corporation, Mr. Nicholas J. Croce III, PE, Deputy Chief Engineer C&S, Acting, 2995 Market Street, Philadelphia, PA 19104

Amtrak seeks to remove two derails, one in each direction approaching the Spuyten Duyvil bridge on Main Track #1, at Inwood interlocking, milepost (MP) 9.9 on the New York Division, Hudson Line, Inwood, New York.

Amtrak would like to remove the derails as they have been rendered obsolete by advanced technologies which ensure that trains stop rather than derail. They have been a source of considerable delay to time-sensitive passenger trains. Amtrak desires to remove these derails from the main tracks to eliminate maintenance and operation of obsolete hardware that is no longer needed, and to reduce delays caused by failures of the derails. Each of the interlocking home signals protecting these derails and the associated movable bridge are equipped with 100Hz coded cab signal system with speed control. The interlockings have also been equipped with both Advanced Civil Speed Enforcement System and Positive Train Stop.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• *Fax:* 202-493-2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 10, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Robert C. Lauby,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2017-13235 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2017-0041]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 16, 2017, the Southern California Regional Rail Authority (SCRRA, doing business as Metrolink) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 231, Railroad Safety Appliance Standards. FRA assigned the petition Docket Number FRA-2017-0041.

SCRRA has purchased newly designed F125 diesel-electric locomotives for use in commuter service. The new locomotives are manufactured by Progress Rail in Muncie, IN. SCRRA requests relief from 49 CFR 231.17(e), *Handrails and steps for headlights*, to use a man-lift to facilitate the replacement of headlight bulbs and other maintenance items required at the front of the locomotive cab when the unit is not at a repair facility.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• *Fax:* 202-493-2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue SE., W12-140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 10, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Robert C. Lauby,

*Associate Administrator of Safety, Chief
Safety Officer.*

[FR Doc. 2017-13234 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement for West Santa Ana Branch Transit Corridor Project in Los Angeles, CA

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) and Los Angeles County Metropolitan Transportation Authority (Metro) has initiated the preparation of an Environmental Impact Statement (EIS) for the West Santa Ana Branch (WSAB) Transit Corridor Project (Project) pursuant to the National Environmental Policy Act (NEPA). The Project is a proposed light rail transit (LRT) line that would extend approximately 20 miles and connect downtown Los Angeles to southeast Los Angeles County, serving the cities and communities of Arts District, Little Tokyo, Los Angeles, unincorporated

Florence-Graham community of Los Angeles County, Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, Cerritos, and Artesia.

DATES: Written comments on the scope of the EIS should be sent to Ms. Fanny Pan, Project Manager, by *August 4, 2017*. Public scoping meetings are held on *June 15, 2017* at 6 p.m. to 8 p.m., *June 20, 2017* at 6 p.m. to 8 p.m., *June 21, 2017* at 3 p.m. to 5 p.m. (Businesses) and 6 p.m. to 8 p.m. (General Public), and *June 24, 2017* at 10 a.m. to 12 p.m. at locations indicated under **ADDRESSES** below. An interagency scoping meeting is held on *June 19, 2017* at the Metro headquarters at 2 p.m. to 4 p.m.

ADDRESSES: Written comments on the scope of the EIS should be sent to Ms. Fanny Pan, Project Manager, Metro, One Gateway Plaza, Mail Stop: 99–22–4, Los Angeles, California 90012, or via email at WSAB@metro.net. Comments may also be offered at the public scoping meetings. The addresses for the public scoping meetings are as follow:

- Thursday, June 15, 2017, 6 p.m. to 8 p.m., T. Mayne Thompson Park, 14001 S. Bellflower Blvd., Bellflower, CA 90706;
- Tuesday, June 20, 2017, 6 p.m. to 8 p.m., South Gate Girls Club House, 4940 Southern Ave., South Gate, CA 90280;
- Wednesday, June 21, 2017, 3 p.m. to 5 p.m. (Businesses), 6 p.m. to 8 p.m. (General Public), Nishi Hongwanji Buddhist Temple, 815 E. 1st St., Los Angeles, CA 90012;
- Saturday, June 24, 2017, 10 a.m. to 12 p.m., Huntington Park Community Center, 6925 Salt Lake Ave., Huntington Park, CA 90255.

These locations are accessible by persons with disabilities. Spanish translation and Spanish-speaking staff will be provided at all Scoping Meetings. Japanese translation will be provided at the June 21, 2017 Scoping Meeting. ADA accommodations and other translations are available by calling (323) 466–3876 or California Relay Service at 711 at least 72 hours in advance of the meeting. The Scoping Meeting on Tuesday, June 20, 2017 will be broadcast via Live Webcast for those unable to attend the meeting in person. The broadcast will be accessible starting at 6:30 p.m. by visiting www.tinyurl.com/MetroWSAB. For more project information, please visit www.metro.net/wsab. A scoping information packet is available on the Metro Web site at: www.metro.net/wsab or by calling the project manager, Ms. Fanny Pan, at (213) 922–6262. Copies will also be available at the scoping meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Candice Hughes, Environmental Protection Specialist, Federal Transit Administration, 888 S. Figueroa Street, Suite 440, Los Angeles, CA 90017 at (213) 629–8613, or via email at candice.hughes@dot.gov.

SUPPLEMENTARY INFORMATION: The EIS will be prepared in accordance with the requirements of the NEPA and its implementing regulations. The EIS process will evaluate alternatives recommended for further study as a result of the planning Alternatives Analysis approved by the Southern California Association of Governments in February 2013 and the Project Definition for Environmental Scoping including four Northern Alignment Options approved by the Metro Board on April 27, 2017, and available on the Metro Web site (www.metro.net/wsab).

Pursuant to 23 CFR 771.123(j), at the conclusion of the Draft EIS circulation period, Metro will prepare a report identifying the locally preferred alternative (LPA). Prior to commencement of a Final EIS, the LPA will be adopted by the Metro Board and included in the Metropolitan Transportation Plan identifying sufficient federal and other funding for the project, in order to be evaluated under the NEPA process.

LACMTA will also use the EIS document to comply with the California Environmental Quality Act (CEQA), which requires an Environmental Impact Report (EIR). The purpose of this notice is to alert interested parties regarding the intent to prepare the EIS, to provide information on the nature of the proposed project and possible alternatives, and to invite public participation in the EIS process, including providing comments on the scope of the Draft EIS, and to announce that public scoping meetings will be conducted.

Scoping: Scoping is the process of determining the scope, focus, and content of an EIS. FTA and Metro invite all interested individuals and organizations, public agencies, and Native American tribes to comment on the scope of the Draft EIS, including the project's purpose and need, the alternatives to be studied, the impacts to be evaluated, and the evaluation methods to be used. Comments should focus on: Alternatives that may be less costly or have less environmental or community impacts while achieving similar transportation objectives, and the identification of any significant social, economic, or environmental issues relating to the alternatives.

NEPA "scoping" has specific and fairly limited objectives, one of which is

to identify the significant issues associated with alternatives that will be examined in detail in the document, while simultaneously limiting consideration and development of issues that are not truly significant. It is in the NEPA scoping process that potentially significant environmental impacts—those that give rise to the need to prepare an EIS—should be identified; impacts that are deemed not to be significant need not be developed extensively in the context of the impact statement, thereby keeping the statement focused on impacts of consequence. Transit projects may also generate environmental benefits; these should be highlighted as well—the impact statement process should draw attention to positive impacts, not just negative impacts.

Probable Effects: The purpose of this EIS process is to study, in a public setting, the effects of the proposed project and its alternatives on the physical, human, and natural environment. The FTA and Metro will evaluate all significant environmental, social, and economic impacts of the construction and operation of the proposed project. The probable impacts will be determined as a part of the project scoping. Unless further screening illuminates areas of possible impact, resource areas will be limited to those uncovered during scoping. Measures to avoid, minimize, and mitigate adverse impacts will also be identified and evaluated.

The Proposed Project: The Project is a proposed LRT line that would extend approximately 20 miles and connect downtown Los Angeles to southeast Los Angeles County, serving the cities and communities of Arts District, Little Tokyo, Los Angeles, unincorporated Florence-Graham community of Los Angeles County, Vernon, Huntington Park, Bell, Cudahy, South Gate, Downey, Paramount, Bellflower, Cerritos, and Artesia.

Purposes of and Need for the Proposed Project: The Project will provide reliable transit service to meet the future mobility needs of residents, employees, and visitors who travel within downtown Los Angeles, and portions of the Gateway Cities subregion. This new transit service will increase mobility and connectivity for historically underserved, transit-dependent and Environmental Justice communities; reduce travel times on local and regional transportation networks; and accommodate substantial future employment and population growth.

Alternatives: In March 2010, the Southern California Association of

Governments (SCAG), serving as the Metropolitan Planning Organization (MPO) for Imperial, Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties, initiated the Pacific Electric Right-of-Way (PEROW)/WSAB Alternatives Analysis (AA) Study evaluating transit connections and modes for the 34 mile corridor from Union Station in downtown Los Angeles to the City of Santa Ana in Orange County. In February 2013, SCAG approved the PEROW/WSAB AA Study and recommended the LRT alignment as the preferred transit mode and two northern alignment alternatives for further consideration: West Bank 3 along the west bank of the Los Angeles River, and East Bank along the east bank of the Los Angeles River. In September 2015, based upon the West Bank 3 alternative, four new northern alignment options (Pacific/Alameda, Pacific/Vignes, Alameda, and Alameda/Vignes) were identified as part of the Technical Refinement Study (TRS) that was completed and received by the Metro Board. Prior to initiation of the environmental scoping, a screening evaluation was conducted to further refine the recommendations from the TRS and recommended the four highest performing northern alignment options to be carried into Environmental Scoping. In April 2017, the Metro Board approved the Project definition for environmental scoping and received and filed the WSAB Transit Corridor Northern Alignment Options Screening Report.

In addition, in the event that the WSAB line was to be extended to Orange County in the future, the Project will evaluate an optional station at Bloomfield Avenue (just north of the Los Angeles County-Orange County boundary).

The EIS Process and the Role of Participating Agencies and the Public: The EIS will be prepared in accordance with NEPA and its implementing regulations issued by the Council on Environmental Quality (40 CFR parts 1500–1508) and with the FTA/Federal Highway Administration regulations “Environmental Impact and Related Procedures” (23 CFR part 771). In accordance with 23 CFR 771.105(a) and 23 CFR 771.133, FTA will comply with all federal environmental laws, regulations, and executive orders applicable to the proposed project during the environmental review process to the maximum extent practicable. These requirements include, but are not limited to, the environmental and public hearing provisions of federal transit laws (49 U.S.C. 5301(e), 5323(b), and 5324); the

project-level air quality conformity regulation of the U.S. Environmental Protection Agency (EPA) (40 CFR part 93); the Section 404(b)(1) guidelines of EPA (40 CFR part 230); the regulation implementing Section 106 of the National Historic Preservation Act (36 CFR part 800); the regulation implementing Section 7 of the Endangered Species Act (50 CFR part 402); Section 4(f) (23 U.S.C. 38 and 49 U.S.C. 303); and Executive Orders 12898 on environmental justice, 11988 on floodplain management, and 11990 on wetlands.

Regulations implementing NEPA, as well as provisions of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), call for public involvement in the EIS process. Section 6002 of SAFETEA-LU requires that FTA and MDT do the following: (1) Extend an invitation to other Federal and non-Federal agencies and Indian tribes that may have an interest in the proposed project to become “participating agencies,” (2) provide an opportunity for involvement by participating agencies and the public in helping to define the purpose and need for a proposed project, as well as the range of alternatives for consideration in the impact statement, and (3) establish a plan for coordinating public and agency participation in and comment on the environmental review process. Any Federal or non-Federal agency or Indian tribe interested in the Project that does not receive an invitation to become a participating agency should notify at the earliest opportunity the Project Manager identified above under **ADDRESSES**.

A comprehensive public involvement program has been developed and a public and agency involvement Coordination Plan will be created. The program includes a project Web site (www.metro.net/wsab); outreach to local and county officials and community and civic groups; a public scoping process to define the issues of concern among all parties interested in the project; establishment of a community advisory committee and organizing periodic meetings with that committee; a public hearing on release of the draft EIS; establishment of walk-in project offices in the corridor; and development and distribution of project newsletters.

Leslie Rogers,

Regional Administrator, FTA Region 9.

[FR Doc. 2017–13204 Filed 6–23–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

U.S. Merchant Marine Academy Board of Visitors Meeting

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Meeting notice.

SUMMARY: The U.S. Department of Transportation, Maritime Administration (MARAD) announces that the following U.S. Merchant Marine Academy (Academy) Board of Visitors (BOV) meeting will take place:

1. *Date:* July 12, 2017.
2. *Time:* 1:30–2:30 p.m.
3. *Location:* Capitol Visitors Center, Washington, DC. Room to be determined.
4. *Purpose of the Meeting:* The purpose of this meeting is to brief BOV members on the Academy Advisory Board’s annual report to the Secretary of Transportation, the state of the Academy and the status of reaccreditation.
5. *Public Access to the Meeting:* This meeting is open to the public. Seating is on a first-come basis. Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location.

FOR FURTHER INFORMATION CONTACT: The BOV’s Designated Federal Officer and Point of Contact Brian Blower; 202 366–2765; Brian.Blower@dot.gov.

SUPPLEMENTARY INFORMATION: Any member of the public is permitted to file a written statement with the Academy BOV. Written statements should be sent to the Designated Federal Officer (DFO) at: Brian Blower; 1200 New Jersey Ave SE., W28–314, Washington, DC 20590 or via email at Brian.Blower@Dot.gov. (Please contact the Designated Federal Officer for information on submitting comments via fax.) Written statements must be received no later than three working days prior to the next meeting in order to provide time for member consideration. Due to time constraints, there will not be a public comment period during the meeting, but, individuals wishing to provide follow-on comments can do so by contacting the DFO, Brian Blower at his email listed above.

Authority: 46 U.S.C. 51312; 5 U.S.C. app. 552b; 41 CFR parts 102–3.140 through 102–3.165.

By Order of the Executive Director in lieu of the Maritime Administrator.

Dated: June 21, 2017.
T. Mitchell Hudson, Jr.,
Secretary, Maritime Administration.
 [FR Doc. 2017-13254 Filed 6-23-17; 8:45 am]
BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Modification of Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material

Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 11, 2017.

Address comments to: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of

Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on June 1, 2017.

Donald Burger,
Chief, Office of the Special Permits and Approvals.

SPECIAL PERMITS DATA

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
7277-M	STRUCTURAL COM- POSITES INDUS- TRIES LLC.	180.205, 173.302a(a)(1), 173.304a(a)(1), 173.304a(d).	To modify the special permit to authorize an additional Division 2.2 gas. (modes 1,2,3,4)
14523-M	PACIFIC BIO-MATERIAL MANAGEMENT, INC.	173.199(a), 173.196(A), 178.603, 178.603, 178.609(d), 178.609(d).	To modify the special permit to authorize, an additional packaging for transporting vials of hazmat. (mode 1)
14951-M	HEXAGON LINCOLN, INC.	173.301(f)	To authorize modal acoustic emissions (MAE) as an alternative method of tank recertification. (mode 1)
16536-M	FIBA TECHNOLOGIES, INC.	178.37(k)(1), 178.45(A)(1).	To authorize a reduction in the tensile test specimens from 2 to 1 as is permitted by ISO 11120. (modes 1,2,3,4)
16452-M	THE PROCTOR & GAM- BLE COMPANY.	171.1, 180.1	To modify the permit to clarify the requirement for strong outer packaging to meet the requirements normally applied to packages of "limited quantities" moving by air. (modes 1,2,3,4)
20255-M	STERICYCLE SPE- CIALITY WASTE SO- LUTIONS, INC.	171.1, 180.1	To modify the special permit to authorize cargo vessel as an approved means or transportation. (modes 1,3)

[FR Doc. 2017-12127 Filed 6-23-17; 8:45 am]
BILLING CODE 4909-60-M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of actions on Special Permit Applications.

SUMMARY: In accordance with the procedures governing the application

for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 26, 2017.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety

Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT:

Ryan Paquet, Director, Office of Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(13); 49 CFR 1.53(6)).

Issued in Washington, DC, on June 1, 2017.

Donald Burger,
Chief, Office of the Special Permits and Approvals.

SPECIAL PERMITS DATA

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
11180-M		AFFIVAL INC	173.24(c)	To modify the special permit to authorize metal tubes with a decreased diameter and an increased length to be authorized under the special permit.
11489-M		TK Holdings, Inc	173.56(b), 172.320	To modify the special permit to remove language that has been incorporated into the regulations.
11911-M		TRANSFER FLOW, INC	177.834(h), 178.700(c)(1)	To authorize an additional fuel type to be added to the permit.
14335-M		RINCHEM COMPANY, INC.	177.848(d), 172.301(c), 172.302(c).	To modify the special permit to authorize a change in ventilation requirements to allow for a refrigeration/blower ventilation system.
15070-M		CARLETON TECHNOLOGIES, INC.	180.205, 173.302A, 173.304A.	To modify the special permit to clarify the heat treatment for brass liners, and allow transportation of cylinders for foreign military options along with U.S.
16011-M		AMERICASE, INC	173.185(f), 172.500, 172.600, 172.700(a), 172.200, 172.400, 172.300.	To modify the special permit to clarify language about watt hours, remove unnecessary language about lithium metal batteries and to harmonize the permit with the 19th revised edition of the UN Model Regulations and Amendment 38-16 of the IMDG Code.
20220-N		AGILITY FUEL SYSTEMS, INC.	173.220(a)	To authorize the transportation in commerce of compressed natural gas fuel systems that are not part of an internal combustion engine.
20348-N		WRIGHTSPEED, INC	173.185(a)	To authorize the transportation in commerce of prototype lithium ion batteries by cargo-only aircraft.
20351-M		ROEDER CARTAGE COMPANY, INCORPORATED.	180.407(c), 180.407(e), 180.407(e), 180.407(f).	To modify the special permit to authorize additional trailers to transport stabilized acrylonitrile.
20361-N		KEITH HUBER CORPORATION.	178.345-3(f)(3)	To authorize the manufacture, mark, sale, and use of non-DOT specification cargo tanks to transport gasoline.
20374-N		SCANA CORPORATION	173.427(b), 173.403, 173.465(c), 173.465(d).	To authorize the transportation in commerce of SCO-II material which has fixed and non-fixed contamination levels on the inaccessible surface area in excess of that authorized.
20387-N		TECHNIP STONE & WEBSTER PROCESS TECHNOLOGY, INC.	173.301(f), 173.301(g)(1), 178.71(q)(1), 178.71(q)(2), 178.71(q)(3), 173.302a(a), 173.304a(a).	To authorize the transportation in commerce of non-DOT specification bundled cylinders.
20388-N		UNITED PARCEL SERVICE, INC.	175.33, 177.817, 172.202(e).	To authorize the transportation in commerce of non hazardous materials as hazardous materials to test the effectiveness of the applicant's electronic system.
20427-M		SPACE SYSTEMS/LORAL, LLC.	173.220	To authorize the transportation in commerce of machinery or fuel tanks containing more than 500 ml of fuel.
20438-N		TOYOTA MOTORSPORT GMBH.	172.101(j), 173.185(a)	To authorize the transportation in commerce of prototype lithium ion batteries in excess of 35 kg by cargo-only aircraft.
20458-N		KAVOK EIR, TOV	172.204(c)(3), 172.204(c)(3), 175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation in commerce of certain explosives which are forbidden for transport by cargo only aircraft.
20460-N		KALITTA AIR, L.L.C	172.101(j)(1), 175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation of explosives forbidden aboard aircraft to be transported aboard cargo-only aircraft.
20461-N		SARASOTA AVIONICS, INC.	172.101	Application for Party Status to DOT-SP10996.

SPECIAL PERMITS DATA—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20462-N	SOUTHERN CONTAINER, LLC.	172.203(a), 180.352(d)(1)(ii), 178.801(f).	Special Permit 16323 to allow for the installation of a tested inner receptacle of a composite intermediate bulk container without subjecting the inner receptacle to a further leakproofness test after installation. To cover all hazardous materials authorized in the 172.101 Hazardous Materials Table to be transported in UN 31HA1 composite IBCs. A sample of these materials was chosen for the Hazardous Materials section of this application in order to advance the application process.
20465-N	TOYOTA MOTOR SALES USA INC.	172.301(c), 172.446(b)	To authorize the use of Class 9 labels whose vertical stripes are not equal in size.
20467-N	CHEMTRONICS INC	171.23(b), 173.304a(a), 171.8.	To authorize the transportation in commerce of certain DOT Specification 2Q containers containing hazardous materials identified in paragraph 6 as ORM-D materials.
20468-N	KALITTA AIR, L.L.C	172.204(c)(3), 172.204(c)(3), 175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation in commerce of anhydrous ammonia by cargo aircraft, which if forbidden in the regulations.
20472-N	AVIAKOMPANIYa UKRAINA-AEROALYANS, PrAT.	175.30(a)(1), 173.27(b)(2), 173.27(b)(3).	To authorize the transportation in commerce of explosives by cargo aircraft which is forbidden by the regulations.

[FR Doc. 2017-12129 Filed 6-23-17; 8:45 am]

BILLING CODE 4909-60-M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety

has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before July 26, 2017.

Address comments to: Record Center, Pipeline and Hazardous Materials Safety Administration U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Ryan Paquet, Director, Office of

Hazardous Materials Approvals and Permits Division, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC 20590-0001, (202) 366-4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH-30, 1200 New Jersey Avenue Southeast, Washington, DC or at <http://regulations.gov>.

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on June 1, 2017.

Donald Burger,
Chief, Office of the Special Permits and Approvals.

SPECIAL PERMITS DATA

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20464-N	CCL CONTAINER CORPORATION.	173.306(a)(3)(ii)	To authorize the manufacture, marking, sale and use of certain non-DOT specification inside metal containers conforming with all regulations applicable to a DOT Specification 2Q inner non-refillable metal receptacle, except that alternate testing is authorized. (modes 1,2,3,4)

SPECIAL PERMITS DATA—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
20469-N	SCOTT'S HELICOPTER SERVICE, INC.	172.101(j), 172.200, 172.204(c)(3), 172.301(c), 175.30(a)(1), 173.27(b)(2).	To authorize the transportation in commerce of certain hazardous materials by 14 CFR part 133 Rotorcraft External Load Operations, transporting hazardous materials attached to or suspended from an aircraft, in remote areas of the U.S. only, without being subject to hazard communication requirements, quantity limitations and certain loading and stowage requirements. (mode 4)
20470-N	AUDI AKTIENGESELLSCHAFT.	172.101(j)	To authorize the transportation in commerce of lithium ion batteries in excess of 35 kg by cargo-only aircraft. (mode 4)
20471-N	LONE STAR SPECIALTIES, LLC.	173.213(c)	To authorize the transportation in commerce of flaked coal tar pitch in non-UN certified polypropylene bags. (modes 1, 2)
20475-N	MERCK & CO., INC	173.306(a)93(ii)	To authorize the manufacture, mark, sale, and use of non-specification metal receptacles meeting the requirements of 2Q receptacles except it exceeds the pressure authorized. (modes 1,3,4,5)
20474-N	SPACE EXPLORATION TECHNOLOGIES CORP.	Part 172 Subparts D and E, Part 173.	To authorize the transportation in commerce of the Dragon space capsule containing non-DOT specification packages of hazardous materials. (mode 1)

[FR Doc. 2017-12128 Filed 6-23-17; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to an Executive Order Issued on September 23, 2001, Titled "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism"

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is removing the name of one individual, whose property and interests in property have been blocked pursuant to an executive order issued on September 23, 2001, titled "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," from the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice are effective on June 21, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622-2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.:

202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (www.treas.gov/ofac).

Notice of OFAC Actions

The following person is removed from the SDN List, effective as of June 21, 2017.

Individual

1. SALAH, Muhammad (a.k.a. HASANAYN, Nasr Fahmi Nasr) (individual) [SDGT].

Dated: June 21, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017-13279 Filed 6-23-17; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Supplemental Identification Information for One Individual Designated Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets

Control ("OFAC") is publishing supplemental information for the name of one individual whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: OFAC's actions described in this notice are effective on June 21, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622-2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (www.treas.gov/ofac).

Notice of OFAC Actions

On June 21, 2017, OFAC supplemented the identification information for one individual whose property and interests in property are blocked pursuant to Executive Order 13224, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism".

The supplementation identification information is as follows:

Individual

1. BOULGHITI, Boubekur (a.k.a. BOULGHIT, Boubakeur; a.k.a. "AL DJAZAIRI, Abou Bakr"; a.k.a. "AL-JAZARI, Yasir"; a.k.a. "AL-JAZIRI, Abou Yasser"; a.k.a. "AL-JAZIRI, Abu Bakr"; a.k.a. "EL DJAZAIRI, Abou Yasser"), Peshawar, Pakistan; DOB 13 Feb 1970; POB Rouiba, Algiers, Algeria; nationality Algeria; Gender Male (individual) [SDGT].

Dated: June 21, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017-13278 Filed 6-23-17; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF TREASURY

Internal Revenue Service

Proposed Revision of Information Collection Request Submitted for Public Comment; Draft Model Non-Quantitative Treatment Limitations Form

AGENCY: Internal Revenue Service, Department of Treasury.

ACTION: Notice.

SUMMARY: The Internal Revenue Service (IRS), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the IRS assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the IRS's information collection requirements and provide the requested data in the desired format. Currently, the IRS is soliciting comments on a revision of the Notices under the Mental Health Parity and Addiction Equity Act of 2008 information collection request (ICR) to add a model form participants and authorized representatives can use to request certain information from their health plans that is discussed below.

A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section on or before September 1, 2017.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the draft model form should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 317-5746, or through the internet at *RJoseph.Durbala@irs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted on October 3, 2008 and amended by the Affordable Care Act and the 21st Century Cures Act (Cures Act). Generally, MHPAEA requires that the financial requirements and treatment limitations imposed on mental health and substance use disorder (MH/SUD) benefits cannot be more restrictive than the predominant financial requirements and treatment limitations that apply to substantially all medical and surgical benefits. As discussed below, MHPAEA includes several disclosure requirements for group health plans and health insurance issuers.

The Cures Act¹ was enacted on December 13, 2016. Among its requirements, the Cures Act contains provisions that are intended to improve compliance with MHPAEA by requiring the Departments to solicit feedback from the public on how to improve the process for group health plans and issuers to disclose the information required under MHPAEA and other laws.

The statutory MHPAEA provisions and implementing regulations expressly provide that a plan or issuer must disclose the criteria for medical necessity determinations with respect to MH/SUD benefits to any current or potential participant, beneficiary, or contracting provider upon request and must disclose the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits to the participant or beneficiary.

On October 27, 2016, the Departments of Labor, Health and Human Services, and the Treasury (the Departments) issued Affordable Care Act Implementation FAQs Part 34, which, among other things, solicited feedback regarding disclosures with respect to MH/SUD benefits under MHPAEA and other laws. In the FAQs, the Departments indicated that they had received questions and suggestions regarding disclosures with respect to

Nonquantitative Treatment Limitation (NQTLs) applicable to medical/surgical and MH/SUD benefits under the plan. The feedback also included requests from various stakeholders for model forms that group health plan participants, beneficiaries, covered individuals in the individual market, or persons acting on their behalf could use to request relevant disclosures. Stakeholders also requested guidance on other ways in which disclosures, or the process for requesting disclosures, could be more uniform, streamlined, or otherwise simplified.

In addition, the Departments indicated that they had received requests to explore ways to encourage uniformity among State reviews of health insurance issuers' compliance with the NQTL standards. Various stakeholders stated that model forms to report NQTL information will help facilitate uniform implementation and enforcement of MHPAEA, and relieve some complexity that MHPAEA compliance poses for issuers operating in multiple States. Furthermore, other stakeholders highlighted that the use of such model forms may also benefit consumers, as consumers will be entitled to request the analysis performed to complete the model forms.

The Cures Act requires the Departments, by June 13, 2017, to solicit feedback from the public on how the disclosure request process for documents containing information that health plans and health insurance issuers are required under Federal or State law to disclose to participants, beneficiaries, contracting providers or authorized representatives to ensure compliance with existing mental health parity and addiction equity requirements can be improved while continuing to ensure consumers' rights to access all information required by Federal or State law to be disclosed.² The Cures Act requires the Departments to make this feedback publicly available by December 13, 2017.³

The Departments recently issued Affordable Care Act Implementation FAQs Part 38, which again solicited comments on FAQs Part 34 as required

² Cures Act section 13001(c)(1).

³ Cures Act section 13001(c)(2). The Departments must also share this feedback with the National Association of Insurance Commissioners (NAIC) to the extent the feedback includes recommendations for the development of simplified information disclosure tools to provide consistent information to consumers. Such feedback may be taken into consideration by the NAIC and other appropriate entities for the voluntary development and voluntary use of common templates and other sample standardized forms to improve consumer access to plan information. See Cures Act section 13001(c)(3).

¹ Public Law 114-255

by the Cures Act. The Departments also solicited comments on a draft model form that participants, enrollees, or their authorized representatives could use to request information from their health plan or issuer regarding NQTLs that may affect their MH/SUD benefits, or to obtain documentation after an adverse benefit determination involving MH/SUD benefits to support an appeal. The draft model form is an information collection subject to the PRA. The model form and instructions are available at <https://www.dol.gov/agencies/ebsa>.

II. Current Actions

This notice requests public comment on the draft model form discussed above. The IRS notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Type of Review: Revised Collection.

Agency: Internal Revenue Service.

Title: Notices under the Mental Health Parity and Addiction Equity Act of 2008—Draft Model Non-Qualitative Treatment Limitations Form.

OMB Numbers: 1545–2165.

Affected Public: Private Sector—Not for profit organizations; businesses or other for profits.

Total Respondents: 1,204,215 (combined with DOL the total is 2,408,430).

Total Responses: 1,204,215 (combined with DOL the total is 2,408,430).

Frequency of Response: On occasion.

Estimated Total Annual Burden

Hours: 26,295 (combined with DOL the total is 52,590 hours).

Estimated Total Annual Burden Cost: \$3,424,759 (combined with DOL the total is \$6,849,519).

III. Desired Focus of Comments

The Internal Revenue Service (IRS) 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., by permitting electronic submissions of responses.

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

Dated: June 16, 2017.

R. Joseph Durbala,

Tax Analyst, Internal Revenue Service.

[FR Doc. 2017–13224 Filed 6–23–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Taxpayer Statement Regarding Refund

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on continuing collections of information. This helps the IRS assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the IRS's information collection requirements and provide the requested data in the desired format. The IRS is soliciting comments concerning Taxpayer Statement Regarding Refund. The information and taxpayer signature are needed to begin the tracing action.

DATES: Written comments should be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224 or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Taxpayer Statement Regarding Refund.

OMB Number: 1545–1384.

Form Number: 3911.

Abstract: Form 3911 is used by taxpayers to notify the IRS that a tax refund previously claimed has not been received. The form is normally completed by the taxpayer as the result of an inquiry in which the taxpayer claims non-receipt, loss, theft, or destruction of a tax refund and IRS research shows that the refund has been issued. The information on the form is needed to clearly identify the refund to be traced.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 200,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 16,600.

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.

Approved: June 19, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-13211 Filed 6-23-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning the election to expense certain depreciable business assets. Including, the recordkeeping and reporting requirements necessary to monitor compliance with a specific type of depreciation.

DATES: Written comments should be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to Kerry Dennis, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Election to Expense Certain Depreciable Business Assets.

OMB Number: 1545-1201.

Regulation Project Number: T.D. 9209.

Abstract: The regulations provide rules on the election described in Internal Revenue Code section 179(b)(4); the apportionment of the dollar limitation among component members of a controlled group; and the proper order for deducting the carryover of disallowed deduction. The recordkeeping and reporting requirements are necessary to monitor compliance with the section 179 rules.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, farms, and business or other for-profit organizations.

Estimated Number of Respondents: 4,025,000.

Estimated Time per Respondent: 45 min.

Estimated Total Annual Burden Hours: 3,015,000.

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.

Approved: June 19, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-13222 Filed 6-23-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Application To Participate in the IRS Acceptance Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on continuing collections of information. This helps the IRS assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the IRS's information collection requirements and provide the requested data in the desired format. The IRS is soliciting comments concerning Application to Participate in the IRS Acceptance Agent Program. Form 13551 is used to gather information to determine applicant's eligibility in the Acceptance Agent Program.

DATES: Written comments should be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Application to Participate in the IRS Acceptance Agent Program.

OMB Number: 1545-1896.

Form Number: 13551.

Abstract: Form 13551 is used to gather information to determine applicant's eligibility in the Acceptance Agent Program.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, and Federal, state, local or tribal government.

Estimated Number of Respondents: 12,825.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 6,413.

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.

Approved: June 19, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-13226 Filed 6-23-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Request for Miscellaneous Determination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on continuing collections of information. This helps the IRS assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the IRS's information collection requirements and provide the requested data in the desired format. The IRS is soliciting comments concerning Request for Miscellaneous Determination associated with standardizing information collections of individually written requests for miscellaneous determinations associated with Exempt Organizations.

DATES: Written comments should be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Request for Miscellaneous Determination.

OMB Number: 1545-2211.

Form Number: 8940.

Abstract: Form 8940 will standardize information collection procedures for nine categories of individually written requests for miscellaneous determinations now submitted to the Service by requestor letter. Respondents are exempt organizations.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 2,100.

Estimated Time per Respondent: 13 hours, 47 minutes.

Estimated Total Annual Burden Hours: 28,959.

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.

Approved: June 19, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-13225 Filed 6-23-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on continuing collections of information. This helps the IRS assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the IRS's information collection requirements and provide the requested data in the desired format. The IRS is soliciting comments concerning environmental settlement funds-classification. Additionally, it addresses determination of the portion of a trust to include in income by a grantor owner.

DATES: Written comments should be received on or before August 25, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to Kerry Dennis, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Environmental Settlement Funds-Classification.

OMB Number: 1545-1465. Regulation Project Number: T.D. 8668.

Abstract: This regulation provides guidance to taxpayers on the proper

classification of trusts formed to collect and disburse amounts for environmental remediation of an existing waste site to discharge taxpayers' liability or potential liability under applicable environmental laws. Section 301.7701-4(e)(2) of the regulation provides that the trustee of an environmental remediation trust must furnish to each grantor a statement that shows all items of income, deduction, and credit of the trust for the taxable year attributable to the portion of the trust treated as owned by the grantor. The statement must provide the grantor with the information necessary to take the items into account in computing the grantor's taxable income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 2000.

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.

Approved: June 19, 2017.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-13223 Filed 6-23-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0825]

Agency Information Collection Activity: The Veterans' Outcome Assessment (VOA) (Veteran Survey Interview)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 25, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Cynthia Harvey-Pryor, Office of Information & Technology (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to Cynthia.Harvey-Pryor@va.gov. Please refer to "OMB Control No. 2900-0825" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461-5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed

collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (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 or the use of other forms of information technology.

Authority: Public Law 112-239 Sec. 726

Title:

a. Veterans Outcome Assessment—Baseline
b. Veterans Outcome Assessment—Follow Up

OMB Control Number: 2900-0825.

Type of Review: Revision of a currently approved collection.

Abstract: The mental health outcomes information obtained through this new collection will be used by VA leadership, including those in the Offices of Mental Health Operations and Mental Health Services, Network offices, and VA Medical Centers. Such information on Veteran mental health outcomes is crucial to guide resource allocation and programmatic decisions for mental health programs and to intervene effectively to prevent individual adverse outcomes such as suicide, overdose deaths, and morbidities associated with mental illness and to support recovery-oriented treatment designed to improve functioning and reduce symptoms. The data will allow VA policy makers to reliably track national performance on a quarterly basis and to track VISN performance on a yearly basis. These data will reveal trends in outcomes over time and will help in pinpointing programs that are doing well in terms of patient outcomes, so that other programs can emulate their practices, as well as identifying those programs that are performing poorly so that steps can be taken to improve them. Results of the survey will be reported to Congress and will influence decisions on funding. The VOA will thus provide Veterans who are experiencing mental health problems with a direct voice in program evaluation and improvement. Summary data on performance also will be available on a public Web site, as mandated by the NDAA, to provide Veterans and their families with additional information for purposes of managing their mental health treatment and U.S. citizens with information regarding VA's mental health programs

and Veterans satisfaction with their care.

Affected Public: Individuals and households.

Estimated Annual Burden: 11,236 hours.

Estimated Average Burden per

Respondent: .42 hours.

Frequency of Response: Annually.

Estimated Number of Respondents: 26,752.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017-13304 Filed 6-23-17; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0319]

Agency Information Collection Activity Under OMB Review: Fiduciary Agreement

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs,

will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 26, 2017.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to oir_submission@omb.eop.gov. Please refer to "OMB Control No. 2900-0319" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-5870 or email cynthia.harvey-pryor@va.gov. Please refer to "OMB Control No. 2900-0319" in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104-13; 44 U.S.C. 3501-3521.

Title: Fiduciary Agreement (VA Form 21P-4703).

OMB Control Number: 2900-0319.

Type of Review: Revision of a currently approved collection.

Abstract: VA maintains supervision of the distribution and use of VA benefits paid to fiduciaries on behalf of VA claimants who are incompetent, a minor, or under legal disability. This form is used as a legal contract between VA and a federal fiduciary. It outlines the responsibilities of the fiduciary with respect to the uses of VA funds.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published in FR Volume 82, No. 76, April 21, 2017, page 18833.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,917.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 47,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017-13303 Filed 6-23-17; 8:45 am]

BILLING CODE 8320-01-P



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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List 10 Species of Giant Clams as Threatened or Endangered Under the Endangered Species Act; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 170117082–7082–01]

RIN 0648–XF174

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List 10 Species of Giant Clams as Threatened or Endangered Under the Endangered Species Act

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

ACTION: 90-day petition findings, request for information, and initiation of status review.

SUMMARY: We, NMFS, announce our 90-day findings on a petition to list ten species of giant clam as endangered or threatened under the U.S. Endangered Species Act (ESA). We find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for seven species (*Hippopus hippopus*, *H. porcellanus*, *Tridacna costata*, *T. derasa*, *T. gigas*, *T. squamosa*, and *T. tevoroa*). Accordingly, we will initiate status reviews of these seven giant clam species. To ensure that the status reviews are comprehensive, we are soliciting scientific and commercial information regarding these species. We find that the petition did not present substantial scientific or commercial information indicating that the petitioned action may be warranted for the other three petitioned giant clam species (*T. crocea*, *T. maxima*, or *T. noae*).

DATES: Information and comments on the subject action must be received by August 25, 2017.

ADDRESSES: You may submit comments, information, or data, by including “NOAA–NMFS–2017–0029” by either of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0029, click the “Comment Now” icon, complete the required fields, and enter or attach your comments.

- *Mail or hand-delivery:* Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Attn: Lisa Manning.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or

individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lisa Manning, NMFS, Office of Protected Resources (301) 427–8403.

SUPPLEMENTARY INFORMATION:**Background**

On August 7, 2016, we received a petition from a private citizen, Dr. Dwayne W. Meadows, Ph.D., requesting that we list the Tridacninae giant clams (excluding *Tridacna rosewateri*) as endangered or threatened under the ESA. The ten species of giant clams considered in this finding are the eight *Tridacna* species, including: *T. costata*, *T. crocea*, *T. derasa*, *T. gigas*, *T. maxima*, *T. noae*, *T. squamosa*, and *T. tevoroa* (also known as *T. mbalavauna*); and the two *Hippopus* species: *H. hippopus* and *H. porcellanus*. The petitioner also requested that critical habitat be designated for Tridacninae species that occur in U.S. waters concurrent with final ESA listing. The petition states that Tridacninae giant clams merit listing as endangered or threatened species under the ESA because of the following: (1) Loss or curtailment of habitat or range; (2) historical and continued overutilization of the species for commercial purposes; (3) inadequacy of existing regulatory mechanisms to safeguard the species; (4) other factors such as global climate change; and (5) the species’ inherent vulnerability to population decline due to their slow recovery and low resilience to threats.

ESA Statutory Provisions and Policy Considerations

Section 4(b)(3)(A) of the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When

we find that substantial scientific or commercial information in a petition and in our files indicates the petitioned action may be warranted (a “positive 90-day finding”), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a “may be warranted” finding at the 90-day stage does not prejudice the outcome of the status review and 12-month finding.

Under the ESA, a listing determination may address a “species,” which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NMFS–U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies’ interpretation of the phrase “distinct population segment” for the purposes of listing, delisting, and reclassifying a species under the ESA (“DPS Policy”; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is “endangered” if it is in danger of extinction throughout all or a significant portion of its range, and “threatened” if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five section 4(a)(1) factors: The present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species’ existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and USFWS (50 CFR 424.14(b)) define “substantial information” in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition,

we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a "species" eligible for listing under the ESA. Next, we evaluate whether the information

indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in ESA section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union for the Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do "not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act" because NatureServe assessments "have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide" (<http://www.natureserve.org/prodServices/statusAssessment.jsp>). Thus, when a petition cites such classifications, we will evaluate the source of information

that the classification is based upon in light of the standards on extinction risk and impacts or threats discussed above.

Analysis of the Petition

General Information

The petition clearly indicates the administrative measure recommended and gives the scientific and, in some cases, the common names of the species involved. The petition also contains a narrative justification for the recommended measures and provides limited information on the species' geographic distribution, habitat use, and threats. Limited information is also provided on population status and trends for all but a couple of species. The introduction of the petition emphasizes that giant clam species have not been evaluated by the IUCN since 1996, and more recent information provides evidence of significant population declines of all giant clam species range-wide, with increasing threats. The petition then provides general background information on giant clams as well as some limited species-specific information where available. Topics covered by the petition include giant clam taxonomy, natural history, descriptions of *Tridacna* species (descriptions of *Hippopus* species are absent), geographic range, habitat descriptions, life history (including growth and reproduction), ecology (including their symbiotic relationship with zooxanthellae and their ecological role on coral reefs), population structure and genetics, and abundance and trends. A general description of threats categorized under the five ESA Section 4(a)(1) factors is provided and is meant to apply to all of the petitioned clam species. This section discusses the following threats: Coral reef habitat degradation (including sedimentation, pollution, and reclamation), subsistence and commercial harvest by coastal and island communities for local consumption as well as sale and export for the meat, aquarium and curio trades, inadequacy of existing regulatory mechanisms to safeguard the species, and impacts of climate change (including bleaching and ocean acidification). A synopsis of and our analysis of the information provided in the petition and readily available in our files is provided below.

Species Description

Giant clams are a small but conspicuous group of large bivalves that are members of the cardiid bivalve subfamily Tridacninae (Su *et al.*, 2014). They are the largest living marine

bivalves found in coastal areas of the Indo-Pacific region, and are frequently regarded as important ecological components of coral reefs, especially as providers of substrate and contributors to overall productivity (Neo and Todd 2013). The most recent information suggests there are 13 extant species of giant clams, 10 of which are considered in this 90-day finding, including 8 species in the genus *Tridacna*—*T. crocea*, *T. derasa*, *T. gigas*, *T. maxima*, *T. noae*, *T. squamosa*, *T. costata* (formerly *T. squamosina*) and *T. tevoroa* (formerly *T. mbalavauna*), and 2 species in the genus *Hippopus*—*H. hippopus* and *H. porcellanus*.

Taxonomy

Giant clam taxonomy (family Cardiidae, subfamily Tridacninae) has seen a surge in new species descriptions in recent decades (Borsa *et al.*, 2015a), and there is some disagreement in the literature regarding the validity of some species. Two giant clam species considered in this 90-day finding have been only recently described (*T. tevoroa* and *T. costata*), but have been shown to be junior synonyms of species described decades before (*i.e.*, *T. mbalavauna* and *T. squamosina*, respectively; Borsa *et al.*, 2015a). Another species, *T. noae*, has been the subject of debate in terms of its validity as a species. However, *T. noae* has been recently resurrected from synonymy with the small giant clam, *T. maxima*, after additional molecular and morphological evidence supported the taxonomic separation of the two species (Su *et al.*, 2014).

Range and Distribution

Modern giant clams are distributed along shallow shorelines and on reefs in the Indo-West Pacific in the area confined by 30° E and 120° W (*i.e.*, from South Africa to beyond French Polynesia) and between 36° N and 30° S (*i.e.*, from Japan in the North to Australia in the South; Neo *et al.*, 2015) and excluding New Zealand and Hawaii, although there are reports that at least two species have been introduced in Hawaii (*T. derasa* and *T. squamosa*; bin Othman *et al.*, 2010). Although most extant giant clams mainly occur within the tropical Indo-Pacific region, three species (*T. maxima*, *T. squamosa* and *T. costata*) are found as far west as East Africa or the Red Sea (Soo and Todd 2014). Of all the giant clam species, *T. maxima* has the most cosmopolitan distribution, which encompasses nearly the entire geographical range of all the other giant clam species. On the other side of the spectrum, the more recently described *T. costata*, *T. tevoroa*, and *H.*

porcellanus have the most restricted geographical ranges (bin Othman *et al.*, 2010).

Anecdotal reports by SCUBA divers and data from Reef Check (an international non-governmental organization that trains volunteers to carry out coral reef surveys) include records of giant clams beyond previously defined geographical boundaries, extending their known occurrence to near Cape Agulhas, South Africa. Giant clam distribution is not uniform, with greater diversity found in the central Indo-Pacific (Spalding *et al.*, 2007). A couple of recent sources have extended the known ranges of a couple of species. For example, Gilbert *et al.* (2007) documented the first observation of *T. squamosa* in French Polynesia, extending the species' range farther east than previously reported. Likewise, in our files, we found evidence that *T. tevoroa* has recently been observed in the Loyalty Islands of New Caledonia, whereas it was previously thought to be restricted to Tonga and Fiji (Kinch and Teitelbaum 2009). The petition claims that several of the species occur (or historically occurred) in the United States and its territories or possessions, including: *T. derasa*, *T. gigas*, *T. maxima*, *T. squamosa*, and *H. hippopus*. The rest of the petitioned clam species have strictly foreign distributions. The NMFS Coral Reef Ecosystem Program (CREP) conducts routine Reef Assessment and Monitoring Program surveys in U.S. territories, but their comprehensive monitoring reports only include general information on *Tridacna* clams, not at the species level.

Habitat

The petition cites Soo and Todd (2014), stating that giant clams are markedly stenothermal (*i.e.*, they are able to tolerate only a small range of temperature) and thus restricted to warm waters. Based on the broad latitudinal and depth ranges of some giant clam species, they each likely have varying ranges of temperature tolerance, possibly similar to that of other coral reef associated species. Although giant clams are typically associated with and are prominent inhabitants of coral reefs, this is not an obligate relationship (Munro 1992). Giant clams are typically found living on sand or attached to coral rock and rubble by byssal threads (Soo and Todd 2014), but they can be found in a wide variety of habitats, including live coral, dead coral rubble, boulders, sandy substrates, seagrass beds, macroalgae zones, etc. (Gilbert *et al.*, 2006; Hernawan 2010).

Life History

The exact lifespan of tridacnines has not been determined; although it is estimated to vary widely between eight to several hundred years (see original citations in Soo and Todd 2014). Little information exists on the size at maturity for giant clams, but size and age at maturity vary by species and geographical location (Ellis 1997). In general, giant clams appear to have relatively late sexual maturity, a sessile, exposed adult phase and broadcast spawning reproductive strategy, all of which can make giant clams vulnerable to depletion and exploitation (Neo *et al.*, 2015). All giant clam species are classified as protandrous functional hermaphrodites, meaning they mature first as males and develop later to function as both male and female (Chambers 2007); but otherwise, giant clams follow the typical bivalve mollusc life cycle. At around 5 to 7 years of age (Kinch and Teitelbaum 2009), giant clams reproduce via broadcast spawning, in which several million sperm and eggs are released into the water column where fertilization takes place. Giant clam spawning can be seasonal; for example, in the Central Pacific, giant clams can spawn year round but are likely to have better gonad maturation around the new or full moon (Kinch and Teitelbaum 2009). In the Southern Pacific, giant clam spawning patterns are seasonal and clams are likely to spawn in spring and throughout the austral summer months (Kinch and Teitelbaum 2009). Once fertilized, the eggs hatch into free-swimming trochophore larvae for around 8 to 15 days (according to the species and location) before settling on the substrate (Soo and Todd 2014; Kinch and Teitelbaum 2009). During the pediveliger larvae stage (the stage when the larvae is able to crawl using its foot), the larvae crawl on the substrate in search of suitable sites for settlement and metamorphose into early juveniles (or spats) within 2 weeks of spawning (Soo and Todd 2014). Growth rates after settlement generally follow a sigmoid ("S" shaped) curve, beginning slowly, then accelerating after approximately 1 year and then slowing again as the animals approach maturity (Ellis 1997). These rates are usually slow and vary amongst species.

Feeding and Nutrition

According to Munro (1992), giant clams are facultative planktotrophs, in that they are essentially planktotrophic (*i.e.*, they feed on plankton) but they can acquire all of the nutrition required for maintenance from their symbiotic algae,

Symbodium. Nutritional requirements and strategies vary significantly by species. For example, *T. derasa* is able to function as a complete autotroph in its natural habitat (down to 20 m), whereas *T. tevoroa* only achieves this in the shallower parts of its distribution (10 to 20 m). *Tridacna gigas* shows a different strategy, comfortably satisfying all apparent carbon requirements from the combined sources of filter-feeding and phototrophy (Klumpp and Lucas 1994). In fact, Klumpp *et al.* (1992) showed that *T. gigas* is an efficient filter-feeder and that carbon derived from filter-feeding in Great Barrier Reef waters supplies significant amounts of the total carbon necessary for its respiration and growth.

Giant Clam Status and Abundance Trends

The petition does not provide historical or current global abundance estimates for any of the petitioned clam species; rather, the petition cites a number of studies that document local extirpations of various giant clam species in particular areas to demonstrate that all species of giant clams are currently declining, or have declined historically, within their ranges. We assess the information presented in the petition, and information in our files, regarding each of the petitioned species in individual species accounts later in this finding.

ESA Section 4(a)(1) Factors

The petition indicates that giant clam species merit listing due to all five ESA section 4(a)(1) factors: Present or threatened destruction, modification, or curtailment of its habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and other natural or manmade factors affecting its continued existence. We first discuss each of these threats to giant clams in general, and then discuss these threats as they relate to each species, based on information in the petition and the information readily available in our files.

Threats to Giant Clams

Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petition contends that all giant clam species are at risk of extinction due to habitat destruction. The petitioner cites Foster and Vincent (2004) and states that: “Giant clams inhabit shallow coastal waters which are highly vulnerable to habitat

degradation caused by various anthropogenic activities.” While we agree that highly populated coastal areas are subject to anthropogenic impacts (*e.g.*, land-based sources of pollution, sedimentation, nutrient loading, etc.), the reference provided by the petitioner refers to habitat degradation as a threat to seahorse populations, with no information provided in this reference specific to giant clams. The petition also asserts that because giant clams are associated with coral reefs, that all species of giant clams face all of the “regular” threats that coral reefs generally face, including coral reef habitat degradation, sedimentation and pollution. The petition cites Brainard *et al.* (2011), a status review report that was prepared by NMFS for 82 coral species under the ESA, as evidence of habitat destruction issues throughout the range of the petitioned giant clam species. While this status review report thoroughly describes issues related to coral reef habitat degradation in general, it does not discuss giant clams, nor does it provide any substantial evidence regarding a link between coral reef habitat degradation and negative population-level impacts to any of the petitioned giant clam species throughout their ranges. Further, the petition itself notes that while giant clam species are generally associated with coral reefs, it is not an obligate relationship. In fact, surveys in many areas suggest that adults of most species of giant clams can live in most of the habitats available in coralline tropical seas (Munro 1992), with observations of giant clam species inhabiting a diverse variety of habitats (*e.g.*, live coral, dead encrusted coral, coral rubble, seagrass beds, sandy substrates, boulders, macroalgae zones, etc.; Gilbert *et al.*, 2006; Hernawan 2010). Additionally, while the petition describes the ecological importance of giant clams to coral reefs, the petition does not provide any information demonstrating the importance of pristine coral reef habitat to the survival of giant clam species.

Finally, the petitioner also notes evidence from the South China Sea that 40 square miles (104 sq km) of coral reefs have been destroyed as a result of giant clam poaching, with an additional 22 square miles (57 sq km) destroyed by island-building and dredging activities. The petitioner notes that the main target during these poaching activities is *T. gigas*, because its large shell is considered a desirable luxury item in mainland China. Although directed poaching of giant clams would fall under the threat of overutilization, the means of poaching (*e.g.*, explosives,

tools of various sorts, and/or dragging and pulling to remove giant clams from the surrounding habitat) clearly has impacts to coral reef habitat as well. However, it is unclear how the loss of coral reefs in the South China Sea may impact the status of giant clams throughout their ranges, and aside from *T. gigas*, the petition provides no species-specific information regarding habitat destruction for the other nine petitioned species.

Therefore, while the information in the petition suggests concern for the status of coral reef habitat generally, its broadness, generality, and speculative nature, and the lack of connections between the threats discussed and the status of the giant clam species specifically, means that we cannot find that this information reasonably suggests that habitat destruction is an operative threat that acts or has acted on each of the species to the point that they may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response and consider the significance within the context of the species’ overall range. In this case, generalized evidence of declining coral reef habitat is not evidence of a significant threat to any of the individual petitioned species to infer extinction risk such that the species may meet the definition of either threatened or endangered under the ESA.

In addition to habitat degradation as a result of various anthropogenic activities, the petition contends that climate change related threats, including ocean warming and ocean acidification, are operative threats to all giant clam species and the coral reef habitat they rely on. The petitioner cites Brainard *et al.* (2011) and NMFS’ proposed and final rules to list numerous reef-building corals under the ESA (77 FR 73219; December 7, 2012 and 79 FR 53852; September 10, 2014) as substantial information to support these claims. While we agree with the petitioner that coral bleaching events have been increasing in both intensity and geographic extent because of climate change, and the information in the petition suggests concern for coral reef ecosystems, we disagree with the petitioner’s broad and generalized

application of this information to the status of giant clams.

With regard to climate change related threats to coral reef habitat, NMFS' final rule to list 20 species of reef-building corals (79 FR 53852; September 10, 2014) explains that exposure and response of coral species to global threats varies spatially and temporally, based on variability in the species' habitat and distribution. The vast majority of coral species occur across multiple habitat types, or reef environments, and have distributions that encompass diverse physical environmental conditions that influence how that species responds to global threats. Additionally, the best available information, as summarized in Brainard *et al.* (2011) and the coral final rule (79 FR 53852; September 10, 2014), shows that adaptation and acclimatization to increased ocean temperatures are possible; there is intra-genus variation in susceptibility to bleaching, ocean acidification, and sedimentation; at least some coral species have already expanded their ranges in response to climate change; and not all species are seriously affected by ocean acidification. In fact, some studies suggest that coral reef degradation resulting from global climate change threats alone is likely to be an extremely spatially, temporally, and taxonomically heterogeneous process. These studies indicate that coral reef ecosystems, rather than disappear entirely as a result of future impacts, will likely persist, but with unpredictable changes in the composition of coral species and ecological functions (Hughes *et al.*, 2012; Pandolfi *et al.*, 2011). We have additional information regarding climate change impacts and predictions for coral reefs readily available in our files, which indicates a highly nuanced and variable pattern of exposure, susceptibility, resilience, and recovery over regionally and locally different spatial and temporal scales, with much uncertainty remaining. The literature underscores the multitude of factors contributing to coral response to thermal stress, including taxa, geographic location, biomass, previous exposure, frequency, intensity, and duration of thermal stress events, gene expression, and symbiotic relationships (Pandolfi *et al.*, 2011; Putman *et al.*, 2011; Buddemeier *et al.*, 2012; Sridhar *et al.*, 2012; Teneva *et al.*, 2012; van Hooidonk and Huber, 2012). Evidence suggests that coral bleaching events will continue to occur and become more severe and more frequent over the next few decades (van Hooidonk 2013). However, newer multivariate modeling

approaches indicate that traditional temperature threshold models may not give an accurate picture of the likely outcomes of climate change for coral reefs, and effects and responses will be highly nuanced and heterogeneous across space and time (McClanahan *et al.*, 2015).

In addition to bleaching, the petitioner similarly implies that ocean acidification is a threat to giant clam habitat (*i.e.*, corals and coral reefs). The petition cites Brainard *et al.* (2011) and states: "ocean acidification threatens to slow or halt coral growth and reef building entirely if the pH of the ocean becomes too low for corals to form their calcite skeletons." The petition further states that bioerosion of coral reefs is likely to accelerate as skeletons become more fragile because of the effects of acidification. However, aside from these broad and generalized statements regarding the potential impacts of ocean acidification to giant clam habitat (based largely on information regarding ocean acidification impacts to corals and coral reefs), the petition provides very limited information regarding species-specific impacts of ocean acidification for most of the petitioned giant clam species. Additionally, as with coral bleaching, Brainard *et al.* (2011) and the coral final rule (79 FR 53852; September 10, 2014) show that adaptation and acclimatization to ocean acidification are possible, there is intra-genus variation in susceptibility to ocean acidification, and not all species are seriously affected. The previous discussion regarding spatial and temporal variability regarding how coral species respond to increasing temperature also applies to how corals respond to impacts of ocean acidification. Despite the generally high-ranking global threats from climate change, including coral bleaching and acidification and considerations of how these threats may act synergistically, only 20 of the 83 petitioned coral species ultimately warranted listing under the ESA. This underscores the fact that reef-building corals exist within a wide spectrum of susceptibility and vulnerability to global climate change threats. Thus, at the broad level of coral reefs, the information in the petition and in our files does not allow us to conclude that coral reefs generally are at such risk from ocean acidification effects as to threaten the viability of the petitioned giant clam species.

Finally, the petition provided no information or analysis regarding how changes in coral reef composition and function because of climate change pose an extinction risk to any of the petitioned giant clam species. This is

particularly important given that giant clams do not have an obligate relationship to coral reefs and, like corals, occur in a wide variety of habitats that encompass diverse physical environmental conditions that influence how a particular species responds to global threats. Broad generalizations regarding climate change related threats and their impacts cannot be applied as an equivalent threat to corals and coral reef associated species. In cases where the petitioner provided relevant species-specific information regarding climate change impacts, we consider this information in further detail below in the individual species accounts.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition describes several activities that may be contributing to the overutilization of giant clams in general. The petition notes that harvest of giant clams is for both subsistence purposes (*e.g.*, giant clam adductor, gonad, muscle, and mantle tissues are all used for food products and local consumption), as well as commercial purposes for global international trade (*e.g.*, giant clam shells are used for a number of items, including jewelry, ornaments, soap dishes).

The petition discusses a number of commercial fisheries that operated historically, including long-range Taiwanese fishing vessels and some local fisheries that developed in the 1970s and 1980s (*e.g.*, Papua New Guinea, Fiji, Maldives). According to Munro (1992), historical commercial fisheries appear to have been limited to long-range Taiwanese fishing vessels, which targeted the adductor muscles of larger species (*e.g.*, *T. gigas* and *T. derasa*). This activity reached its peak in the mid-1970s and then subsided in the face of depleted stocks, strong international pressures, and improved surveillance of reef areas (Munro 1992). In response to declining activities by the Taiwanese fishery and continuing demand for giant clam meat, commercial fisheries developed in Papua New Guinea, Fiji, and the Maldives. For example, the Fijian fishery, which was exclusively for *T. derasa*, landed over 218 tons over a 9-year period, with the largest annual harvest totaling 49.5 tons in 1984. The petition cites Lewis *et al.* (1998) in stating this level of harvest is "thought to have removed most of the available stock," but the authors actually stated that in 1984–85 there were still abundant populations on various reefs in the windward (Lau, Lomaiviti)

islands but subsequent commercial harvest has considerably reduced these numbers. Because of these rapidly depleting local stocks, government authorities closed the fisheries (Munro 1992). The petition also noted historical commercial overutilization of giant clams (*i.e.*, *T. gigas* and *T. derasa*) in Palau. Hester and Jones (1974) recorded densities of 50 *T. gigas* and 33 *T. derasa* per hectare at Helen Reef, Palau, before these stocks were “totally decimated by distant-water fishing vessels” (Munro 1992), although no further information or citations are provided to better describe the decimation. The petition discusses a few other studies that document historical overutilization of giant clams in various locations, including Japan, Philippines, Malaysia, and Micronesia (Okada 1997; Villanoy *et al.*, 1988; Tan and Yasin 2003; and Lucas 1994, respectively). Thus, it is clear that in some locations, giant clams, particularly the largest species (*T. gigas* and *T. derasa*), have likely experienced historical overutilization as a result of commercial harvest. However, it should be noted that the large majority of the information provided in the petition points to selective targeting of the largest giant clam species, with limited information on many of the other petitioned giant clam species. Therefore, we cannot conclude that overutilization is contributing equally or to the same extent to the extinction risk of all giant clam species. Thus, any individual studies and species-specific information are discussed and analyzed in further detail in the individual species accounts below.

In terms of current and ongoing threats of overutilization to giant clams, the petition emphasizes the threat of the growing giant clam industry in China, largely the result of improved carving techniques, increased tourism in Hainan, China, the growth in e-commerce, and the domestic Chinese wholesale market (Larson 2016). The petition also cites McManus (2016) to note concerns that stricter enforcement of the trade in ivory products has diverted attention to giant clam shells. The petition points out that the giant clam (*T. gigas*) is the main target for international trade, as this species’ shell is considered a desirable luxury item, with a pair of high quality shells (from one individual) selling for upwards of US \$150,000. Therefore, the high value and demand for large *T. gigas* shells may be a driving factor contributing to ongoing overutilization of the species. However, aside from *T. gigas*, the petition provides very limited information regarding the threat of

international trade to the other nine petitioned giant clam species. Based on the information presented in the petition and in our files, we acknowledge that international trade may be a threat to some species (*e.g.*, *T. gigas*), but we cannot conclude that international trade is posing an equivalent threat to all of the petitioned species, as it is clear that some giant clam species are more desirable and targeted more for international trade than others. A more detailed analysis of available species-specific trade information presented in the petition and in our files can be found in the individual species accounts in later sections of this notice.

Although the petition does not mention aquaculture and hatchery programs, we found some information in our files on numerous giant clam aquaculture and hatchery programs throughout the Indo-Pacific, with several species being cultured in captivity for the purpose of international trade and restocking/reseeding programs to enhance wild populations. Currently, a variety of hatchery and nursery production systems are being utilized in over 21 Indo-Pacific countries (Teitelbaum and Friedman 2008), with several Pacific Island Countries and Territories (PICTs) across the Pacific using giant clam aquaculture and restocking programs to help enhance wild populations and culture clams for commercial use/trade. For example, the Cook Islands cultures giant clams at the Aitutaki Marine Research Center and exported 30,000 giant clams from 2003 to 2006 for the global marine aquarium trade (Kinch and Teitelbaum 2009). In 2005, the Palau National Government established the Palau Maricultural Demonstration Center Program to conduct research on giant clam culture and to establish community-based giant clam grow-out farms. This program has helped establish 46 giant clam farms throughout Palau, with over two million giant clam ‘seedlings’ distributed (Kinch and Teitelbaum 2009). At least 10 percent of all giant clams from each farm are also kept aside to spawn naturally in their own ranched enclosures, thus reseeded nearby areas. In addition to being used to reseed areas in Palau, the program exported approximately 10,000 cultured giant clams each year from 2005 to 2008 to France, Germany, Canada, the United States (including Guam and the Federated States of Micronesia (FSM)), Korea, and Taiwan. Other major producers of cultured giant clams for export include the Republic of the

Marshall Islands, Tonga, and the FSM, producing an approximate average of 15–20,000 pieces of clams per year (Kinch and Teitelbaum 2009). Therefore, the international trade of giant clams is complex, with many facets to consider, including the increasing influx of cultured giant clams into the trade. We acknowledge that the success of these restocking programs have been variable and limited in some locations (Teitelbaum and Friedman 2008); however, given the foregoing information, we cannot conclude that international trade poses an equal extinction risk to all of the petitioned giant clam species. In cases where the petition did provide species-specific information regarding commercial trade, we consider this information, as well as what is in our files, in the individual species accounts below.

Disease and Predation

The petition states that predation is not likely a threat to giant clam species, as there is no evidence to suggest that levels of predation have changed or are unnaturally high and affecting the status of giant clam populations. We could also find no additional information in our files regarding the threat of predation for any of the petitioned clam species.

The petition asserts that because diseases have been documented in a number of species and have likely increased in concert with climate change, they cannot be ruled out as a threat. The petition presented some limited information on diseases (*e.g.*, impacts of protozoans and parasitic gastropods on giant clams and other bivalves on the Great Barrier Reef of Australia), but did not provide any species-specific information regarding how diseases may be impacting giant clam populations to the point that disease poses an extinction risk to any of the petitioned clam species. We could also not find any additional information in our files regarding the threat of disease for any of the petitioned clam species. Therefore, we conclude that the petition does not provide substantial information that disease or predation is a threat contributing to any of the species’ risk of extinction, such that it is cause for concern.

Inadequacy of Existing Regulatory Mechanisms

The petition claims existing regulatory mechanisms at the international, federal, and state level to protect giant clams or the habitat they need to survive are inadequate. The petitioner asserts that not only are local and national laws inadequate to protect

giant clams, but that international trade and greenhouse gas regulations are also inadequate. We address each of these topics separately below.

Local and National Giant Clam Regulations

The petitioner notes that there are some laws for giant clams on the books in certain locations, but only discusses regulations from the Philippines and Malaysia and a separate issue of illegal clam poaching in disputed areas of the South China Sea. The petition acknowledges that all species of giant clam in the Philippines are protected as endangered species under the Philippine's Fisheries Administrative Order No. 208 series of 2001 (Dolorosa and Schoppe 2005), but states that despite this law, declines of giant clams continue. However, the only study presented on abundance trends since the law was implemented in 2001 was conducted on one reef (Tubbataha Reef; Dolorosa and Schoppe 2005). Dolorosa and Schoppe (2005) specifically stated that they could not conclude a continuous decline of tridacnids was occurring because the much lower density observed in their study was based on data taken from a single transect. Prior to the study conducted by Dolorosa and Schoppe (2005), the only quantitative information presented was from studies conducted in the 1980s and 1990s (Villanoy *et al.*, 1988; Salazar *et al.*, 1999). Therefore, based on the foregoing information, we cannot conclude that the aforementioned fisheries law is inadequate for mitigating local threats to giant clams and slowing or halting population declines in the Philippines. However, illegal poaching for some species does seem to be an issue in some areas of the Philippines, notably in the protected area of Tubbataha Reef National Marine Park. For example, hundreds of giant clams (*T. gigas*) were confiscated from Chinese fishermen who poached in the Park in the early 2000s (Dolorosa and Schoppe 2005), indicating that regulatory mechanisms (*e.g.*, the protected area) may not be adequate to protect that highly sought after species.

The petitioner also notes that Malaysia's Department of Fisheries has listed giant clams as protected species, but cites Tan and Yasin (2003) as evidence that giant clams continue to decline despite this protective regulation. The petition provides no details regarding when this law was implemented or what specific protections it affords giant clams in Malaysian waters, nor could we find these details in the reference provided (Tan and Yasin 2003). Given that

Malaysia represents a different proportion of each of the petitioned species' overall range, the potential inadequacy of regulatory mechanisms in Malaysia will be assessed and considered for each of the petitioned species in the individual species accounts below.

Overall, the discussion of inadequate regulatory mechanisms for giant clams at the national/local level by the petitioner focuses on Southeast Asia, without any information regarding regulatory mechanisms throughout large portions of the rest of the ranges of the species. However, we found regulations in our files in numerous countries throughout the tropical Pacific (*e.g.*, PICTs) and Australia regarding the harvest of giant clams. For example, size limits and complete bans on commercial harvest are the most commonly used fisheries management tools for giant clams throughout the PICTs (Kinch and Teitelbaum 2009). Several countries, including French Polynesia, Niue, Samoa, and Tonga, have size limits imposed for certain species. Some PICTs, such as Fiji and New Caledonia, both of which have active high volume tourist trades, allow up to three giant clam shells (or six halves) not weighing more than 3 kg to be exported with Convention on International Trade of Endangered Species of Wild Fauna and Flora (CITES) permits. Other PICTs, such as Guam and New Caledonia, have imposed bag-limits on subsistence and commercial harvest of giant clams. Papua New Guinea has imposed a ban on the use of night lights to harvest giant clams. There are also community-based cultural management systems in many PICTs like the Cook Islands where a local village or villages may institute *rahui*, or closed areas, for a period of time to allow stocks to recover (Chambers 2007). Finally, the following PICTs have complete bans on commercial harvest and export, with the exception of aquacultured species: FSM, Fiji, French Polynesia, Kiribati, Palau, Solomon Islands, and Vanuatu (Kinch and Teitelbaum 2009). Therefore, without any information or analysis as to how these regulatory measures are failing to address local threats to giant clams, we cannot conclude that there is substantial information indicating that regulatory mechanisms for all of the petitioned giant clam species are equally inadequate such that they may be posing an extinction risk to the species. Where more specific information is available for a particular species, we consider this information in the individual species accounts later in this finding.

Trade Regulations

The petition asserts that international regulations, specifically the CITES, are inadequate to control commercial trade of giant clam species. The petition explains that although all members of the Tridacninae family are listed under Appendix II of CITES, implementation and enforcement are likely not adequate and thus illegal shipments are not necessarily intercepted. However, the assertions regarding illegal shipments were made broadly about wildlife shipments in general, without providing any specific information or clear linkages regarding how CITES is failing to regulate international trade of each of the petitioned giant clam species. The petition cites a number of CITES documents and states that these documents "show wide disparities in yearly giant clam trade figures," which suggest that some countries have failed to exert control on the clam trade (bin Othman *et al.*, 2010). However, the petition did not provide any additional details explaining how these trade figures demonstrate a risk of extinction to any particular species.

Overall, the discussion of the inadequacy of CITES is very broad and does not discuss how the inadequacy of international trade regulations is impacting any of the petitioned species to the point that it is contributing to an extinction risk, with the exception of *T. gigas* and the growing giant clam industry in China. For example, the petition points out that the shape of the large giant clam shells (*T. gigas*) makes them highly desirable for making large, intricately carved scenes. In fact, the petition itself emphasizes that *T. gigas* is the main giant clam species targeted and poached in the South China Sea for this particular trade. Therefore, from the information in the petition and our files, it is clear that some giant clam species are more desirable and targeted for the international trade than others, and thus require more restrictive regulations to ensure their sustainability. As discussed previously in the *Overutilization for Commercial, Recreational, Scientific, or Educational* section above, we concluded that, for giant clams in general, the information in the petition and our files does not constitute substantial information that international trade is posing an equivalent threat to all of the petitioned giant clam species. Therefore, while we acknowledge that international trade may be a threat to some species, and existing regulations may be inadequate and warrant further investigation, the assertion that inadequate regulations for international trade is an equivalent

threat to all of the petitioned giant clam species is not supported.

Greenhouse Gas Regulations

The petition claims that regulatory mechanisms to curb greenhouse gas emissions and reduce the effects of global climate change are inadequate to protect giant clams from the threats climate change poses to the species and their habitat. The petition goes on to explain that climate change threats, including bleaching and ocean acidification, represent the most significant long-term threat to the future of global biodiversity. Information in our files and from scientific literature indeed indicates that greenhouse gas emissions have a negative impact to reef building corals (NMFS 2012). However, as we discussed in detail previously, beyond this generalized global threat to coral reefs, we do not find that the petition presents substantial information indicating that the effects of greenhouse gas emissions are negatively affecting the petitioned species or their habitat such that they may warrant listing under the ESA. In particular, the information in the petition and in our files does not indicate that the loss of coral reef habitat or the direct effects of ocean warming and acidification is contributing to the extinction risk of the petitioned species (refer back to the *Present or Threatened Destruction, Modification or Curtailment of its Habitat or Range* section above and the *Other Natural or Manmade Factors* section below). Therefore, with the exception of species for which species-specific information is available regarding negative responses to ocean warming or acidification, inadequate regulatory mechanisms controlling greenhouse gas emissions are not considered a factor that may be contributing to the extinction risk of the petitioned species.

Other Natural or Manmade Factors Affecting Its Continued Existence

Ocean Warming and Giant Clam Bleaching

The petitioner discusses the climate change-related impacts of ocean warming and giant clam bleaching as an extinction risk to all the petitioned giant clam species. In terms of giant clam bleaching, the petitioner argues that giant clams are like stony corals, in that the *Symbodinium* zooxanthellae in giant clams are subject to bleaching and other effects from high temperature. The petitioner provides a number of studies documenting giant clam bleaching in various locations, including the Great Barrier Reef in Australia and Southeast

Asia. The petition then describes several studies on the physiological effects to giant clams from bleaching and ocean acidification, with the large majority of these studies conducted on *T. gigas*. However, while the petition provides some evidence that giant clams experience bleaching as a result of increased temperature, there is no discussion regarding how giant clams tolerate bleaching or the extent to which bleaching leads to mortality for the majority of the petitioned species. For example, the petition discusses a study by Leggat *et al.* (2003), in which the symbiotic zooxanthellae in *T. gigas* declined 30-fold during the 1998 global coral bleaching event, leading to a loss of the nutrition provided by zooxanthellae in ways very similar to the effects on stony corals; however, the petition failed to present any discussion or analysis as to how this stressor is linked to mortality of giant clams or population declines. In fact, the main conclusion of the Leggat *et al.* (2003) study states:

Despite this significant reduction in symbiont population, and the consequent changes to their carbon and nitrogen budgets, the clams are able to cope with bleaching events significantly better than corals. During the recovery of clams after an artificial bleaching event only three out of 24 clams died, and personal observations at Orpheus Island indicated that survival rates of bleached clams were greater than 95 percent under natural conditions. This is in contrast to reports indicating coral mortality in some species can be as great as 99 percent.

Therefore, although giant clams and stony corals can experience similar bleaching of their symbiotic zooxanthellae, this does not necessarily equate to analogous impacts of widespread bleaching-induced mortality from ocean warming. As discussed for another reef-dwelling organism in the orange clownfish 12-month finding (80 FR 51235), anemones also have symbiotic zooxanthellae, but literature on the effects of ocean warming on anemones show results that are not necessarily analogous with corals either, and in fact show high variability between and within species. Even individual anemones can show varying responses across different bleaching events. Although observed anemone bleaching has thus far been highly variable during localized events, the overall effect of bleaching events on anemones globally (*i.e.*, overall proportion of observed anemones that have shown ill effects) has been of low magnitude at sites across their ranges. In fact, only 3.5 percent of the nearly 14,000 observed anemones were recorded as bleached across 19 study

sites and multiple major bleaching events (Hobbs *et al.*, 2013). Based on this example, generalized statements about bleaching impacts to all organisms that have symbiotic dinoflagellates being analogous are not supported by the best available information.

Without species-specific information on how ocean warming-induced bleaching affects each of the petitioned giant clam species (*e.g.*, mortality rates and evidence of negative population level effects), we cannot conclude that bleaching caused by ocean warming may be acting equally on all of the petitioned species to the point that the petitioned action may be warranted. Where the petition provides some species-specific information regarding the effects of temperature-induced bleaching, we consider this information in more detail in the individual species accounts below.

Ocean Acidification

Similar to the effects of ocean warming, the petitioner discusses ocean acidification as a threat contributing to the extinction risk of all of the petitioned giant clam species. The petitioner asserts that the effects of ocean acidification will likely accelerate the bioerosion of giant clam shells and lead to their increased fragility. To support this assertion, the petition cites two studies. One study (Waters 2008) looked at cultured specimens of *T. maxima* in a lab experiment and found that *T. maxima* juveniles exposed to pCO₂ concentrations approximating glacial (180 ppm), current (380 ppm) and projected (560 ppm and 840 ppm) levels of atmospheric CO₂ (per the IPCC IS92a scenario) suffered decreases in size and dissolution, and this occurred below thresholds previously considered detrimental to other marine organisms in similar conditions. We discuss these results and implications in further detail in the *T. maxima* species account below.

The second study (Lin *et al.*, 2006) did not specifically evaluate impacts of ocean acidification but instead involved mechanical tests on the shells of conch (*Strombus gigas*), giant clam (*T. gigas*), and red abalone (*Haliotis rufescens*) for a comparison of strength with respect to the microstructural architecture and sample orientation. The study found that although the structure of the *T. gigas* shell had the lowest level of organization of the three shells, its sheer size results in a strong overall system (Lin *et al.*, 2006). The petitioner claims that because *T. gigas* has the lowest flexural shell strength relative to the two other types of shells tested, that any loss

of shell material or strength from the effects of ocean acidification may have a greater negative effect on giant clams than on other large molluscs. However, this statement is speculative, and no additional information or references were provided to support this claim.

Overall, while we agree that ocean acidification is likely to continue and increase in severity over time within the ranges of the giant clam species, resulting in various detrimental impacts, additional information in our files also underscores the complexity and uncertainty associated with the various specific effects of ocean acidification across the ranges of giant clams. There are numerous complex spatial and temporal factors that compound uncertainty associated with projecting effects of ocean acidification on coral reef associated species such as giant clams. Further, as explained in the final rule to list 20 reef-building coral species under the ESA (79 FR 53852; September 10, 2014), projecting species-specific responses to global threats is complicated by several physical and biological factors that also apply to the petitioned giant clam species. First, global projections of changes to ocean acidification into the future are associated with three major sources of uncertainty, including greenhouse gas emissions assumptions, strength of the climate's response to greenhouse gas concentrations, and large natural variations. There is also spatial and temporal variability in projected environmental conditions across the ranges of the species. Finally, species-specific responses depend on numerous biological characteristics, including (at a minimum) distribution, abundance, life history, susceptibility to threats, and capacity for acclimatization.

In this case, the petition did not provide sufficient information regarding the likely impacts of ocean acidification on specific giant clam species or their populations. Without any analysis of how ocean acidification may be negatively impacting each of the petitioned giant clam species (with the exception of *T. maxima* and *T. squamosa*), we cannot conclude that substantial information was provided to indicate effects of ocean acidification may be acting on all of the petitioned species to the point that the petitioned action may be warranted. In cases where the petition did provide species-specific

information, we consider this information in further detail in the individual species accounts below.

Individual Species Accounts

Based on the information presented in the petition and in our files, we made 10 separate 90-day findings, one for each of the petitioned giant clam species. We first address the seven species for which we have determined that the information presented in the petition and in our files constitutes substantial information that the petitioned action may be warranted (*i.e.*, positive 90-day finding). Because we will be addressing all potential threats to these species in forthcoming status reviews, we will only provide summaries of the main threat information in these species accounts as opposed to addressing every ESA (4)(a)(1) factor. Then, we address the remaining three species for which we determined that the information presented in the petition and in our files does not constitute substantial information that the petitioned action is warranted (*i.e.*, negative 90-day finding). In these species accounts, we address every ESA (4)(a)(1) factor individually.

Hippopus hippopus

Species Description

The petition does not provide any descriptive information for *H. hippopus*. We found some information in our files describing this species. Its shell exterior is off-white with a yellowish orange coloring and reddish blotches arranged in irregular concentric bands; the shell interior is porcelain white, frequently flushed with yellowish orange on the ventral margin, and the mantle ranges from a yellowish-brown, dull green, or grey (Kinch and Teitelbaum 2009). Maximum shell length for *H. hippopus* is 40 cm, but it is commonly found at lengths up to 20 cm. It can be found on sandy bottoms of coral reefs in shallow water to a depth of 6 m. Smaller specimens (up to about 15 cm in length) are often attached to coral rubble by their byssal strings, while large and heavy specimens are unattached and lack a byssus (Kinch and Teitelbaum 2009).

Life History

The petitioner provides some information on life history specific to

this species. He cites Shelley (1989) who found second sexual maturity in *H. hippopus* at Orpheus Island, Great Barrier Reef, at a shell size of 145mm which equated to 2 years of age for males and 4 years of age for hermaphrodites of the species from the study area. He cites Stephenson (1934) and Shelley (1989) who reported that *H. hippopus* spawns in the austral summer months of December to March on the Great Barrier Reef, which is also supported by Munro (1992) who found spawning of *H. hippopus* to be restricted to a short summer season in the central region of the Great Barrier Reef. In Palau, Hardy and Hardy (1969) reported that *H. hippopus* spawned in June. In a detailed study of early life history in Guam, fertilized eggs of *H. hippopus* had a mean diameter of 130.0 μm (micrometers; 13 cm; Jameson 1976). According to the same study, settlement in Guam occurred 9 days after fertilization at a mean shell length of 202.0 μm (20.2 cm) for *H. hippopus*. Juveniles of *H. hippopus* in Guam first acquired zooxanthellae after 25 days and juvenile shells showed first signs of becoming opaque after 50 days (Jameson 1976).

Range, Habitat, and Distribution

The petition includes a range map for *H. hippopus* that was excerpted from bin Othman *et al.* (2010). bin Othman *et al.* (2010) note that data from Reef Check (www.reefcheck.org) indicate that there are populations of giant clams beyond the species-specific boundaries described by the references on which the range maps within bin Othman *et al.* (2010) are based, although no further detail is provided for any species. This applies to all species for which range maps based on bin Othman *et al.* (2010) are provided in this finding. The range map for *H. hippopus* provided in the petition does include several U.S. Pacific areas including Guam, Commonwealth of the Northern Mariana Islands (CNMI), and Wake Atoll. According to the petition, *H. hippopus* also historically occurred in Singapore (Neo and Todd 2012b and 2013) and the United States, although locations in the United States are not specified and no reference is provided.

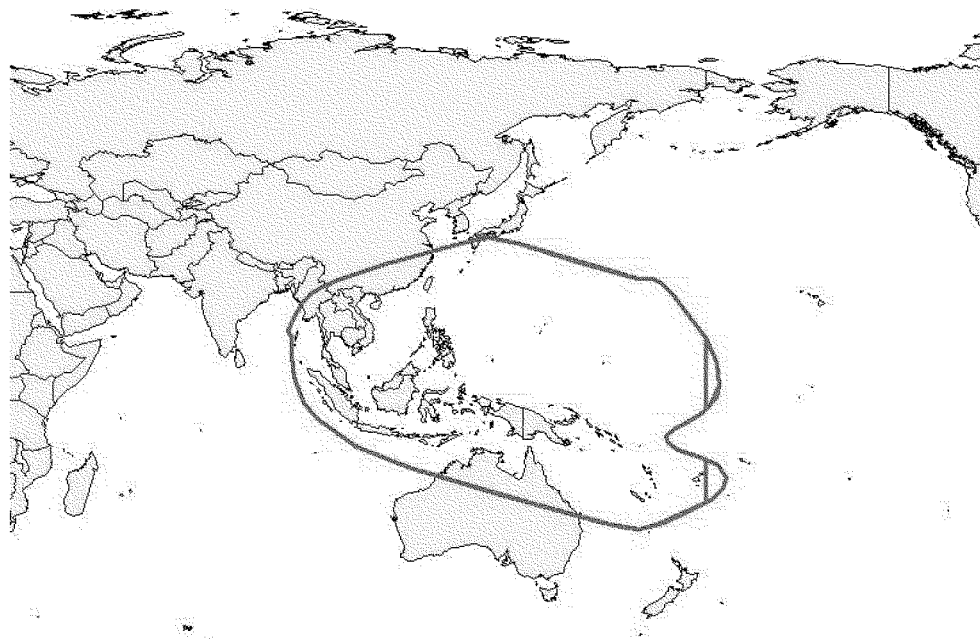


Figure 1: Range map for *Hippopus hippopus*, extracted from compilation of species ranges provided by bin Othman *et al.*, 2010.

According to Munro (1992), *H. hippopus* occurs in the widest range of habitat types of all the Tridacninae species. This species is seemingly equally comfortable on sandy atoll lagoon floors or exposed intertidal habitats, and similar to *T. gigas*, which is found in many habitats (*e.g.*, high or low islands, lagoons, or fringing reefs; Munro 1992).

Population Status and Abundance Trends

Although an overall population abundance estimate or population trends for *H. hippopus* are not presented, the petitioner does provide some limited abundance information from various locations within the species' range. For example, the petition cites Tan and Yasin (2003) who state that giant clams of all species but *T. crocea* are considered endangered in Malaysia. The authors mention underwater surveys that reveal the "distribution of giant clams are widespread but their numbers are very low," but there are no references provided by the authors to provide any more detail or support for this information, which makes it difficult to interpret this information for individual species. The only species-specific information for *H. hippopus* in this reference is that it occurs in Malaysian waters. The petition states that Brown and Muskanofola (1985) found that *H. hippopus* was locally extinct in

Indonesia. Upon review of this reference, more specifically, the authors found many small shells of *H. hippopus* but no living specimens in their survey area of seven island transects in Central Java, Indonesia. The authors noted that because of time constraints, it was not possible to cover more than a very small proportion of the total area suitable for clam growth in Karimun Jawa. Thus, confining the survey to such a small area could have affected the results. Hernawan (2010) found small populations and evidence of recruitment failure in the six species found during a survey of Kei Kecil, Southeast-Maluku, Indonesia, including *H. hippopus*. The authors conducted giant clam surveys in nine sites out of the many thousands of islands that make up Indonesia. At another site in Indonesia, Eliata *et al.* (2003) reported an 84 percent decline in *H. hippopus* based on surveys of Pari Island from 1984 and 2003. This species is presumed nationally extinct in Singapore (Neo and Todd 2012a, 2013) and has been reported as extirpated from Fiji, Tonga, Samoa and American Samoa, Guam, the Mariana Islands, and Taiwan (Wells 1996a, Skelton *et al.* 2002, Teitelbaum and Friedman 2008).

The petition presents three references from the Philippines on *H. hippopus*. Villanoy *et al.* (1988) states this species has been overexploited based on the export volumes of giant clam shells. The petitioner claims densities of *H.*

hippopus declined by 97 percent in Tubbataha Reef Park in the Philippines from 1995–2005 based on a survey by Dolorosa and Schoppe (2005). However, upon closer review of this reference, the data in Dolorosa and Schoppe (2005) indicating a substantial decline in *H. hippopus* density was taken from a single transect; as such, the authors concluded that a continuous decline of the Tridacnids (including *H. hippopus*) could not be confirmed. Finally, Salazar *et al.* (1999) did a stock assessment of giant clams (including *H. hippopus*) in the Eastern Visayas of the Philippines and found most of the populations were made up of juveniles with insufficient numbers of breeders to repopulate the region, although this reference was unavailable for review. Notably, the petition cites Thamrongnavasawat (2001) as reporting that *H. hippopus* is considered extinct in Mo Ko Surin National Park in Thailand, although the bibliographic information provided for this reference did not allow us to access it for review.

While individually and collectively the studies discussed in this section represent a small portion of *H. hippopus*' total geographic range, localized declines and potential extirpations of this species in small areas are spread throughout its range and not confined to one area that may be disproportionately affected by some negative impact. Thus, the number and spatial distribution of localized severe

declines or extirpations in the context of the species' range may be contributing to an elevated extinction risk for this species such that it warrants further investigation.

Threats to *Hippopus hippopus*

The petition presents three studies with species-specific information regarding threats to *H. hippopus*. Some historical information indicates that shells of *H. hippopus* (long extirpated in Fiji) occur in shell middens at the Lapita-era (1100–550 B.C.) settlements (Bourewa and Qoqo) along the Rove Peninsula in Fiji; the valve size and weight increase with depth (*i.e.*, age) in the midden, suggesting that human consumption contributed to its local disappearance (Seeto *et al.* 2012). While this one piece of evidence does not constitute substantial information that overharvest may be acting or may have acted on *H. hippopus* as a species to the extent that it needs protection under the ESA, the threat of overexploitation will be evaluated in the status review. Blidberg *et al.* (2000) studied the effect of increasing water temperature on *T. gigas*, *T. derasa*, and *H. hippopus* at a laboratory in the Philippines. *Hippopus hippopus* experienced increased respiration and production of oxygen in elevated temperatures and was therefore more sensitive to higher temperature than the two other species tested. After 24 hours at ambient temperature plus 3 °C, however, no bleaching was observed for any of the species. While we acknowledge the potential for ocean warming to have an effect on this species, this was a limited experiment, the results of which are difficult to interpret in terms of the potential species-level or even localized impacts of physiological stress due to elevated ocean temperatures in the wild in the context of this assessment. While this one study does not constitute

substantial information that climate change may be acting on *H. hippopus* as a species to the extent that it needs protection under the ESA, the impacts of ocean warming will be further evaluated for *H. hippopus* in the status review based on the best available information.

Finally, Norton *et al.* (1993) found two incidences of mortality in *H. hippopus* from rickettsiales-like organisms in cultured clams in the western Pacific, one in the Philippines and one in Kosrae. However, it is not uncommon among individuals cultured in close proximity to be afflicted with parasites or diseases that spread quickly (Norton *et al.*, 1993). While this does not constitute substantial information that disease or parasites may be acting on *H. hippopus* as a species to the extent it needs the protections of the ESA, the threats of disease and parasites will be further evaluated in a forthcoming status review.

Conclusion

In conclusion, the information provided on threats for this species is limited and the individual studies by themselves are not substantial information indicating the petitioned action may be warranted for the species. However, the evidence presented of localized declines or extirpations in different parts of the species' range does suggest that one or more threats may be acting on the species throughout all or a significant portion of its range and the petitioned action may be warranted. The number and spatial distribution of localized severe declines or extirpations in the context of the species' range may be contributing to an elevated extinction risk for this species such that it warrants further investigation. The best available information on the species' overall status and all potential threats will be evaluated in a forthcoming status review

to determine what has potentially caused these declines and extirpations.

Hippopus porcellanus

Species Description

The petition does not provide any descriptive information for *H. porcellanus*. We found some information in our files describing this species. Commonly known as the China clam, *H. porcellanus* grows to a maximum of 40 cm, but is commonly found up to 20 cm in shell length. The shell exterior is off-white, occasionally with scattered weak reddish blotches. The shell interior is porcelaneous white, more or less flushed with orange on the ventral margin, and the mantle ranges from a yellowish-brown, dull green or grey (Kinch and Teitelbaum 2009). This species can be distinguished from its congener, *H. hippopus*, by its smoother and thinner shells and presence of fringing tentacles at its incurrent siphon (Neo *et al.*, 2015).

Life History

Aside from the information already discussed previously in the *Giant Clam Life History* section, the petition did not provide any life history information specific to *H. porcellanus*, nor could we find any additional information in our files on the life history of this species.

Range, Habitat, and Distribution

Hippopus porcellanus has one of the most restricted geographic ranges of the petitioned giant clam species. The petition notes that the species only occurs in Palau, Indonesia, and the Philippines based on the IUCN assessment (Wells 1996); however, in the population abundance and trends section, the petition notes the endangered status of *H. porcellanus* in Malaysia, placing its occurrence there as well.

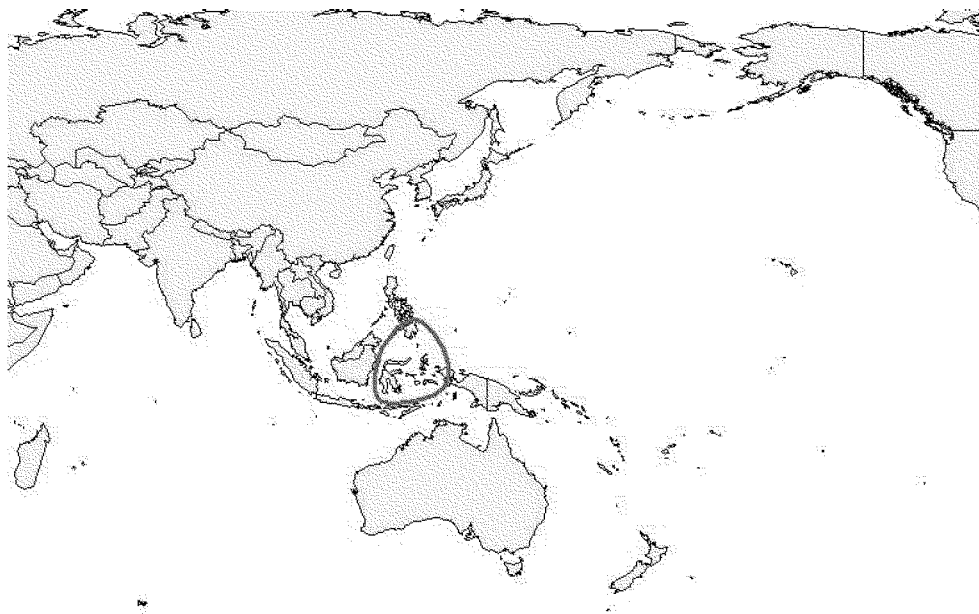


Figure 2: Geographic range of *Hippopus porcellanus*, extracted from bin Othman *et al.* (2010).

H. porcellanus can be found in shallow waters on sandy bottoms of coral reefs. Young specimens are often attached to coral heads via their byssus, whereas mature individuals lack a byssus and lay unattached on the substrate (Rosewater 1982).

Population Status and Abundance Trends

The petition does not provide an overall population abundance or trend estimate for *H. porcellanus* as a species throughout its range. The petition does, however, provide limited, localized information on the population status and abundance trends of *H. porcellanus*, with some information from Malaysia and the Philippines, but no species-specific information from other parts of the species' range, including Indonesia and Palau. As discussed in other species accounts, the petitioner cites Tan and Yasin (2003), who state that giant clams of all species but *T. crocea* are considered endangered in Malaysia. As noted previously, the authors mention underwater surveys that reveal that the "distribution of giant clams are widespread but their numbers are very low," but the authors do not provide any references with any more detail or support for this information, which makes it difficult to interpret this information for individual species. The only species-specific information for *H.*

porcellanus in this reference is that it is restricted to Sabah, Eastern Malaysia.

The petition asserts that *H. porcellanus* is overexploited and depleted in the Philippines based on Villanoy *et al.*, (1988) and Rubec *et al.*, (2001). Villanoy *et al.*, (1988) examined average size frequency distributions of giant clams harvested from the Sulu Archipelago and Southern Palawan areas from 1978 to 1985, and determined that *H. porcellanus* was overexploited in the Philippines as early as the 1980s. The authors note that these findings have serious implications given that the Sulu Archipelago and Southern Palawan may be the last strongholds of all giant clam species occurring in Philippine waters. Rubec *et al.* (2001) more recently described *H. porcellanus* as "depleted," but they did not provide any references or additional detail to help us determine what they meant by "depleted" or how this current information relates to historical abundance of the species in Philippine waters. Without any quantitative information on abundance trends of *H. porcellanus* in the Philippines since the 1980s, it is difficult to determine what the present status of the species is in this portion of its range. However, we note that because *H. porcellanus* has an extremely restricted geographic range, occurring in only three countries, overexploitation in the Philippines

gives cause for concern and warrants further investigation.

While *H. porcellanus* also occurs in Indonesia and Palau, the petition did not provide any additional information regarding the species' status or abundance trends in these locations. The information provided by the petitioner for giant clams in Indonesia is from a location where *H. porcellanus* is not known to occur (*i.e.*, Kei Kecil, Indonesia). We could not otherwise find any information in our files from Indonesia or Palau regarding the status of *H. porcellanus* in these locations.

Overall, while the information presented in the petition is very limited regarding the species' current status and abundance trends throughout its range and would not in and of itself constitute substantial information, the species' range is significantly restricted. Therefore, given that the species only occurs in four countries, the information presented in the petition from the Philippines, albeit limited, gives cause for concern that the species may have an elevated extinction risk that warrants further investigation.

Threats to *H. porcellanus*

The only species-specific information provided by the petition regarding threats to *H. porcellanus* is related to overutilization in the Philippines. As described in the *Population Status and Abundance Trends* section above, the

petitioner cited Villanoy *et al.* (1988) as evidence of overutilization of *H. porcellanus*. Villanoy *et al.* (1988) notes that giant clams have long been harvested by subsistence fishermen in the Indo-Pacific Region as a supplementary source of protein. Additionally, in some areas of the Philippines (e.g. Sulu Archipelago, Southern Palawan), giant clams are also harvested commercially for their shells. After examining average size frequency distributions of giant clams harvested from the Sulu Archipelago and Southern Palawan areas from 1978–1985, Villanoy *et al.* (1988) determined that *H. porcellanus* was overexploited in the Philippines as early as the 1980s, and is no longer commercially harvested. As noted previously, the Sulu Archipelago and Southern Palawan areas are thought to be the last strongholds of giant clams in Philippine waters. Therefore, the overexploitation of *H. porcellanus* as of the 1980s and its restricted range could have serious implications regarding the species' extinction risk. More recently, Rubec *et al.* (2001) similarly document that *H. porcellanus* has been depleted to such an extent that it is no longer commercially viable for harvesting in the Philippines.

Conclusion

In conclusion, the information provided on population abundance and threats for this species is limited and by itself would not be considered substantial information indicating the petitioned action may be warranted. The individual studies presented are not compelling evidence of species level

concerns for reasons discussed above. However, given the species' extremely restricted range, combined with evidence of localized declines and historical overutilization in the Philippines, we find the information compelling enough to conclude that the petitioned action may be warranted. The best available information on the species' overall population status and all potential threats will be evaluated in a forthcoming status review.

Tridacna costata (*T. squamosina*)

Species Description

Tridacna costata has been described only recently (Richter *et al.*, 2008; bin Othman *et al.*, 2010), but it has been shown to be a junior synonym of the previously described *T. squamosina* (Borsa *et al.*, 2015a). This species of giant clam grows to 32 cm (Neo *et al.*, 2015) and features 5–7 deep rib-like vertical folds, resulting in a zig-zag dorsal shell margin. According to Richter *et al.*, (2008), the mantle is most commonly a subdued brown mottled pattern; mantle margins are green with prominent “wart-like” protrusions and pale striations following mantle contour. These features (the pronounced rib-like vertical folds and the prominent wart-like protrusions on the mantle tissue) are the main diagnostic features that separate *T. costata* from its sympatric congeners. These features are conservatively present even in small clams <10 cm shell length (Richter *et al.*, 2008).

Life History

The petition itself does not describe any species-specific life history

information for *T. costata*, but we found some limited information in one of the references provided that suggests a narrow reproductive period. Richter *et al.* (2008) found marked differences in the seasonal times of reproduction between *T. costata* and its Red Sea congeners (*T. maxima* and *T. squamosa*). Specifically, *T. costata*'s reproductive period appears to be an early and brief period in spring, coinciding with the seasonal planktonic bloom (Richter *et al.*, 2008). This narrow reproductive window may make *T. costata* particularly vulnerable to overfishing. The timing of *T. costata*'s reproduction combined with the small diameter of the ova (75 ± 2 [SEM] μm) suggests a planktotrophic (*i.e.*, feeding on plankton) development of the larvae. This contrasts with the lecithotrophic (*i.e.*, yolk-feeding) and hence food-independent larval development in the summer-spawning *T. squamosa* and *T. maxima*, which also have much larger eggs (35 percent \pm 1 percent and 41 percent \pm 2 percent by volume, respectively; Richter *et al.*, 2008).

Range, Habitat, and Distribution

Among giant clam species, *T. costata* has one of the most restricted geographical ranges, occurring only in the Red Sea. Richter *et al.* (2008) describes the species as occurring throughout the northeastern Gulf of Aqaba (type locality), Sinai coast, western Gulf of Aqaba, northern Red Sea, and Egyptian mainland down to Hurghada and Safaga.

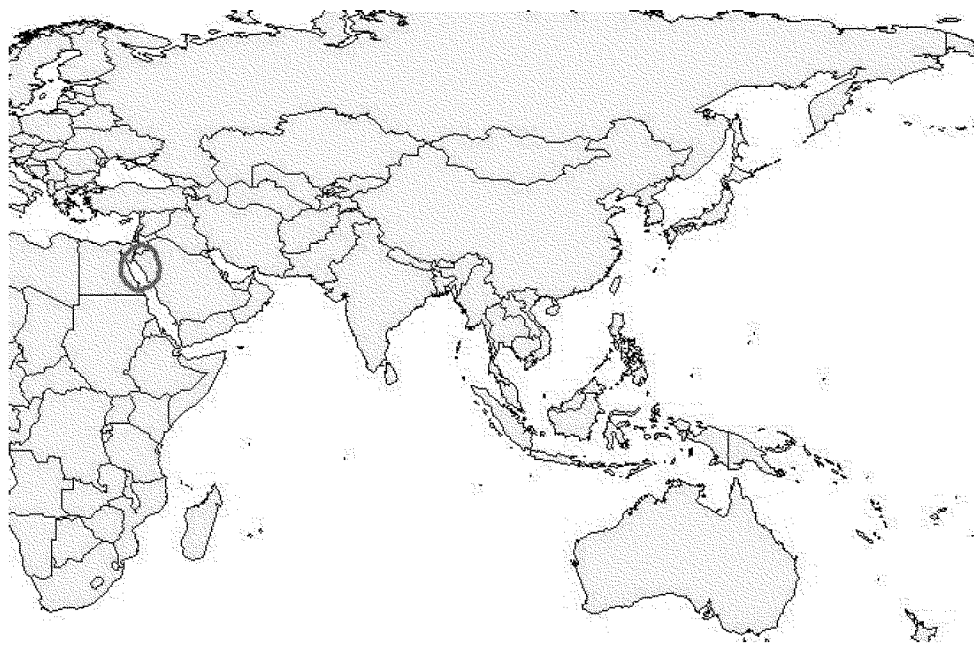


Figure 3: Geographic range of *Tridacna costata*, extracted from bin Othman *et al.* (2010).

In a survey of giant clams in the Red Sea, Richter *et al.* (2008) noted that live specimens of *T. costata* were found exclusively in very shallow water including reef flats, seagrass beds, sandy-rubble flats, on slight depressions in barren rocky flats, or under branching corals or coral heads shallower than 2m. All clams were weakly attached to the substrate. Thus, unlike its Red Sea congeners *T. maxima* and *T. squamosa*, which have broad vertical ranges of distribution, *T. costata* is restricted to the reef top (Richter *et al.*, 2008).

Population Status and Abundance Trends

Given the recent description of this species, information on its current population status and abundance trends is limited. However, one available study suggests a significant historical decline of the species. Results of surveys along the shores and well-dated emerged reef terraces of Sinai and Aqaba show that *T. costata* comprised >80 percent of giant clam stocks prior to the last interglacial period (122,000 to 125,000 years ago). Subsequently, the proportion of *T. costata* plunged to <5 percent in freshly discarded shell middens (Richter *et al.*, 2008). Currently, the species is thought to represent less than one percent of the present giant clam stocks in the Red Sea. For example, in underwater surveys conducted in the Gulf of Aqaba and northern Red Sea, only 6 out of 1,000 live specimens belonged to the new species, with densities averaging 0.9 ± 0.4 individuals per 1,000 m². The

highest numbers for the species occurred on offshore shoals in the Red Sea proper; however, adult broodstock was below detection in much of the study area (Richter *et al.*, 2008). In fact, only 13 live individuals of *T. costata* were observed along the entire Jordanian Red Sea coast, which prevented collection of paratypes (Richter *et al.*, 2008).

Threats to *T. costata*

Based on the limited information in the petition, we determined that historical and ongoing overutilization may be a threat contributing to an elevated extinction risk for this species that warrants further investigation, particularly given the species' restricted geographic range and shallow depth distribution. In general, *Tridacna* stocks in the Red Sea have declined to less than 5 percent of their sizes in the 1980s and 1990s, largely due to artisanal reef-top gathering for meat and shells (Richter *et al.*, 2008). Richter *et al.* (2008) notes that modern humans have likely been exploiting Red Sea mollusks for at least 125,000 years. Although natural disturbances may be responsible for variable rates of recruitment and mortality among the three Red Sea giant clam species, the substantial reduction in *Tridacna* size (equivalent to ~20-fold decrease in individual body mass and fecundity accompanying the species shift) strongly indicates overfishing (Richter *et al.*, 2008). Further, given that *T. costata* is restricted to the shallow reef top (and thus more accessible to

reef top gathering), it is likely that overutilization of the species has contributed to its significant decline. Therefore, we conclude that the petition presents substantial information that overutilization may be a threat contributing to an elevated extinction risk for this particular species.

Conclusion

Based on the above information, we find that the petition presents substantial scientific and commercial information indicating that the petitioned action of listing *T. costata* as threatened or endangered may be warranted. Its highly restricted range, reduced abundance, low productivity (due to its narrow reproductive periodicity), and the threat of overutilization for commercial purposes may be contributing to an elevated risk of extinction such that the petitioned action may be warranted. The best available information on the species' overall population status and all potential threats will be evaluated in a forthcoming status review.

Tridacna derasa

Species Description

The petition itself does not provide any descriptive information for *T. derasa*. Neo *et al.* (2015) report that *T. derasa* is the second largest species, growing up to 60 cm with heavy and plain shells, with no strong ribbing. According to Lewis *et al.* (1998), the maximum size recorded in Fiji, 62 cm, is well above that recorded by

Rosewater (1965, 51.4 cm) who, however, had access to only few specimens. Specimens greater than 50 cm in length are relatively common.

Life History

The petition presents very limited life history information for *T. derasa*. The optimal reproductive season for *T. derasa* sampled from Michaelmas Cay was from September/October to November/December (Braley 1988). Simultaneous hermaphroditism was found in 0 to 28 percent of sampled *T.*

derasa. We found no additional life history information for this species in our files.

Range, Habitat, and Distribution

The petition does not provide a description of the geographic range for *T. derasa*, but it was included in the range map provided for most of the petitioned species. The map includes all of Malaysia, but Tan & Zulfigar (2003) report that *T. derasa* is restricted to Sabah, Eastern Malaysia. Wells (1996) noted that *T. derasa* has been

introduced during various mariculture efforts in areas including the United States (e.g., Hawaii) and the Federated States of Micronesia. bin Othman *et al.* (2010) reports *T. derasa* from Australia, Palau, Papua New Guinea (PNG), and the Philippines. *Tridacna derasa* is noted as an introduced species in the Cook Islands and Samoa (introduced for aquaculture purposes) and also reported from Fiji, FSM, the Marshall Islands, New Caledonia, Solomon Islands, Tonga, and Vanuatu (CITES 2009).

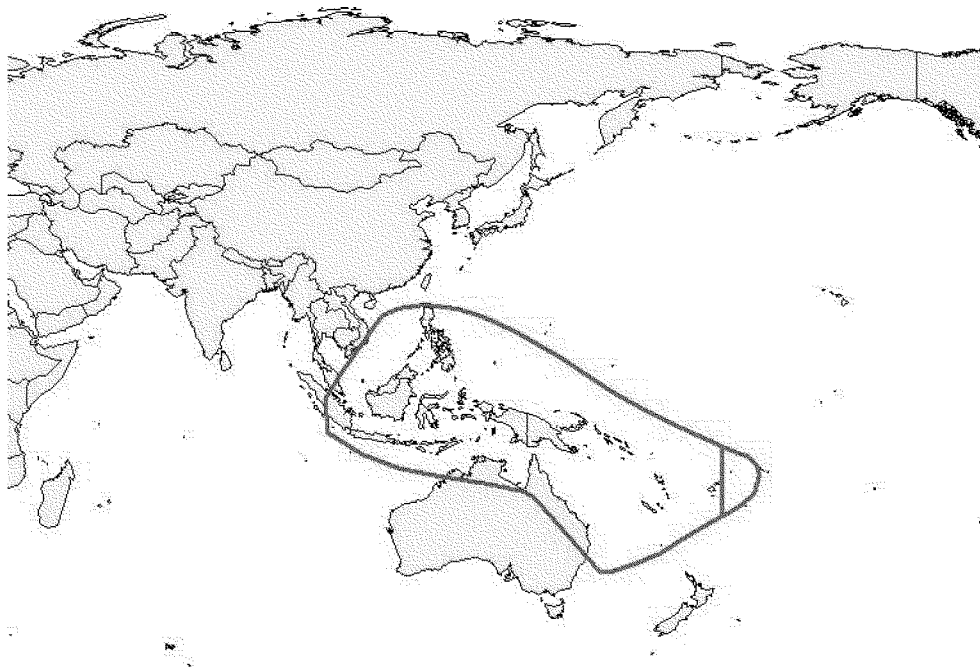


Figure 4: Geographic range of *Tridacna derasa*, extracted from bin Othman *et al.* (2010).

Tridacna derasa preferentially inhabits clear offshore or oceanic waters away from high islands with significant run-off of freshwater (Munro 1992). For example, it is not recorded from the Papuan Barrier Reef running along the south coast of PNG, nor from the fringing reefs of the north coast, but it does occur within a few miles of the southeast point of mainland PNG (Munro 1992). Large *T. derasa* were also commonly found at 10 to 20 m depth in the clear oceanic conditions of the windward islands and barrier reefs of eastern Fiji (Adams *et al.*, 1988). Lewis *et al.* (1988) reported that:

T. derasa has a curious NW–SE distribution across the Indo-Malayan region, and is not found east of Tonga or in equatorial areas east of Solomon Islands. In Fiji, the species is generally confined to clear oceanic outer lagoon areas, within the

protection of well-developed barrier or fringing reefs. Occurring near the surface down to 25 m, *T. derasa* occurs in greatest density in the windward (eastern) islands of the Fiji group. Very high numbers (hundreds/hectare) are occasionally noted. It is rare or absent from high island fringing reefs and lagoons where salinity and water clarity are reduced by freshwater runoff, and from unprotected areas. Until a size of typically 30 cm is reached, the species is weakly byssally attached to coral pieces or rubble.

Population Status and Abundance Trends

The petition does not provide estimates of population abundance or trends for *T. derasa*; however, the petition does provide some information on population status or trends from individual locations within the species' range. A small population of *T. derasa* (initial baseline survey counted 44

individuals) showed an annual mortality of 4.4 percent at Michaelmas Cay on the Great Barrier Reef between 1978 and 1985 (Pearson and Munro 1991). Rubec *et al.* (2001) notes that *T. derasa*, among other species, was depleted and no longer commercially harvestable in the Philippines, although the authors do not provide an original source of that information. Teitelbaum and Friedman (2008) refer to the extirpation of *T. derasa* in Vanuatu but do not provide a reference for that information. The authors also report that Vanuatu has a restocking program that includes *T. derasa*. Teitelbaum and Friedman (2008) report that the reintroduction of approximately 25,000 *T. derasa* to Yap from neighboring Palau in 1984 resulted in only approximately 8 percent survival of the introduced

stock. However, these *T. derasa* matured, reproduced, and re-established viable populations on nearby reefs (Lindsay 1995). Surveys conducted by the Secretariat of the Pacific Community (PROC-Fish/C-CoFish programmes) noted the continued presence of *T. derasa* in Yap in low numbers in mid-2006.

The petitioner cites Tan and Yasin (2003), stating giant clams of all species but *T. crocea* are considered endangered in Malaysia. The authors mention underwater surveys that reveal “distribution of giant clams are widespread but their numbers are very low,” but the authors did not provide any references with any more detail or support for this information, which makes it difficult to interpret this information for individual species. Brown and Muskanofola (1985) found only one individual of *T. derasa* during a survey carried out in Karimun Jawa, a group of islands off the north coast of Central Java, Indonesia, surmising the species was essentially functionally extinct in this area. At another site in Indonesia, the petition cites Hernawan (2010), stating that they found small populations and evidence of recruitment failure in the six species found during a survey of Kei Kecil, Southeast-Maluku, including *T. derasa*. The authors conducted giant clam surveys in nine sites in this area. However, Indonesia encompasses thousands of islands and *T. derasa* occurs in other locations throughout Indonesia (Hernawan 2010). Therefore, these two studies represent a small sample of *T. derasa* abundance in Indonesian waters.

Hardy and Hardy (1969) did a seminal study of ecology of *Tridacna* in Palau in the 1960s where *T. derasa* and *T. gigas* made up the largest proportion of the standing crop biomass because of their size. Hester and Jones (1974) recorded densities of 50 *T. gigas* and 33 *T. derasa* per hectare at Helen Reef, Palau; the petition notes that this study was conducted before these stocks were “totally decimated by distant-water fishing vessels,” but provides no information or references to document this “decimation.”

While individually and collectively, the studies discussed in this section represent a small portion of *T. derasa*'s total geographic range, the small population sizes and extirpations of this species in small areas are spread throughout its range and are not confined to one or few areas that may be disproportionately affected by some negative impact. Therefore, the number and spatial distribution of small populations or local extirpations in the

context of the species' range may be contributing to an elevated extinction risk for this species such that it warrants further investigation.

Threats to *T. derasa*

Beyond the generalized threats to all giant clam species discussed above, the petition presents little information on threats to *T. derasa* specifically. According to Munro (1992), historical commercial fisheries appear to have been confined to long-range Taiwanese fishing vessels, which targeted the adductor muscles of the larger species (e.g., *T. gigas* and *T. derasa*). There are anecdotal claims in several of the references discussed above that harvest led to low population levels at certain study sites (e.g. Rubec *et al.*, 2001, Teitelbaum and Friedman 2008, Tan and Yasin 2003, Brown and Muskanofola 1985, and Hernawan 2010), but none of those studies provide empirical evidence of declining trends or of potential causes of low population numbers. The petition cites Lewis *et al.* (1988), stating that the Fijian fishery for *T. derasa* landed over 218 tons over a 9-year period, with the largest annual harvest totaling 49.5 tons and which is “thought to have removed most of the available stock.” We find this to be a slight mischaracterization of what Lewis *et al.* (1988) state about *T. derasa* in Fiji based on 26 surveys between 1984–1987:

Tridacna derasa: Widespread throughout the group, but generally rare on the fringing reefs of the main islands where terrestrial influence is strong, and in the leeward islands (yasawas) where sheltered oceanic lagoons are generally wanting. In 1984–85, there were still abundant populations on various reefs in the windward (Lau, Lomaiviti) islands, but subsequent commercial harvest has considerably reduced these numbers. Isolated pockets still remain and should be protected. Densities on uninhabited windward islands generally low, with remaining individuals in deeper water (10 m plus). Further commercial harvests for export should be prohibited.

According to CITES documents, commercial harvest for export is now prohibited in Fiji and the fisheries department cultures clams, including *T. derasa*, for restocking programs. Wild populations have been improving; currently reseeded occurs mostly in marine protected areas with 200 sites reseeded annually (CITES 2009). However, challenges remain for poaching at night.

A 2004 CITES trade review for *T. derasa* indicates that out of 11 countries where *T. derasa* is traded, one was assessed as “Urgent Concern” (Tonga), two as “Possible Concern,” and the remaining eight as “Least Concern.” The

review also notes that international trade in *T. derasa* was reported from an additional 14 countries not selected for review and that for most countries no population monitoring seems to be in place and harvest and use of giant clams are inadequately regulated or not at all.

The petition cites Bliderg (2000), who studied the effect of increasing water temperature by 3 °C on cultured *T. derasa*, and several other species, for 24 hours. Results showed reduced gross production and decreased respiration of oxygen in response to the temperature increase however, different species of clams demonstrated different results, indicating different strategies for dealing with heat stress. None of the treated specimens exhibited any bleaching during the experiment. We acknowledge these results, but note they are not easily interpreted to determine potential individual or species level effects over time and/or space for *T. derasa*. The clams used in the experiment were cultured and not harvested from the wild. Cultured specimens are likely to experience much more uniform environments and are likely not acclimated to the common daily fluctuations in many environmental parameters experienced in the wild. As such, their responses to abrupt changes in their environment may differ from those of wild specimens. Given the heterogeneity of the species' habitat and current environmental conditions across its range, these results are not compelling evidence of a threat related to increased water temperature that is acting or will act on *T. derasa* to the extent that the petitioned action may be warranted.

Conclusion

In conclusion, the information provided on threats for this species is limited and by itself would not be considered substantial information indicating the petitioned action may be warranted. The individual studies presented are not compelling evidence of species level concerns for reasons discussed above, however, taken together they provide sufficient evidence such that further investigation is warranted. The evidence presented of small, localized populations or extirpations in different parts of the species range is compelling enough to conclude that the petitioned action may be warranted. The best available information on all potential threats to the species will be evaluated in a forthcoming status review to determine what has potentially caused the observed declines and extirpations, and the extent to which such declines have occurred.

Tridacna gigas

Species Description

Tridacna gigas is the largest of all the giant clam species, growing to a maximum shell length of 137 cm, with weights in excess of 200 kg. However, the species is most commonly found at lengths up to 80 cm (Neo *et al.*, 2015; Kinch and Teitelbaum 2009). The shell exterior is off-white and is often strongly encrusted with marine growths. The shell interior is porcellaneous white, and the mantle is yellowish brown to olive green, with numerous, small, brilliant blue-green rings, particularly along the lateral edges (Kinch and Teitelbaum 2009). This species may be readily identified by its size and by the elongate, triangular projections of the upper margins of the shells (Lucas 1988).

Life History

In addition to the *Life History* section above on giant clams in general, the petition provided some species-specific

life history information for *T. gigas*. The petition cited Braley (1988), who found that the optimal reproductive season for *T. gigas* sampled from Michaelmas Cay and Myrmidon Reef in Australia was October to February. Munro (1992) noted that spawning of *T. gigas* is restricted to a short summer season in the central region of the Great Barrier Reef. For *T. gigas*, von Bertalanffy growth parameter estimates include an asymptotic length (L_{∞}) of 80 cm, growth coefficient (K) of 0.105, and a theoretical date of 'birth' (t_0) of 0.145 (Neo *et al.*, 2015). According to Branstetter (1990), growth coefficients (K) falling in the range of 0.05–0.10/yr are for slow-growing species; 0.1–0.2 for a moderate-growing species; and 0.2–0.5 for a fast-growing species. Under these parameters, the giant clam *T. gigas* is considered a moderate-growing species. However, the petition notes that there are major differences between typical non-symbiotic bivalves and *T. gigas* regarding the relative allocations of energy to respiration and growth. For

example, Klumpp *et al.* (1992) showed that *T. gigas* is an efficient filter-feeder and that carbon derived from filter-feeding in Great Barrier Reef waters supplies substantial proportions of the total carbon needed for respiration and growth.

Range, Habitat, and Distribution

Prior to the rapid escalation of the aquarium trade, *T. gigas* could be found throughout the shallow tropical waters of the Indian and Pacific oceans; however, the recent fossil record, together with historical accounts show that the range of *T. gigas* has been dramatically reduced (see the *Population Status and Abundance Trends* section below; Munro 1992; bin Othman *et al.*, 2010). The species' range once extended from East Africa to Micronesia and Australia to Japan. Like other giant clam species, *T. gigas* is typically associated with coral reefs and can be found in many habitats, whether high- or low-islands, lagoons or fringing reefs (Munro 1992).

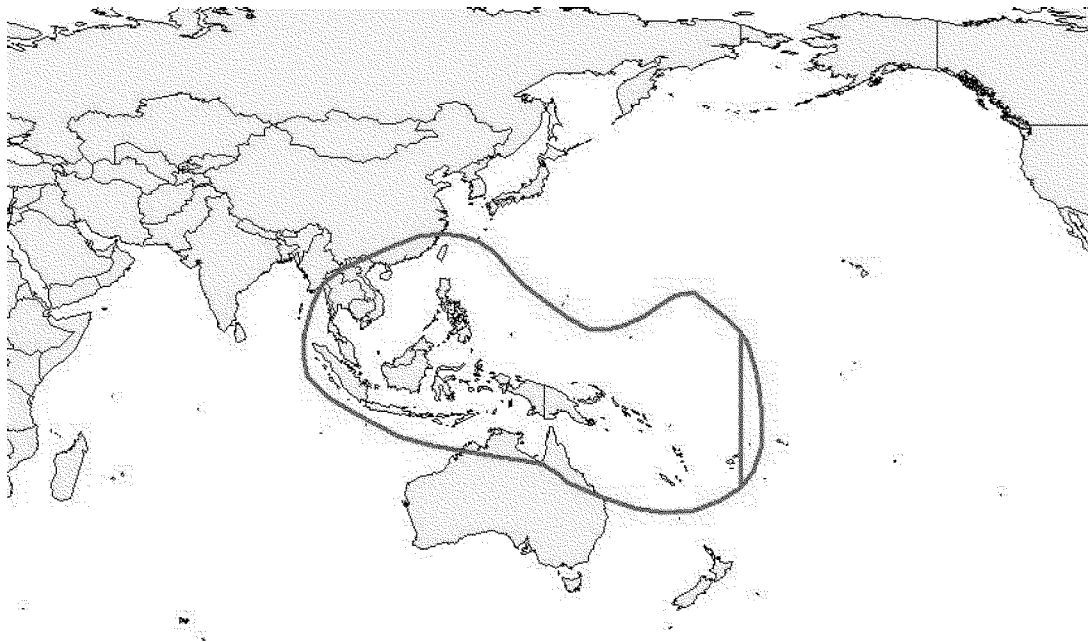


Figure 5: Geographic range of *Tridacna gigas*, extracted from bin Othman *et al.* (2010).

Population Status and Abundance Trends

The petition does not provide overall estimates of population abundance or trends for *T. gigas*. The petition does provide several lines of evidence that *T. gigas* has experienced a number of local extirpations in various locations throughout its range. Munro (1992)

reports that while relict stocks of *T. gigas* occur in Indonesian, Malaysian, and Philippines waters and possibly on the west coast of Thailand and in southern Burma, in most cases it appears that these stocks are functionally extinct because of the wide dispersal of the survivors, making successful fertilization unlikely. In a

more recent survey from Indonesian waters, *T. gigas* was surprisingly found in Ohoimas, where it was previously believed to be extinct (Hernawan 2010). However, only four individuals were found in only one of nine sites surveyed. Additionally, several sources (Munro 1992; Teitelbaum and Friedman 2008; Kinch and Teitelbaum 2009) note

local extirpations of *T. gigas* have occurred in the Commonwealth of the Northern Mariana Islands, Federated States of Micronesia (Yap, Chuuk, Pohnpei, and Kosrae), Fiji, Guam, New Caledonia, Taiwan, Ryuku Islands (Japan), and Vanuatu. Neo and Todd (2012a, 2013) report that *T. gigas* is also nationally extinct in Singapore. In Australia, the *T. gigas* population from the Great Barrier Reef is essentially a relict population, consisting primarily of large adult clams; the lack of younger, faster-growing *T. gigas* clams is likely the reason for the species' low annual production of new biomass (Neo *et al.*, 2015). Further, Kinch and Teitelbaum (2009) also report declining stocks of *T. gigas* across the three main island groups in Kiribati.

Thus, while quantitative abundance estimates are unavailable for *T. gigas* throughout its range, the numerous local extirpations of *T. gigas* documented across a large portion of its range may be contributing to an elevated extinction risk for this species such that it warrants further investigation.

Threats to *T. gigas*

As noted previously, giant clams in general are considered a valuable fishery target in many countries, with uses for both local consumption and commercial trade. Based on information in the petition and our files, it is clear that *T. gigas* is the most heavily exploited species of all giant clams, which has likely led to its substantial declines and extirpations in a number of locations throughout its range. As discussed previously in the general threats section for giant clams, the petition emphasizes the threat of the growing giant clam industry in China, largely the result of improved carving techniques, tourism in Hainan, China, the growth in e-commerce, and the domestic Chinese wholesale market

(Larson 2016). The petition also raises concerns that stricter enforcement of the trade in ivory products has diverted attention to giant clam shells (McManus 2016). The petition points out that the giant clam (*T. gigas*) is preferentially targeted for international trade due to its large size and because it is considered a desirable luxury item in China thought to confer supernatural powers and improve health. As noted previously, a pair of high quality shells (from one individual) can fetch up to US \$150,000. Therefore, the high value and demand for large *T. gigas* shells may be a driving factor contributing to overutilization of the species.

Conclusion

Overall, we conclude that the information presented in the petition and our files provides substantial evidence that the petitioned action for *T. gigas* may be warranted. This species has likely experienced significant population declines and local extirpations in several locations throughout its range, likely due to historical and ongoing overutilization for commercial purposes and further investigation is warranted. The best available information on its overall status and all potential threats to the species will be evaluated in a forthcoming status review.

Tridacna squamosa

Species Description

Although the petition notes that *T. squamosa*, also known as the fluted clam, grows to 19 cm based on Neo *et al.* (2015), we find this information is in error. Neo *et al.* (2015) report shell lengths of up to 40 cm for the species, and information in our files suggests it is most commonly found at lengths up to 30 cm (Kinch and Teitelbaum 2009). The shell exterior is described as "greyish white, often with different

hues of orange, yellow, or pink to mauve, and with the blade-like scales commonly of different shades or color" (Kinch and Teitelbaum 2009). The shell interior is porcelaneous white, occasionally tinged with orange, and the mantle is mottled in various mixes of green, blue, brown, orange, and yellow (Kinch and Teitelbaum 2009).

Life History

Aside from the general giant clam life history information already discussed previously in the *Giant Clam Life History* section, the petition provided little information specific to *T. squamosa*. *Tridacna squamosa* is a mixotroph whose photoautotrophic range is extended by heterotrophy. We found that *T. squamosa* reaches sexual maturity at sizes of 6 to 16 cm, which equates to a first year of maturity at approximately 4 years old (CITES 2004a).

Range, Habitat, and Distribution

Tridacna squamosa has a widespread distribution across the Indo-Pacific, but is slightly more restricted than *T. maxima* (Munro 1992). Its range extends from the Red Sea and East African coast across the Indo-Pacific to the Pitcairn Islands. It has also been introduced in Hawaii (CITES 2004a). The species' range also extends north to southern Japan, and south to Australia and the Great Barrier Reef (bin Othman *et al.*, 2010). This range description reflects the recent range extension of *T. squamosa* to French Polynesia as a result of observations by Gilbert *et al.* (2007). The petition notes that *T. squamosa* occurred in Singapore and the United States historically; however, there is no supporting reference or evidence provided of the species' occurrence in the United States or its territories.

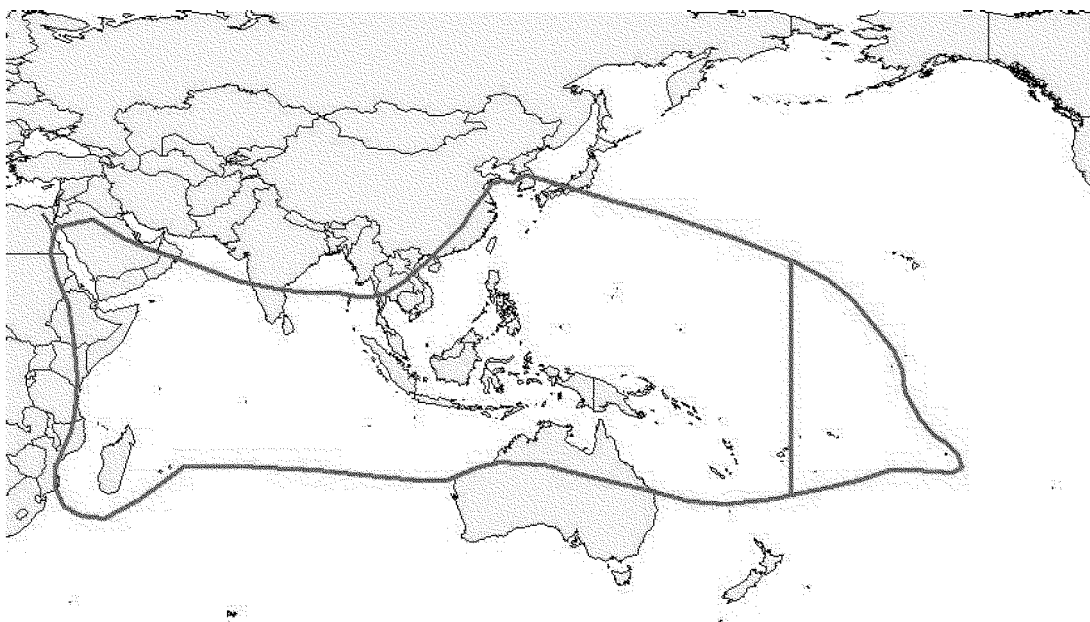


Figure 9: Geographic range of *Tridacna squamosa*, extracted from bin Othman *et al.* (2010).

Tridacna squamosa is usually found near reefs or on sand; it is found attached by its byssus to the surface of coral reefs, usually in moderately protected areas such as reef moats in littoral and shallow water to a depth of 20 m (Kinch and Teitelbaum 2009). This species tends to prefer fairly sheltered lagoon environments next to high islands; however, *T. squamosa* appears to be excluded by *T. maxima* in the closed atoll lagoons of Polynesia (Munro 1992). Neo *et al.* (2009) found that *T. squamosa* larvae, like many reef invertebrates, prefer substrate with crustose coralline algae. *Tridacna squamosa* is also commonly found amongst branching corals (staghorn, *Acropora* spp.; CITES 2004a)

Population Status and Abundance Trends

The petition provides limited some information regarding the species' population status and trends from Singapore, Samoa, and individual sites in Malaysia, Philippines, Indonesia, and Thailand.

The petitioner states that *T. squamosa* is functionally extinct in Samoa based on a study from western Samoa (Zann and Mulipola 1995). This study relied on a range of low technology methods developed for rapid environmental and fisheries assessments. Fisheries surveys were conducted via interviews and surveys of fishermen and households, and results were compared with

commercial market landings from the Apia municipal fish market on the island of Upolu. From 1985 to 1990, annual landings of all giant clams dropped from 10 metric tons to 0.1 metric tons and field surveys indicated that *T. squamosa* was so rare it was functionally extinct. The authors note that fishing effort also declined around 35 percent between 1983 and 1991, which is considered to be partially responsible for the declines in landings, although other factors likely contributed (*e.g.*, overfishing of inshore stocks, use of destructive fishing techniques, etc.). Information in our files suggests that this species has been the subject of restocking efforts in Samoa. Since 1988, *T. squamosa* has been trans-located from Palau, Tokelau, and Fiji to restock populations in Samoa under the Samoan Community-based Fisheries Management program (Kinch and Teitelbaum 2009).

In Singapore, Neo and Todd (2012a) surveyed 29 reefs, covering an estimated 87,515 m² and observed 28 *T. squamosa* individuals, which was double the number observed in a 2003 survey of only 7 reefs and a little over 9,000 m² by Guest *et al.* (2008). However, Neo and Todd (2012a) estimate *T. squamosa* density to be 0.032 per 100 m², which is five times lower than the 0.16 per 100 m² measured in 2003 (Guest *et al.*, 2008). They go on to propose that habitat loss, exploitation, and or sediment have synergistically led to the

endangered status of *T. squamosa* in Singapore's waters. Neo and Todd (2013) make a similar conclusion, stating that "the low density and scattered distribution of the remaining *T. squamosa* in Singapore are likely to significantly inhibit any natural recovery of local stocks." However, the authors specifically make the point that the status of a species at a small scale (individual country or an island as may be the case for Singapore) is most often not representative of its global status. Any species, especially one with a large range like *T. squamosa*, will have variable statuses at smaller scales in different habitats due to a variety of factors. Singapore is a small and densely populated island nation known for particularly high anthropogenic impacts in its nearshore waters. The information in Neo and Todd (2012a 2012b and 2013) is informative for resource managers in Singapore and indicates a very low population and density of *T. squamosa*. However, it is unclear how the current information relates to historical abundance of this species at this location. In addition, it is not necessarily useful for assessing the global status of *T. squamosa* because Singapore is a very small proportion of the overall species' range and is not a representative environment of the rest of the species' range.

The petitioner cites Tan and Yasin (2003), stating that giant clams of all species but *T. crocea* are considered

endangered in Malaysia. As discussed previously, the authors of this study mention underwater surveys that reveal that the “distribution of giant clams are widespread but their numbers are very low.” However, there are no references provided by the authors to provide any more detail or support for this information, which makes it difficult to interpret this information for individual species. The only species-specific information for *T. squamosa* in this reference is that it occurs in Malaysian waters.

The petitioner cites Thamrongnavasawat *et al.* (2001) as saying *T. squamosa* are now considered “scarce” throughout Thailand. However, the link provided in the bibliography to access this reference was not functional, and we were otherwise unable to obtain and review this reference to determine what the authors meant by “scarce” or on what evidence this statement was based. However, the petitioner provides other studies from Thailand indicating that the species has likely undergone significant declines in this area. For example, Chantrapornsyl *et al.* (1996) documented heavy exploitation and local extirpation of *T. squamosa* in the Andaman Sea. Kittiwattanawong (1997) also concluded that *T. squamosa* was rare in the same area. *Tridacna squamosa* was also deemed “near extinct” in Mo Ko Surin National Park in Thailand (Dolorosa and Schoppe 2005).

Villanoy *et al.* (1988) examined average size frequency distributions of *T. squamosa* harvested from the Sulu Archipelago and Southern Palawan areas in the Philippines from 1978 to 1985, and determined that estimates of exploitation rates indicate that populations of these species are overexploited. The petitioner asserts that these findings have serious implications given that the Sulu Archipelago and Southern Palawan are thought to be the last strongholds of giant clams species occurring in Philippine waters. Dolorosa and Schoppe (2005) also report that *T. squamosa* had very low densities in surveys conducted in Tubbataha Reef National Marine Park in the Philippines. The authors note that because of the species’ low settlement, survival and growth on live coral substrate, it would take hundreds of years for the stock to be re-established, particularly in isolated areas. However, the authors also note that the numbers seen at Tubbataha Marine Park are significantly lower than in other areas of the Philippines; therefore, the situation in the marine park may not be

representative of the species’ status across the Philippines as a whole (Dolorosa and Schoppe 2005). The petitioner also cited a stock assessment conducted in Eastern Visayas, in the Philippines (Salazar *et al.*, 1999), which showed that while *T. squamosa* are common in the Samar Sea and San Pedro Bay, most of the giant clams surveyed were in the juvenile stage with no breeders left to repopulate the area. However, the Marine Science Institute (MSI) at the University of the Philippines has a long and successful record of rearing, having cultured giant clams to restore depleted supplies for the last 20 years. In fact, more than 40 sites have received cultured clams and MSI promotes giant clam farming as a sustainable livelihood with restocking activities occurring in collaboration with local groups (bin Othman *et al.*, 2010).

As discussed previously, the petition also broadly states that all six giant clam species occurring in Indonesia, including *T. squamosa*, are experiencing recruitment failure based on a single study from Kei Kecil, Southeast-Maluku, Indonesia (Hernawan 2010). Hernawan (2010) conducted giant clam surveys in 9 sites; however, Indonesia encompasses thousands of islands and *T. squamosa* occurs in several other locations throughout Indonesia (Hernawan 2010). Thus, this study represents a very small sample of *T. squamosa* abundance in Indonesian waters, with no evidence provided to suggest that recruitment failure of *T. squamosa* is occurring throughout Indonesia.

Overall, given the extensive range of *T. squamosa*, the information provided in the petition is limited regarding the population status and abundance trends of the species throughout its range. While we acknowledge that in some locations (primarily Southeast Asia), abundance and/or density of *T. squamosa* may be low, the petition did not provide any information regarding the species’ status from a large majority of its range. For example, in addition to countries in Southeast Asia, *T. squamosa* can be found throughout Oceania (e.g., Australasia, Melanesia, Micronesia and Polynesia). The species also inhabits coastlines of the Indian Ocean and has a relatively cosmopolitan distribution in this region (bin Othman *et al.*, 2010). Thus, no information was presented in the petition for an entire two thirds or more of the species’ range (i.e., Oceania (with the exception of Samoa), eastern Africa, and the Indian Ocean). However, a lack of information on its own does not mean the action may not be warranted if the lack of

information itself may be considered a risk to the species. In this case, given that the only information we have indicates historical declines, low population levels, and notably local extirpations in some locations, we conclude that the information presented in the petition regarding the species’ abundance and population trends is compelling enough to warrant further investigation in a forthcoming status review.

Threats to *T. squamosa*

Given that *T. squamosa* is a large, free-living species of giant clam, it is easier to remove from the reef (Neo and Todd 2013), which makes it more susceptible to harvest for local consumption and/or commercial purposes. Some information (albeit limited) provided by the petition suggests that *T. squamosa* may be overexploited in some locations. As discussed earlier in the *Population Status and Abundance Trends* section for *T. squamosa*, estimates of exploitation rates from the Sulu Archipelago and Southern Palawan areas of the Philippines from 1978 to 1985 indicate that populations of *T. squamosa* were overexploited.

Information in our files indicates that *T. squamosa* is important in the subsistence fishery of Papua New Guinea. A commercial fishery for giant clams previously operated in the Milne Bay Province, whereby approximately 150 tonnes of giant clam adductor muscle were exported, as well as one large shipment of 16 tonnes of giant clam shells. However, this fishery has been closed since 2000 and we could not find any additional information in our files regarding the utilization of *T. squamosa* in Papua New Guinea. We also found some information regarding the reported functional extinction of this species in Samoan waters, and acknowledge that the significantly low density of *T. squamosa* in Samoa is largely attributed to overfishing (Kinch and Teitelbaum 2009); however, as noted previously, to mitigate low populations, restocking efforts have been underway in Samoa since the 1980s, and from 1998 to 2000, Samoa has seen the importation of several giant clam species, both larvae and ‘yearlings,’ for restocking purposes under the Samoan Community-based Fisheries Management program (Kinch and Teitelbaum 2009). Nevertheless, we cannot confirm whether this restocking program has been successful for *T. squamosa*.

In terms of commercial trade, a significant trade review was conducted in 2004 for 27 countries that trade in *T.*

squamosa to identify potential areas of concern. Of the 27 countries reviewed, 24 were deemed to be of “least concern” for various reasons; the respective countries had either not reported any trade, or trade levels were minimal or export numbers were low. Two countries (Marshall Islands and Tonga) were deemed to be of “possible concern” and only one country (Vietnam) was categorized as “urgent concern.” These designations were made largely because trade of the species continues despite export bans or because, in the case of Vietnam, significant trade was occurring (e.g., 74,579 live *T. squamosa* clams were exported from 1994 to 2003) with a lack of information on population monitoring or the basis for non-detriment findings under CITES. Additionally, in the case of the Marshall Islands, where trade seems to continue despite export bans, the review also notes that several small-scale operations were producing farmed (i.e., captive-bred) *T. squamosa* in the 1990s for the aquarium trade and for reseeded depleted areas, and that records of trade in wild rather than captive-bred specimens may be a result of misreporting by importing parties (CITES 2004a). Based on the information presented in the petition and in our files summarized here, we cannot conclude that there is sufficient evidence to suggest that trade of *T. squamosa* is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Overall, the species-specific information in the petition and in our files to support the claim that *T. squamosa* is experiencing overutilization to the point that the petitioned action may be warranted is limited, particularly given the broad geographic range of the species. While there are anecdotal claims in several of the references that are discussed above that low population levels at certain study sites are due to harvest (i.e., Teitelbaum and Friedman 2008, Tan and Yasin 2003, and Hernawan 2010), none of those studies provide empirical evidence of declining trends.

In addition to overutilization, the petitioner also claims that *T. squamosa* is at risk of extinction due to climate change-related threats, including ocean warming and acidification. In Singapore, local bleaching of *T. squamosa* was observed during a high sea surface temperature event in June 2010 (Neo and Todd 2013); however, no other information was provided regarding the extent of bleaching that occurred nor whether the species

experienced significant mortality as a result. In a lab experiment using cultured clams, short-term temperature increases of 3 °C resulted in *T. squamosa* clams maintaining a high photosynthetic rate but displaying increased respiratory demands (Elfwing *et al.*, 2001). Finally, Watson *et al.* (2012) showed that a combination of increased ocean CO₂ and temperature are likely to reduce the survival of *T. squamosa*. Specifically, in a lab experiment, *T. squamosa* juvenile survival rates decreased by up to 80 percent with increasing pCO₂ and decreased with increasing seawater temperature for a range of temperatures and pCO₂ combinations that mimic those expected in the next 50 to 100 years.

We acknowledge these results, but they are not easily interpreted into potential species level effects over time and/or space for *T. squamosa*. First, the clams used in the experiments were cultured and not harvested from the wild. Cultured specimens are likely to experience much more uniform environments and are likely not acclimated to the common daily fluctuations in many environmental parameters experienced in the wild. As such, they may react differently than wild specimens to abrupt changes in their environment. Additionally, information and references in our files acknowledge that there are limitations associated with applying results from laboratory studies to the complex natural environment where impacts will be experienced gradually over the next century at various magnitudes in a non-uniform spatial pattern. In general, lab experiments presented do not reflect the conditions the petitioned species will experience in nature; instead of experiencing changes in levels of ocean warming and acidification predicted for the end of the century within a single generation, species in nature are likely to experience gradual increases over many generations. However, we recognize that because giant clam species are likely long-lived, they likely have longer generation times, and thus, giant clams born today could potentially live long enough to experience oceanic conditions predicted late this century (Watson *et al.*, 2012). Overall, the information regarding negative species-specific impacts from climate change to *T. squamosa* is limited; however, we will thoroughly review climate change related threats and their potential impacts to *T. squamosa* in a forthcoming status review.

Conclusion

In conclusion, the information provided on threats for this species is limited and by itself would not be considered substantial information indicating the petitioned action may be warranted. However, combined with the evidence presented of small, localized populations or extirpations in different parts of the species’ range, we conclude the information presented in the petition is compelling enough to conclude that the petitioned action may be warranted. Therefore, we conclude that the number and spatial distribution of localized severe declines or extirpations in the context of the species’ range may be contributing to an elevated extinction risk for this species such that it warrants further investigation. Thus, the best available information on overall status and potential threats to the species will be evaluated in a forthcoming status review to determine what has potentially caused these declines and extirpations and the overall extinction risk for the species.

Tridacna tevoroa

Species description

Tridacna tevoroa is another recently described species that has been shown to actually be a junior synonym of a previously described species, *T. mbalavauna* (Borsa *et al.*, 2015a). The petition notes that *T. tevoroa* looks most like *T. derasa* in appearance, but can be distinguished by its rugose mantle, prominent guard tentacles present on the incurved siphon, thinner valves, and colored patches on shell ribbing (Neo *et al.*, 2015). *T. tevoroa* has an off-white shell exterior, often partially encrusted with marine growths. The shell interior is porcellaneous white, with a yellowish brown mantle (Kinch and Teitelbaum 2009). It can grow to just over 50 cm long (Neo *et al.*, 2015).

Life History

Aside from what has already been discussed in terms of life history information for giant clams in general (refer back to the *Giant Clam Life History* section above), the petition did not describe any species-specific life history information for *T. tevoroa*. However, in one of the references cited by the petitioner we found some additional information related to spawning of *T. tevoroa* clams. During a study of spawning and larval culture of *T. tevoroa* (Ledua *et al.*, 1993), successful spawning of *T. tevoroa* at the Tonga Fisheries Department in late October 1991 indicates that this species has a breeding season that may be

similar to that of *T. derasa*. Ledua *et al.* (1993) describe that the breeding season of *T. derasa* on the Great Barrier Reef in Australia is from late winter-early spring to early summer and virtually all individuals are spent by mid-December. In Fiji, the breeding program for this species is from July to October and in Tonga from September to late November (Ledua *et al.*, 1993). It must be noted that the examples of the breeding season of *T. derasa* given here are from higher latitudes within the tropics (17°-21°S),

while there is evidence from hatchery spawnings at lower latitudes (Palau, 7°N) that *T. derasa* has an almost full year breeding season (Heslinga *et al.*, 1984 cited in Ledua *et al.*, 1993).

Range, Habitat, and Distribution

Tridacna tevoroa appears to have a restricted distribution. Although the petition says that *T. tevoroa* is restricted to Tonga and Fiji, information in our files indicates that this species was recently observed in the Loyalty Islands

of New Caledonia as well (Kinch and Tietelbam 2009). *Tridacna tevoroa* can typically be found on sand in coral reef areas. In Fiji, *T. tevoroa* live along outer slopes of leeward reefs, in very clear, oceanic water at 9–33 m depth (Ledua *et al.*, 1993). Based on the distribution of adults in Fiji and Tonga, it appears that juveniles settle on slopes of offshore reefs in deep (down to 33 m) oceanic waters. However, juvenile *T. tevoroa* have never been found in nature (Klump and Lucas 1994).

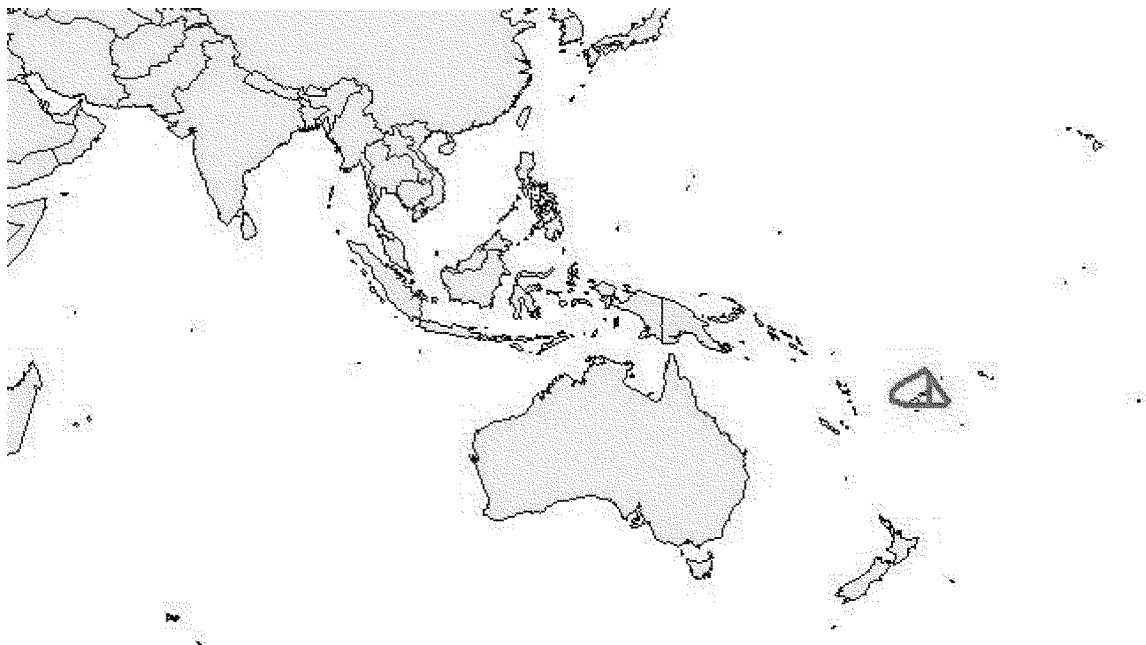


Figure 6: Geographic range of *Tridacna tevoroa*, extracted from bin Othman *et al.* (2010). Note this does not reflect the more recent observation of the species in New Caledonia.

Tridacna tevoroa has a unique depth distribution among the giant clam species; it is the only species to occur in depths below 20 m. In order to better understand how *T. tevoroa* survives in deeper waters, Klumpp and Lucas (1994) compared nutrition of *T. tevoroa* with *T. derasa* in Tonga, where rates of filter-feeding, respiration and the photosynthesis-irradiance response were measured in clams of a wide size range (ca 20 mm to ca 500 mm). Only *T. tevoroa* significantly increased its photosynthetic efficiency with increasing depth. In a study on spawning and larval culture of *T. tevoroa* clams, individuals were collected from waters of Fiji and Tonga (Ledua *et al.*, 1993). The mean depth of clams collected in Fiji was 27.4 m, with samples collected from depths ranging from 20 to 33 m. All specimens were found on the leeward side of reefs and islands. Ledua *et al.*, (1993) notes that:

“Many of the clams found in Tonga were adjacent to the edge of a sand patch and cradled against rocky outcrops, rubble or bare rock with steep slopes.” During the SCUBA search in February 1992 in Ha’apai (Tonga), two of the authors notably found a considerable number of *T. tevoroa* on live coral (whereas in Fiji, these clams have not been found on live coral, possibly because little live coral was found at this depth in the Lau Islands group). About half of the clams in Tonga were found on the leeward and half on the windward side of reefs. However, windward sides of reefs were still somewhat protected within barrier islands or reefs, and no search has yet been made on outer windward reefs (Ledua *et al.*, 1993). Overall, spatial distribution of *T. tevoroa* appears to be very sparse, with single individuals being found at most locations, although clumps of four individuals were seen

twice and other smaller clumps were seen in Tonga, which could represent small breeding groups for this species (Ledua *et al.*, 1993). Given the large areas of suitable reefs and shoals with typical habitat for *T. tevoroa*, Ha’apai, Tonga may be the center of distribution and largest repository of this newly-described species (Ledua *et al.*, 1993).

Population Status and Abundance Trends

The petition provides only one reference for *T. tevoroa* with regard to its population status or abundance trends. Ledua *et al.* (1993) describes *T. tevoroa* as a rare species and notes that few specimens have been found live in Fiji, and only recently larger numbers of this species have been found in Tongan waters. Anecdotal reports from one diver from Uiha Island, Ha’apai, Tonga note that the species was historically more abundant in shallow waters during

the 1940s (Ledua *et al.*, 1993). Based on this limited information, the petitioner speculates that *T. tevoroa* has declined significantly in accessible waters and states that the species' current abundance is likely lower than historical levels. However, the petitioner did not provide any additional references or supporting information to substantiate the claim regarding the species' current population status. The petitioner also provided no additional information regarding the species' population status or abundance trends from other portions of its range (*i.e.*, Fiji or New Caledonia). Nonetheless, given that the species is described as rare, has one of the most restricted ranges of the giant clam species, and has likely undergone some level of population decline in its potential center of distribution (*i.e.*, Tonga), we find this information may indicate an elevated extinction risk for this species, and is compelling enough to warrant further investigation.

Threats to *Tridacna tevoroa*

Very little species-specific information on threats is presented in the petition for *T. tevoroa*. Aside from what has already been discussed regarding the threat of overutilization of giant clams in general (refer back to the *Threats to Giant Clams* section above), the petition provides very limited species-specific information regarding overutilization of *T. tevoroa* for commercial, recreational, scientific, or educational purposes. As noted previously in the *Abundance and Population Trends* section, anecdotal reports from one diver from Uiha Island, Ha'apai, Tonga note that the species was historically more abundant in shallow waters during the 1940s. Evidence of former greater abundance and distribution in shallow water in Ha'apai may indicate that fishing pressure has likely contributed to the rarity of this species (Ledua *et al.*, 1993). This is extremely limited information to suggest that overutilization is a threat to the

species, particularly given the lack of information from Fiji and New Caledonia; however, given that Ha'apai Tonga is likely the center of distribution and largest repository for this particular species, we find that this information, combined with the species' rarity throughout its range, may be contributing to an elevated risk of extinction for this species.

Conclusion

In conclusion, the information provided on threats for this species is limited and by itself would not be considered substantial information indicating the petitioned action may be warranted. Anecdotal evidence from one location of a species' range would generally not be compelling evidence of species level concerns throughout its range for reasons discussed above. However, the combined evidence on the species' restricted range, sparse distribution and rarity, and anecdotal evidence of population decline in the center of the species' distribution, is compelling enough to conclude that the petitioned action may be warranted. The best available information on its overall status and all potential threats to the species will be evaluated in a forthcoming status review.

Tridacna crocea

Species description

Tridacna crocea is the smallest species of giant clam, reaching only 15 cm (Neo *et al.*, 2015; Copland and Lucas 1988). The species is similar to *T. maxima* but smaller, less asymmetrical and with its scutes worn away except near the upper edge of the shell (Copland and Lucas 1988). The shell exterior is: "greyish white, often covered with yellow or pinkish orange and frequently encrusted with marine growths near the dorsal margins of valves, but clean and nearly smooth ventrally" (Kinch and Teitelbaum 2009). The shell interior is porcellaneous white, sometimes with yellow to orange hues on margins. The mantle is often

brightly colored and variable in both pattern and color, including shades of green, blue, purple, brown, and orange (Kinch and Teitelbaum 2009).

Life History

The petition provided some species-specific information regarding *T. crocea*'s life history. The petition noted that spawning of *T. crocea* in the central region of the Great Barrier Reef is thought to be restricted to a short summer season (Munro 1992), and *T. crocea* has been observed spawning during July in Palau (Hardy and Hardy 1969). In a detailed study of early life history in Guam, fertilized eggs of *T. crocea* had a mean diameter of 93.1µm (Jameson 1976). This same study noted that settlement of *T. crocea* larvae occurred approximately 12 days after fertilization.

We found a limited amount of additional information in our files on the life history of this species. *Tridacna crocea* has the smallest size for adult giant clams and reaches full sexual maturity (hermaphroditism) at approximately 5 to 6 years of age. With reports that *T. crocea* individuals of approximately 8 to 9 cm shell length produce 3 to 4 million eggs (Tisdell 1994), this species has extremely high fecundity. As such, even with relatively high mortality rates, tridacnid populations like *T. crocea* can be rapidly increased by artificial breeding and culture programs (Tisdell 1994).

Range, Habitat, and Distribution

Tridacna crocea has a large range, with distribution ranging from southern Japan to Australia, but not extending eastward into Oceania beyond Palau and the Solomon Islands (Munro 1992). The petition provides information on this species from Singapore, Malaysia, Philippines, Indonesia, Thailand, and Palau. We also found additional information in our files for *T. crocea* from Australia, Solomon Islands, Vanuatu, New Caledonia, Papua New Guinea, and Tonga.

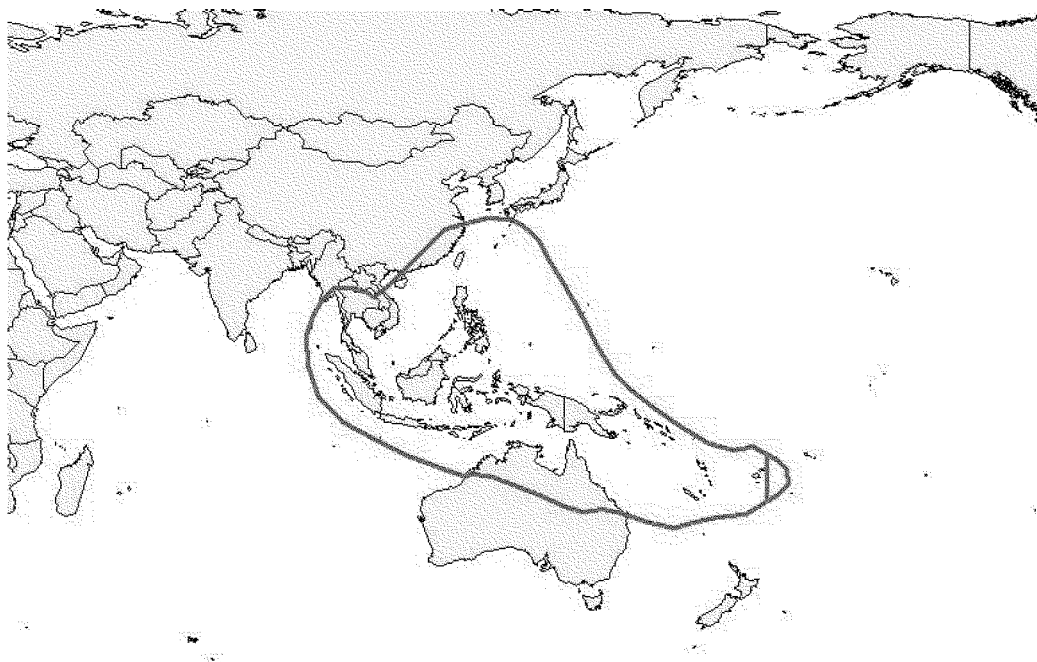


Figure 7: Geographic range of *Tridacna crocea*, extracted from bin Othman *et al.* (2010).

Tridacna crocea is unusual among other giant clam species in that it burrows deeply in coral masses of reef flats and coral heads (with the free valve margins nearly flush with the substrate surface) in shallow water to a depth of about 20 m (when the water is clear; Copland and Lucas 1988; Kinch and Teitelbaum 2009; Neo *et al.*, 2015). According to Hamner and Jones (1974), *T. crocea* burrows as it grows, eroding the surfaces of coral boulders and producing structures that superficially resemble micro-atolls. In a study conducted in Indonesia, *T. crocea* individuals were mostly embedded in dead coral boulders covered by algae (82 percent), with a few living in *Porites* spp., coral rubble, and live coral substrate (only 1 percent; Hernawan 2010). This species remains attached to the substrate throughout its life (Copland and Lucas 1988). The species also appears to aggregate, though the mechanism is unclear. Aggregation (*i.e.*, clumping) may enhance physical stabilization, facilitate reproduction, or provide protection from predators (Soo and Todd 2014).

Population Status and Abundance Trends

The petition does not provide overall estimates of population abundance or trends for *T. crocea*. The petition does provide limited pieces of information regarding the species' population status and trends from Singapore, Malaysia,

Philippines, Indonesia, Thailand, and Palau. The petitioner cites Neo and Todd (2012; 2013) to assert that *T. crocea* is likely functionally extinct in Singapore, as the species is reproductively isolated and unlikely to fertilize conspecifics. In the most recent status reassessment of giant clams, Neo *et al.* (2013) note that *T. crocea* surveys in Singapore from 2009/2010 put their density at a low 0.035 per 100 m², but emphasize that abundance estimates for this species may be conservative as its burrowing behavior and cryptic coloration can lead to underestimates of abundance. Nonetheless, the species' population is considered to be small in Singapore, resulting in an endangered status locally. However, the authors specifically make the point that the status of a species at a small scale (individual country or an island as may be the case for Singapore) is not necessarily representative of its global status. Any species, especially one with a large range like *T. crocea*, will have variable statuses at smaller scales in different habitats due to a variety of factors. Singapore is a small and densely populated island nation known for particularly high anthropogenic impacts in its nearshore waters. The information in Neo and Todd (2012a 2012b and 2013) is informative for resource managers in Singapore and indicates a very low population and density of *T. crocea*. However, it is unclear how the current information relates to historical

abundance of this species at this location. In addition, it is not necessarily useful for assessing the global status of *T. crocea* because Singapore is a very small proportion of the overall species' range and is not a representative environment of the rest of the species' range.

The petition also asserts that *T. crocea* has declined by 94 percent in the Tubbataha Reef Park in the Philippines since the early 1990s based on a decline from 2,200,000 clams/km² in 1993 (Calumpong and Cadiz 1993) to 133,330 clams/km² in 2005 (Dolorosa and Schoppe 2005). It should be noted that these numbers were derived from transects taken within the "intertidal area" of the park. Dolorosa and Schoppe (2005) characterized *T. crocea* as the most abundant and dense giant clam species in the study area, with 133,330 individuals per km² in the intertidal area, and averaging 30,480 individuals per km² in the shallow area (5 m). Dolorosa and Schoppe (2005) also noted that the much lower density observed in their study (as compared to the previous study by Calumpong and Cadiz (1993)) in the intertidal area is not enough to conclude that there is a continuous decline of tridacnids (including *T. crocea*) because the data were only taken from a single transect. Thus, their study is not likely representative of the entire intertidal area, let alone the entire Tubbataha Reef Park. Therefore, the petition's inference of a 94 percent

decline in *T. crocea* abundance in Tubbataha Reef Park based on a single transect is not supported. Additionally, Rubec *et al.* (2001) characterizes *T. crocea* as one of the most abundant giant clam species across the Philippines.

The petition also broadly states that all six giant clam species occurring in Indonesia, including *T. crocea*, are experiencing recruitment failure based on one study from Kei Kecil, Southeast-Maluku (Hernawan 2010). Hernawan (2010) conducted giant clam surveys in nine sites throughout Kei Kecil waters. Results showed *T. crocea* to be the dominant species with the highest population density in each of the nine study sites. Similar results have been documented in other areas of Indonesia, including the Andaman Sea, Upanoi and Banchungmanee, Adang Islands and Seribu Islands, Raja Ampat (Hernawan 2010) and Pari Island (Eliata *et al.*, 2003). Additionally, Indonesia is comprised of thousands of islands; thus, the Hernawan (2010) study cited by the petitioner represents a very small sample of *T. crocea* abundance in Indonesian waters, with no evidence provided to suggest that recruitment failure of *T. crocea* is occurring throughout Indonesia. Hernawan (2010) also noted that due to *T. crocea*'s small size and burrowing behavior, fishermen find this particular species more difficult and less desirable to harvest. Thus, this species is not the main target for Indonesian fishermen, leading to it having the highest relative population density throughout the study area (Hernawan 2010).

Finally, the petition notes that *T. crocea* was the only giant clam with a stable population in Malaysia and not considered "endangered" by the early 2000s and that the species was still abundant in Thailand's Mo Ko Surin National Park in the late 1990s (Tan and Yasin 2003; Thamrongnavasawat 2001). Additionally, Hardy and Hardy (1969) described *T. crocea* as the most frequent and abundant giant clam species in Palau in the 1960s. No additional information could be found in the petition or in our files pertaining to more recent trends for *T. crocea* in these locations to indicate low abundance or declining population trends.

In our own files, we found that *T. crocea* is one of the most abundant species of giant clam in New Caledonia (Kinch and Teitelbaum 2009). In Papua New Guinea, information on stock status is limited with the exception of Milne Bay, where *T. crocea* was also considered the most abundant species. *T. crocea* is also found in Vanuatu, where, although all stocks of giant clam

are generally regarded as declining, improvements have been noted in specific localities (Kinch and Teitelbaum 2009); however, we could find no additional information specific to *T. crocea*. In a 2004 CITES assessment of international trade of the species, *T. crocea* was described in general as "still reasonably abundant" (CITES 2004b).

Overall, the information regarding *T. crocea*'s population status and abundance trends throughout its range is extremely limited, with most characterizations of this species' abundance being qualitative. Nonetheless, it appears, based on the information presented in the petition and in our files, that *T. crocea* is often the dominant giant clam species wherever it occurs, has some of the highest population densities of any species, and is the only species of giant clam with a stable population in Malaysia. Although information suggests *T. crocea* likely experienced a localized abundance decline in Okinawa, Japan, which represents a very small portion of the species' range, we could not otherwise find any information to indicate that the species' overall abundance or density is so low or declining so significantly that the petitioned action is warranted. Thus, we find the petition insufficient in terms of presenting substantial information that *T. crocea*'s population status or abundance trends indicate that the petitioned action may be warranted.

Threats to *Tridacna crocea*

Factor A: Present or Threatened Destruction Modification, or Curtailment of Range

The petition asserts that all species of giant clam, including *T. crocea*, are at risk of extinction throughout their ranges due to the threat of habitat destruction, largely as a result of threats related to climate change and coral reef habitat degradation. However, the petition does not provide any species-specific information with regard to how habitat destruction is negatively impacting *T. crocea* populations. As described previously, *T. crocea* does not appear to have an obligate relationship to a pristine, live coral reef habitat. In fact, *T. crocea* has been observed in a number of habitat types, including dead coral rubble covered in algae. Thus, and as noted previously, while the information in the petition is otherwise largely accurate and suggests concern for the status of coral reef habitat generally, its broadness, generality, and speculative nature, and the lack of reasonable connections between the threats discussed and the status of *T.*

crocea specifically, means that we cannot find that this information reasonably suggests that habitat destruction is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The petition contends that *T. crocea* warrants listing as a result of overutilization for commercial purposes, but only notes three locations in which overfishing of *T. crocea* is reportedly occurring (Fiji, Japan, and Vietnam) based on bin Othman *et al.* (2010). In a market evaluation conducted in the mid-1990s in Japan, *T. crocea* was considered a preferred species for use as sashimi and sushi dishes in Okinawa; in contrast, giant clams were unknown as a food source in mainland Japan. From 1975 to 1995, giant clam catches in Okinawa, Japan declined from 578 tons to 28 tons, likely due to stock depletion (Okada 1998). Given that *T. crocea* comprises approximately 90 percent of the giant clams landed in Okinawa, it is likely that the species experienced historical overfishing in this location. Although overfishing of *T. crocea* may have occurred historically in Okinawa waters, mass seed culture and production of *T. crocea* have been undertaken in Japan to ensure natural stock enhancement, with 44,000–459,000 seeds of *T. crocea* distributed to the fishermen's cooperatives annually from 1987 to 1995 for release into Okinawa waters (Okada 1998). Survival of clams ranged up to 56 percent 3 years after release (Teitelbaum and Friedman 2008). Without any data since 1995, it is difficult to determine whether this fishery is ongoing, the success rate of the local restocking efforts, or the current status of *T. crocea* stocks in Okinawa. Nonetheless, Okinawa, Japan represents a very small portion of the species' overall range and it appears Japan has implemented some regulations and conservation efforts to help safeguard giant clam populations from overfishing.

Aside from Japan, no other information or data is provided in the petition from Fiji or Vietnam to support the broad statement that overfishing of *T. crocea* is occurring in those locations, although we did find some trade data to indicate that *T. crocea* is subject to commercial trade in these areas (CITES 2004b). From 1994 to 2003, exports of *T. crocea* were recorded for 24 countries and territories. However, only ten of the 24 countries were selected for a

significant CITES trade review, of which only two were categorized as “possible concern” (Fiji and Vanuatu) and only one country (Vietnam) was categorized as “urgent concern.” The remaining countries were described as having no or minimal trade, and consequently designated as “least concern.” Of the 16 countries not selected for review and recording exports, only the Solomon Islands appeared to be trading in significant quantities (CITES 2004b).

In Fiji, *T. crocea* is not recorded as naturally occurring but it has been reported as “introduced.” Between 1997 and 2000, significant quantities of *T. crocea* imports (~15,000 live specimens) were reported from Fiji, of which two-thirds were reported as being of wild origin. Reported imports from captive bred sources have virtually ceased since 2000, and those from wild sources have declined significantly. However, the CITES review regarding trade of *T. crocea* in Fiji concluded that: “Without information on the status of introduced stocks and harvest levels for domestic consumption, it is not possible to assess whether or not current export levels are detrimental to the species’ survival in Fiji” (CITES 2004b).

In Vietnam between 1998 and 2003, gross live exports of wild-sourced *T. crocea* peaked at 61,674 specimens in 2001 and otherwise ranged between 35,000 and 46,000. Since 2001, much lower levels, albeit still substantial (*i.e.*, from 2,500 to 7,500 specimens annually) of live *T. crocea* reported as captive-bred have been exported. The “Urgent Concern” designation was given to Vietnam because of the large quantities reported as exports from the wild during the review period and because of a lack of information on stocks and management activities (CITES 2004b). However, the review did not make any conclusions as to the status of *T. crocea* in Vietnam or whether trade was causing negative population level effects.

Overall, while it appears that some countries have traded *T. crocea* in potentially significant quantities, we could not find any information to suggest that these quantities are contributing to the overutilization of the species, such that the petitioned action may be warranted. Therefore, we conclude that the available information presented in the petition and in our files does not constitute substantial information that international trade is a significant threat posing an extinction risk to *T. crocea* throughout its range.

In most locations where information is available, *T. crocea* does not appear to be a highly sought after giant clam species due to its small size and

burrowing behavior, as these characteristics make it more difficult for fishermen to harvest the species. For example, Hester and Jones (1974) noted that *T. crocea* was the only giant clam species that did not likely have commercial value in Palau, and that the species is seldom utilized for any purpose. bin Othman *et al.* (2010) also generally characterize *T. crocea* as “more difficult and less economical to harvest” because this species burrows into substrates and is relatively small. In New Caledonia, *T. crocea* is not listed among the preferably harvested species there (Kinch and Teitelbaum 2009). As previously discussed in the *Population Status and Trends* section above, Hernawan (2010) attributed *T. crocea*’s relatively high population densities in survey sites in Indonesia to the fact that Indonesian fishermen do not target this species because of its small size and burrowing behavior. This echoes the general characterization of commercial utilization of this species by bin Othman *et al.* (2010). Finally, Dolorosa and Shoppe (2005) note that “*T. crocea* is little if at all exploited” in the Philippines.

Overall, most of the information provided in the petition and in our files suggest that overutilization is not likely a significant threat to *T. crocea* because its small shell is not economically desirable and its burrowing behavior makes it more difficult to harvest relative to other species of clams that are much larger in size and more easily accessible to fishermen. While it is clear that *T. crocea* fulfills a local market niche and may have experienced historical overharvest in Okinawa, Japan, this location represents a very small portion of the species’ overall range, and we have no additional information to suggest that this level of utilization is occurring elsewhere, such that the petitioned action may be warranted. Additionally, it appears that reseeded efforts and fishing regulations have been implemented in Japan to help safeguard giant clam populations, including *T. crocea*, from overfishing. Further, the available trade data for *T. crocea* does not indicate that international trade is causing negative population level effects to the species to the point that the petitioned action may be warranted. Therefore, we conclude that the information in the petition and in our files does not constitute substantial information that overutilization is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor C: Disease or Predation

The petition did not provide any species-specific information regarding how diseases may be affecting *T. crocea* populations throughout its range. In fact, none of the information provided in the petition discusses diseases or parasites affecting *T. crocea*, specifically. We could also not find any additional information in our files regarding the threats of disease or predation to *T. crocea*. Therefore, we conclude that the petition does not provide substantial information that disease or predation is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor D: Inadequacy of Existing Regulatory Mechanisms

The petition did not present species-specific information regarding inadequate regulatory mechanisms for *T. crocea*. As discussed above, the petitioner notes that there are some laws for giant clams on the books in certain locations, but only discusses regulations from the Philippines and Malaysia and illegal clam poaching in disputed areas of the South China Sea. These areas represent a small portion of the range of *T. crocea*. We found additional regulations in our files regarding the harvest of giant clams, including *T. crocea*, in several countries. Numerous PICTs and Australia implement size limits, bag limits, bans on commercial harvest, bans on night light harvest, promotion of aquaculture, and community-based cultural management systems for giant clams (more detail provided above; Chambers 2007; Kinch and Teitelbaum 2009). For *T. crocea* specifically, state-set and self-imposed regulations prevail in the fishing areas throughout Japan to protect the giant clam stock (Okada 1997).

In terms of trade regulations, the discussion in the petition was not species-specific. Additionally, we determined above in the *Overutilization for Commercial, Recreational, Scientific, or Educational Purposes* section for *T. crocea*, that international trade is not an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

With regard to regulations of greenhouse gas emissions, the discussion in the petition was also not species-specific. The petitioner did not provide species-specific information regarding the negative response to ocean warming or acidification. In addition, the information in the petition, and in our files, does not indicate that *T. crocea* may be at risk of extinction that

is cause for concern due to the loss of coral reef habitat or the direct effects of ocean warming and acidification. This is discussed in more detail for *T. crocea* specifically above under Factor A and below under Factor E. Therefore, we conclude that the petition does not provide substantial information that inadequate regulatory mechanisms controlling greenhouse gas emissions is an operative threat that acts or has acted on the species to the point that listing may be warranted.

Factor E: Other Natural or Manmade Factors

Aside from the information previously discussed for giant clams in general in the *Other Natural or Manmade Factors* section, the petition did not provide any species-specific information regarding how climate change related threats, including ocean warming and acidification, are negatively impacting *T. crocea* populations throughout its range. We could also not find any additional information in our files regarding these threats to the species. Therefore, we conclude that the information presented in the petition and in our files does not constitute substantial information that other natural or manmade factors, including climate change related threats, acts or has acted on the species to the point that the petitioned action may be warranted.

Conclusion

Based on the foregoing information, we do not agree that the petition provides substantial information to indicate that the *T. crocea* may warrant listing as threatened or endangered under the ESA. Particularly, in the context of the species' overall range, there is no indication that *T. crocea* has undergone significant population declines or local extirpations such that the species' risk of extinction is elevated to a point that is cause for concern. In contrast, it is the only clam species that is still described as abundant and even

dominant in many locations where it is found. Given the species' small size and unique burrowing behavior, the available information does not indicate that *T. crocea* is highly sought after or targeted by fishermen in most locations. Overall, the information presented in the petition and our files does not indicate that any identified or unidentified threats may be acting on *T. crocea* to the point that the species may warrant listing as threatened or endangered under the ESA. After evaluating the population status and threat information presented in the petition and in our files in the context of the species' overall range, we conclude that the petition did not provide substantial information indicating that the petitioned action may be warranted for this species.

Tridacna maxima

Species Description

The petition provided very little information regarding a general description of *T. maxima*. The petition notes that *T. maxima* has close-set scutes and grows to a maximum size of 35 cm. We found additional information in our files describing this species. Although maximum shell length is 35 cm, it is commonly found at lengths up to 25 cm (Kinch and Teitelbaum 2009). *Tridacna maxima* has a grayish-white shell exterior, often suffused with yellow or pinkish orange and strongly encrusted with marine growths. The shell interior is porcellaneous white, sometimes with yellow to orange hues on the margins. *Tridacna maxima* often has a brightly colored mantle, variable in color and pattern (Kinch and Teitelbaum 2009), from brilliant to subdued grayish yellow, bluish green, blackish blue, to purple and brown. These colors occur medially on the mantle and are sometimes spotted and streaked with other colors (Su *et al.*, 2014). The shell of *T. maxima* usually has four to five ribs with round projections on the upper margins (Su *et al.*, 2014).

Life History

The petition presents the majority of life history information for *T. maxima* from Jameson (1976) as cited in Munro (1992). This reference studied samples from Guam and reports fecundity (F) of *T. maxima* as $F = 0.00743 L^3$ (a ripe gonad of a 20 cm specimen would therefore contain about 20 million eggs), fertilized eggs of *T. maxima* had a mean diameter of 104.5 μm , and settlement occurred 11 days after fertilization at a mean shell length of 195.0 μm . Metamorphosis was basically complete about one day after settlement. Jameson (1976) also reports that juveniles of *T. maxima* first acquire zooxanthellae after 21 days and juvenile shells show the first signs of becoming opaque after 47 days. The petition states that male *T. maxima* in the Cook Islands begin to reach sexual maturity at approximately 6 cm; 50 percent of both males and females were sexually mature at 10 cm and 100 percent were sexually mature at 14 cm and larger. The species was also very slow growing and took 5 years to reach 10 cm in length, 10 years to reach 15 cm and 15 to 20 years to reach 20 cm and above. Because only 21.5 percent of the population were fully sexually mature, the petitioner asserts that overfishing of this species is likely (Chambers 2007). In Guam and Fiji, *T. maxima* spawned during the winter months (LaBarbera 1975). Findings by Jantzen *et al.* (2008) suggest *T. maxima* in the Red Sea is a strict functional photoautotroph limited by light.

Range, Habitat, and Distribution

Among members of the subfamily Tridacninae, *T. maxima* is the most common and widely distributed species in the Indo-Pacific. This species ranges from the Red Sea, Madagascar, and East Africa to the Tuamotu Archipelago and Pitcairn Island in the South Pacific, as well as from southern Japan in the north to Lord Howe Island, off the coast of New South Wales, Australia in the south (bin Othman *et al.*, 2010).

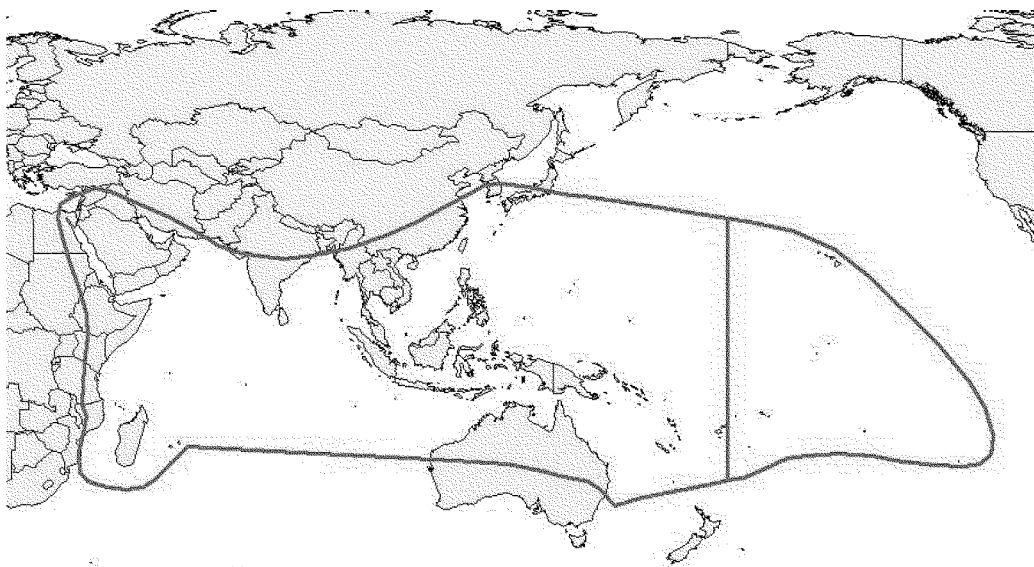


Figure 8: Geographic range of *Tridacna maxima*, extracted from bin Othman *et al.* (2010).

In terms of habitat, *T. maxima* is a reef-top inhabitant, living on the surface of the reef or sand and is usually seen with its colored mantle exposed (Su *et al.*, 2014). This species can be found on reefs, partially embedded in corals in littoral and shallow water, to a depth of 20 m (Kinch and Teitelbaum 2009). In Indonesia, *T. maxima* was found living in dead coral rubble covered in algae, *Porites* corals, and coral rubble (Hernawan 2010).

Population Status and Abundance Trends

For *T. maxima* specifically, the petition provides limited information regarding the species' population status and trends from Singapore and individual sites in Malaysia, the Philippines, Indonesia, Thailand, French Polynesia, and the Cook Islands.

Neo and Todd (2012a) surveyed 87,515 m² in Singapore and did not observe *T. maxima*, despite the observation of one individual in a 2003 survey of a little over 9,000 m² by Guest *et al.* (2008). The authors acknowledge that no historical abundance data for *T. maxima* in Singapore exist, nor any precise information on their exploitation. They go on to propose that habitat loss, exploitation, and/or sediment have synergistically led to the extirpation of *T. maxima* in Singapore's waters. Neo and Todd (2013) make a similar conclusion stating that *T. maxima* is "probably already functionally extinct (in Singapore) as they are reproductively isolated and unlikely to fertilise [sic] conspecifics." However, the authors specifically make

the point that the status of a species at a small scale (individual country or an island as may be the case for Singapore) is not necessarily representative of its global status. Any species, especially one with a large range like *T. maxima*, will have variable statuses at smaller scales in different habitats due to a variety of factors. Singapore is a small and densely populated island nation known for particularly high anthropogenic impacts in its nearshore waters. The information in Neo and Todd (2012a 2012b and 2013) is informative for resource managers in Singapore and indicates a very low population and density of *T. maxima*. However, it is unclear how the current information relates to historical abundance of this species at this location. In addition, it is not necessarily useful for assessing the global status of *T. maxima* because Singapore is a very small proportion of the overall species' range and is not a representative environment of the rest of the species' range.

As described in earlier species accounts, the petitioner cites Tan and Yasin (2003), stating giant clams of all species but *T. crocea* are considered endangered in Malaysia. The authors mention underwater surveys that reveal that the "distribution of giant clams are widespread but their numbers are very low." However, there are no references provided by the authors to provide any more detail or support for this information, which makes it difficult to interpret this information for individual species. The only species-specific information for *T. maxima* in this

reference is that it occurs in Malaysian waters.

The petition cites Salazar *et al.* (1999) who did a stock assessment of *T. crocea*, *T. maxima*, *T. squamosa* and *H. hippopus* in the Eastern Visayas of the Philippines and found most of the populations were juveniles with insufficient numbers of breeders to repopulate the region. As noted previously, this reference was unavailable for review so it is unclear if the authors were able to attribute these results to environmental changes, overharvest, or some other type of influence.

As previously discussed in other species accounts, the petition states that Hernawan (2010) found small populations and evidence of recruitment failure in the six species found during a survey of Kei Kecil, Southeast-Maluku, Indonesia, including *T. maxima*. The author conducted giant clam surveys in nine sites; however, Indonesia encompasses thousands of islands and *T. maxima* occurs in other locations throughout Indonesia (Hernawan 2010). Thus, this study represents a very small sample of *T. maxima* abundance in Indonesian waters, with no evidence provided to suggest that recruitment failure of *T. maxima* is occurring throughout Indonesia.

The petitioner cites Thamrongnavasawat *et al.* (2001) as saying *T. maxima* are now considered "scarce" throughout Thailand; however the link provided in the bibliography to access this reference was not functional, and we were otherwise unable to obtain

and review this reference to determine what the authors meant by “scarce” or on what evidence this statement was based.

The only references with species-specific information on abundance and trends for *T. maxima* that show evidence for their conclusions are from Rose Atoll, two atolls and an island in French Polynesia, and Tongareva Lagoon in the Cook Islands. Neo and Todd (2012a) reference another study that reports up to 225 *T. maxima* individuals per square meter at Rose Atoll (Green and Craig 1999). The estimated population size for Rose Atoll (615ha) was approximately 27,800 *T. maxima* individuals based on surveys from 1994 to 95.

In French Polynesia, Gilbert *et al.* (2006) report that several lagoons in two archipelagos are characterized by enormous populations of *T. maxima*. They report densities of 23.6 million clams in 4.05 km² at Fangatau atoll, 88.3 million clams in 11.46 km² at Tatakoko, and 47.5 million in 16.3 km² in Tubuai. At the time of publication, the authors noted these were the largest giant clam densities observed anywhere in the world. The authors also note that a small scale but growing fishery in these areas should be actively managed to avoid decimating these pristine stocks. They list several existing management efforts in French Polynesia including a minimum shell length for capture, development of clam aquaculture capacity, and the establishment of no-take areas (Gilbert *et al.*, 2006). The first no-take area dedicated to the conservation of *T. maxima* was implemented in 2004 at Tatakoto Atoll, one of the study areas in French Polynesia. Six years after the Gilbert *et al.* (2006) study, a stock assessment survey revealed a dramatic decrease in the *T. maxima* population within the no-take area and elsewhere throughout the atoll (83 percent overall reduction in density), an anomaly the authors attribute to temperature variations 3 years prior to the survey, but the cause could not be determined definitively (Andrefouet *et al.*, 2013). The authors note that mortality events of this scale are not uncommon for bivalves and there are other reports of massive die-offs of clams related to environmental variables like ENSO-related temperature increases or lowered mean sea level in certain areas, which leaves clams exposed to unfavorable conditions for long periods. Within a geographic range as vast as *T. maxima*'s, one anomalous event that may have been due to temperature changes does not constitute substantial information that climate change may be affecting the species

such that it needs protection under the ESA. As noted above in the *Threats to Giant Clams* section, there is huge heterogeneity across space and time in terms of current and future impacts of climate change on giant clams species.

The petition cites Chambers (2007) and notes that *T. maxima* was overharvested in the southern Cook Islands and the capital was now receiving them from the northern part of the country, but the specific aim of this study was to assess the size distribution, abundance, and density of *T. maxima* in Tongareva lagoon. The author found variation within the lagoon with higher densities occurring in the south, farther from villages. The overall density recorded was 0.42 clams per square meter, with a total population of 28,066 individuals; however, the author notes that these numbers were based on extrapolating over the whole lagoon, all of which is not necessarily suitable clam habitat. The authors suggest that a more accurate extrapolation should be based on the area of available suitable habitat to fully account for areas where *T. maxima* occurs in high numbers. While this study indicates some areas of lower abundance near population centers (*i.e.*, harvest pressure), it also reports high numbers and densities of *T. maxima* at several sites (Chambers 2007).

Finally, a CITES trade review of *T. maxima* characterizes the species as still reasonably abundant in some countries, being “widespread and abundant” in Australia, and “common” with stable stocks in Vanuatu (CITES 2004c). Overall, the information regarding abundance and population trends for *T. maxima* is limited, particularly given the species' enormous geographic range. As noted previously, any species, especially one with a large range like *T. maxima*, will have variable statuses at smaller scales in different habitats due to a variety of factors. The limited information in the petition and our files, however, does not indicate that *T. maxima*'s overall population status or abundance trends are contributing to an elevated extinction risk, such that the species may be threatened or endangered throughout all or a significant portion of its range.

Threats to *T. maxima*

Factor A: Present or Threatened Destruction Modification, or Curtailment of Range

The petition asserts that all species of giant clam, including *T. maxima*, are at risk of extinction throughout their ranges due to the threat of habitat destruction, largely because of threats related to climate change and coral reef

habitat degradation. However, the petition does not provide any species-specific information regarding how habitat destruction is negatively affecting *T. maxima*. While the information in the petition is otherwise [largely] accurate and suggests concern for the status of coral reef habitat generally, its broadness, generality, and speculative nature, and the lack of reasonable connections between the threats discussed and the status of *T. maxima* specifically, means that we cannot find that this information reasonably suggests that habitat destruction is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor B: Overutilization for Commercial, Recreational, or Scientific Purposes

Species-specific information on overharvest of *T. maxima* in the petition is limited. The petitioner cites Bodoy (1984), stating the authors found that harvesting decreased the size of *T. maxima* in Saudi Arabia. However, the authors only surveyed four sites with varying degrees of accessibility and found that the harder-to-access sites, as well as deeper depths at all sites, appear to provide some refuge from collection as they observed either more or larger clams (or both) there.

The study by Shelley (1989) discussed above in the *Life History* section documented likely overfishing of *T. maxima* in the Cook Islands based on a very low proportion of mature individuals in the population. Chambers (2007) notes that *T. maxima* was overharvested in the southern Cook Islands and the capital was now receiving them from the northern part of the country. In the Cook Islands, only cultured clams are exported, and wild harvest is for local consumption. Traditional cultures in individual villages institute a *rahui* system to impose closures of certain areas for a period of time to allow stocks to regenerate (Chambers 2007). While Chambers (2007) indicates some level of harvest pressure on *T. maxima*, they also report areas of high numbers and densities of *T. maxima* in several sites.

We found additional trade information for *T. maxima* in some CITES documents cited by the petitioner, although the trade information therein was not presented in the petition. Out of 31 countries listed in a trade review for this species, one was listed as “Urgent Concern” (Tonga), seven were assessed as “Possible Concern, and “Least Concern” was reserved for the remaining 23

countries (CITES 2004c). Countries reported as “Least Concern” were assessed as such for the following reasons: either there was no trade reported over the period under review (1994–2003) (n=10), recorded trade during the last 5 years of the period under review was at a low level (n=10), or trade was primarily or entirely of captive bred specimens.

Based on the foregoing information, the species-specific information presented in the petition and in our files on overharvest of *T. maxima* is not substantial. Given the broad geographic range of the species and when considered in combination with all other information presented for this species, we find that the petition does not provide sufficient information to demonstrate that overutilization is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor C: Disease or Predation

The petition does not present any species-specific information indicating disease or predation are factors acting on populations of *T. maxima* to the extent that the species may warrant protection under the ESA. The generalized information in the petition does not constitute substantial information for individual species as discussed above. We found some generalized information indicating that *T. maxima* has some known non-human predators (e.g., large triggerfish, octopi, eagle rays, and pufferfish) and is vulnerable to predation during the juvenile stage (<10 cm); Chambers 2007), but we do not have any additional information in our files on the effects of disease or predation on *T. maxima*.

Factor D: Inadequacy of Existing Regulatory Mechanisms

The petition does not present species-specific information regarding inadequate regulatory mechanisms for *T. maxima*. As discussed above, the petitioner notes that there are some laws for giant clams on the books in certain locations, but only discusses regulations from the Philippines and Malaysia and only discusses illegal clam poaching in disputed areas of the South China Sea. These areas represent a small portion of the range of *T. maxima*. We found additional regulations in our files regarding the harvest of giant clams in several countries. Numerous PICTs and Australia implement size limits, bag limits, bans on commercial harvest, bans on night light harvest, promotion of aquaculture, and community-based cultural management systems for giant

clams (more detail provided above in the general *Inadequacy of Existing Regulatory Mechanisms* section of this notice; Chambers 2007; Kinch and Teitelbaum 2009).

In terms of international trade and greenhouse gas regulations, the discussion in the petition was again not species-specific. The petitioner did not provide species-specific information regarding the negative response to ocean warming or acidification. However, we evaluated the information in the petition that may apply to all the petitioned species. Above in the *Threats to Giant Clams* section, we determined that overall, the entire discussion of the inadequacy of CITES is very broad and does not discuss how the inadequacy of international trade regulations is impacting any of the petitioned species to the point that it is contributing to an extinction risk, with the exception of *T. gigas* and the growing giant clam industry in China. In addition, the information in the petition, and in our files, does not indicate that the petitioned species may be at risk of extinction that is cause for concern due to the loss of coral reef habitat or the direct effects of ocean warming and acidification. This is discussed in more detail for *T. maxima* specifically above under Factor A and below under Factor E. Therefore, we conclude that the petition does not provide substantial information that inadequate regulatory mechanisms controlling greenhouse gas emissions is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor E: Other Natural or Manmade Factors

The petition presents limited information in terms of other natural or manmade factors affecting the status of *T. maxima*. The petitioner cites Waters (2008) who found that *T. maxima* juveniles exposed to pCO₂ concentrations approximating glacial (180 ppm), current (380 ppm) and projected (560 ppm and 840 ppm) levels of atmospheric CO₂ (per the IPCC IS92a scenario) suffered decreases in size and dissolution with increased levels of atmospheric CO₂ and this occurred below thresholds previously considered detrimental to other marine organisms in similar conditions. We acknowledge these results however, they are not easily interpreted into potential species level effects over time and/or space for *T. maxima*. First, the clams used in the experiment were cultured and not harvested from the wild. Cultured specimens are likely to experience much more uniform environments and

are likely not acclimated to the common daily fluctuations in many environmental parameters experienced in the wild. As such, they may react differently than wild specimens to abrupt changes in their environment. As discussed in more detail in our 12-month finding for orange clownfish (80 FR 51235; August 24, 2015), the acute nature of the exposure and lack of acclimation in this study is noteworthy because most species will not experience changes in acidification so acutely in their natural habitats. Rather, they are likely to experience a gradual increase in average CO₂ levels over several generations, and therefore a variety of factors could come into play over time to aid in adaptation (or may not—there is high uncertainty). We recognize that because giant clam species are likely long-lived, they likely have longer generation times, and thus, giant clams born today could potentially live long enough to experience oceanic conditions predicted late this century (Watson *et al.*, 2012). However, given the disconnect between these experimental results and what can be expected to occur in the wild over time, the uncertainty in future ocean acidification rates, and the heterogeneity of the species' habitat and current environmental conditions across its large range, these results are not compelling evidence that elevated levels of atmospheric CO₂ is an operative threat that acts or has acted on *T. maxima* to the extent that the petitioned action may be warranted.

The work by Andrefouet *et al.* (2013) on *T. maxima* discussed above in the section on *Population status and Trends* documents mortality at Tatakoto Atoll in French Polynesia likely due to a temperature anomaly; however, again the authors did not definitively identify the cause of the observed decline. Further, a single anomaly in one location is not indicative of an ongoing threat that contributes to an elevated extinction risk for *T. maxima*. While we acknowledge the potential for both ocean warming and ocean acidification to have impacts on *T. maxima*, the petition did not present substantial information indicating the species may warrant listing due to these threats, nor do we have additional information in our files that would indicate this.

Conclusion

It is common for all species, especially those with very expansive geographic ranges like *T. maxima*, to experience different impacts and variable population statuses throughout different areas within their range. In evaluating the information presented in

the petition, we consider the information itself as well as the scope of the information presented as it relates to the range of the species. The petition presented species-specific information indicating high densities and robust populations in the Cook Islands, French Polynesia, and Rose Atoll. It also provided citations with generalized statements of rarity of *T. maxima* in Singapore and individual study sites in Malaysia, Indonesia, and Thailand. In the case of *T. maxima*, areas where the species may be in poor status are not compelling evidence of the global status of this species compared to its overall range because the information is not outside of what is commonly expected in terms of variability in species status across such a large range as *T. maxima*'s. There is an entire one third or more of the species' range for which no information was presented at all in the petition (eastern Africa and the Indian Ocean) with the exception of one study from one site in Saudi Arabia within the Red Sea. Thus, the petition did not present substantial information to indicate either poor population status globally or operative threats acting on the species such that the petitioned action may be warranted for *T. maxima*.

Tridacna noae

Species Description

Tridacna noae, also known as Noah's giant clam, is most like *T. maxima* in appearance, but live *T. noae* specimens can be distinguished by the sparsely distributed hyaline organs, and by the large, easily recognizable, ocellate spots with a thin, white contour on the mantle's edge (Neo *et al.*, 2015; Su *et al.*, 2014). Shell lengths range between 6 and 20 cm (Neo *et al.*, 2015).

Life History

Aside from what has already been discussed in the general life history information applicable to all giant clams (refer back to the *Giant Clam life history* section above), the petition did not provide any species-specific life history information for *T. noae*. We could also not find any other life history information in our files specific to *T. noae*.

Range, Habitat, and Distribution

The petition did not provide a range map for this species, nor was it included in bin Othman *et al.* (2010). *Tridacna noae*'s distribution overlaps with *T. maxima*'s distribution, but generally occurs in lower abundances (Neo *et al.*, 2015). Based on the information provided in the petition, *T. noae* has a widespread distribution across the Indo-

Pacific, occurring from the Ryuku archipelago of Japan to Western Australia, and from the Coral Triangle (as defined by Veron *et al.*, 2009) to the Coral Sea and to the Northern Line Islands (Borsa *et al.*, 2015b). *Tridacna noae* is thus known from Taiwan, Japan, Dongsha (northern South China Sea), Bunaken (Sulawesi Sea), Madang and Kavieng (Bismarck Sea), the Alor archipelago (Sawu Sea), Kosrae (Caroline Islands), New Caledonia, the Loyalty Islands and Vanuatu (Coral Sea), Viti-Levu (Fiji), Wallis Island, and Kiritimati (Northern Line Islands) (Borsa *et al.*, 2015b). Mitochondrial DNA data also indicate its presence in the Philippines (eastern Negros), Western Australia (in the Molucca Sea at Ningaloo Reef) and in the Solomon Islands (Borsa *et al.*, 2015b). Individuals are attached by a byssus and bore into coral, living in littoral and shallow waters to a depth of 20 m. Borsa *et al.* (2015b) notes that: "It may occur naturally on the same reef habitats as *T. maxima*, and also *T. crocea* as reported from the Solomon Islands (Huelsken *et al.*, 2013), and as observed at Bunaken and in New Caledonia (this survey)."

Population Status and Abundance Trends

The petition does not provide any species-specific information for *T. noae* concerning its population status or abundance trends. The only statement in the petition with regard to *T. noae*'s status and abundance is: "Given the threats discussed elsewhere in this report for Asia and here for the South China Sea, it is likely that *T. noae* has also declined severely." The petitioner did not provide any references or additional supporting information to substantiate this claim. Given that the species' geographic range extends far beyond Southeast Asia, simply inferring a severe abundance decline throughout the species' large geographic range based on generalized threats discussed for one part of the range (and without providing any link that these threats are specifically acting on *T. noae* to reduce its abundance) is erroneous. Generalized evidence of declining habitat or declining populations per se are not evidence of declines large enough to infer extinction risk that may meet the definition of either threatened or endangered under the ESA. Therefore, we conclude that the information presented in the petition on the species' population status and abundance trends does not constitute substantial information that the species may warrant listing under the ESA. We could also not find any information in our

files on the population abundance or trends of the species.

Threats to *Tridacna noae*

Factor A: Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The petition does not provide any species-specific information regarding how habitat destruction is negatively impacting *T. noae*. As discussed previously, while the information in the petition is otherwise largely accurate and suggests concern for the status of coral reef habitat generally, its broadness, generality, and speculative nature, and the lack of reasonable connections between the threats discussed and the status of *T. noae* specifically means that we cannot find that this information reasonably suggests that habitat destruction is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor B: Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Aside from what has already been discussed regarding the threat of overutilization for giant clams in general, we could not find any species-specific information in the petition or in our files regarding overutilization of *T. noae* for commercial, recreational, scientific, or educational purposes. As such, we cannot conclude that the petition presented substantial information that overutilization is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor C: Disease or Predation

Aside from what has already been discussed regarding the threats of disease and predation for giant clams in general (refer back to the *Threats to Giant Clams* section above), we could find no additional information regarding disease or predation specific to *T. noae*. Therefore, we conclude that the petition does not provide substantial information that disease or predation is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor D: Inadequacy of Existing Regulatory Mechanisms

The petition did not present species-specific information regarding inadequate regulatory mechanisms for *T. noae*. As discussed above, the petitioner notes that there are some laws for giant clams on the books in certain locations, but only discusses regulations from the Philippines and Malaysia and

illegal clam poaching in disputed areas of the South China Sea. These areas represent a small portion of the range of *T. noae*. We found additional regulations in our files regarding the harvest of giant clams in several countries. Numerous PICTs and Australia implement size limits, bag limits, bans on commercial harvest, bans on night light harvest, promotion of aquaculture, and community-based cultural management systems for giant clams (more detail provided above; Chambers 2007; Kinch and Teitelbaum 2009).

In terms of international trade and greenhouse gas regulations, the discussion in the petition was again not species-specific. The petitioner did not provide species-specific information regarding the negative response to ocean warming or acidification. However, we evaluated the information in the petition that may apply to all the petitioned species. In the general *Threats to Giant Clams* section above, we determined that overall, the entire discussion of the inadequacy of CITES is very broad and does not discuss how the inadequacy of international trade regulations is impacting any of the petitioned species to the point that it is contributing to an extinction risk, with the exception of *T. gigas* and the growing giant clam industry in China. In addition, the information in the petition, and in our files, does not indicate that the petitioned species may be at risk of extinction that is cause for concern due to the loss of coral reef habitat or the direct effects of ocean warming and acidification. This is discussed in more detail for *T. noae* specifically above under Factor A and below under Factor E. Therefore, we conclude that the petition does not provide substantial information that inadequate regulatory mechanisms controlling greenhouse gas emissions is an operative threat that acts or has acted on the species to the point that the petitioned action may be warranted.

Factor E: Other Natural or Manmade Factors

Aside from the information previously discussed for giant clams in general in the *Other Natural or Manmade Factors* section, the petition does not provide any species-specific information regarding how climate change related threats, including ocean warming and acidification, are negatively impacting *T. noae*

populations throughout its range. We could also not find any additional information in our files regarding these threats to the species. As such, we cannot conclude that the petition presented substantial information that other natural or manmade factors, including climate change related threats, are operative threats that act or have acted on the species to the point that the petitioned action may be warranted.

Conclusion

The petition did not provide substantial information that any identified or unidentified threats may be acting on *T. noae* to the point that it may warrant listing as threatened or endangered under the ESA. We evaluated the extremely limited population status information and threat information presented in the petition and in our files and cannot conclude that substantial information has been presented that indicates the petitioned action may be warranted for this species.

Petition Findings

Based on the above information and the criteria specified in 50 CFR 424.14(b)(2), we find that the petition and information readily available in our files present substantial scientific and commercial information indicating that the petitioned action of listing the following giant clam species as threatened or endangered may be warranted: *H. hippopus*, *H. porcellanus*, *T. costata*, *T. derasa*, *T. gigas*, *T. squamosa*, and *T. tevoroa*. Therefore, in accordance with section 4(b)(3)(A) of the ESA and NMFS' implementing regulations (50 CFR 424.14(b)(3)), we will commence status reviews of these species. During the status reviews, we will determine whether these species are in danger of extinction (endangered) or likely to become so within the foreseeable future (threatened) throughout all or a significant portion of their ranges. We now initiate this review, and thus, we consider these giant clam species to be candidate species (69 FR 19975; April 15, 2004). Within 12 months of the receipt of the petition (August 7, 2017), we will make a finding as to whether listing these species as endangered or threatened is warranted as required by section 4(b)(3)(B) of the ESA. If listing these species is found to be warranted, we will publish a proposed rule and solicit

public comments before developing and publishing a final rule. We also find that the petition and information readily available in our files do not present substantial scientific and commercial information indicating that the petitioned action of listing *T. crocea*, *T. maxima*, and *T. noae* is warranted.

Information Solicited

To ensure that the status reviews are based on the best available scientific and commercial data, we are soliciting information relevant to whether the giant clam species for which we have made positive findings are endangered or threatened. Specifically, we are soliciting information in the following areas: (1) Historical and current distribution and abundance of these species throughout their respective ranges; (2) historical and current population trends; (3) life history in marine environments, including growth rates and reproduction; (4) historical and current data on the commercial trade of giant clam products; (5) historical and current data on fisheries targeting giant clam species; (6) any current or planned activities that may adversely impact the species; (7) ongoing or planned efforts to protect and restore the species and its habitats, including information on aquaculture and/or captive breeding and restocking programs for giant clam species; (8) population structure information, such as genetics data; and (9) management, regulatory, and enforcement information. We request that all information be accompanied by: (1) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

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

Dated: June 21, 2017.

Samuel D. Rauch III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

[FR Doc. 2017-13275 Filed 6-23-17; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Memorandum of June 21, 2017—Delegation of Authority Under the Consolidated Appropriations Act, 2017

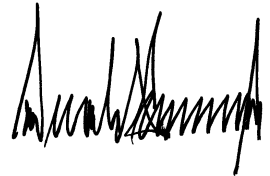
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Title 3—**Memorandum of June 21, 2017****The President****Delegation of Authority Under the Consolidated Appropriations Act, 2017****Memorandum for the Secretary of Defense**

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby delegate to the Secretary of Defense the functions and authorities vested in the President by section 10005 of the Consolidated Appropriations Act, 2017 (Public Law 115–31) (the “Act”).

The delegation in this memorandum shall apply to any provision of any future public law that is the same or substantially the same as section 10005 of the Act.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 21, 2017

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