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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP91

VA Dental Insurance Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document revises Department of Veterans Affairs (VA) medical regulations to reflect the codification of the authority for the VA Dental Insurance Program (VADIP), a program through which VA contracts with private dental insurers to offer premium-based dental insurance to enrolled veterans and certain survivors and dependents of veterans. The VA Dental Insurance Reauthorization Act of 2016 codified the authority of the VADIP, and this final rulemaking accordingly revises the authority citation in the VA medical regulations that implement VADIP.

DATES: *Effective Date:* This rule is effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Bridget Souza, Deputy Director, Business Policy, Office of Community Care (10D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 382–2537. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 510 of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163, required VA to carry out a pilot program to assess the feasibility and advisability of providing a dental insurance plan to veterans and certain survivors and dependents of veterans, known as the VA Dental Insurance Program (VADIP). Under VADIP and as required by law, VA contracts with private insurers to offer the dental insurance, and the private insurer is then responsible for the actual administration of the dental insurance plans and the provision of dental benefits. VA's role under VADIP is primarily to form the contract with the private insurer and to verify the eligibility of veterans, survivors, and dependents. VA establishes VADIP criteria related to eligibility, benefits, enrollment, and other program elements as required by law, in 38 CFR 17.169 (78 FR 32126, 79 FR 62441).

The VA Dental Insurance Reauthorization Act of 2016, Public Law 114–218, codified the VADIP authority at 38 U.S.C. 1712C and established a sunset date for VADIP of December 31, 2021. Public Law 114–218 did not otherwise make any substantive changes to the VADIP established in section 510 of Public Law 111–163 and implemented in 38 CFR 17.169. Therefore, the only regulatory change required by Public Law 114–218 is the revision of the authority citation for § 17.169 to read 38 U.S.C. 1712C, and we make this revision in this final rule. While we recognize that the authority to operate the VADIP expires on December 31, 2021, we do not revise § 17.169 to include this date.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Administrative Procedure Act

The VA Secretary finds under 5 U.S.C. 553(b)(B) that there is good cause to publish this rule without prior opportunity for public comment, and under 5 U.S.C. 553(d)(3) that there is good cause to publish this rule with an immediate effective date. This rulemaking makes a non-substantive change to update the authority citation for 38 CFR 17.169 (Pub. L. 114–218). Notice and public comment are unnecessary because they could not result in any change to this provision. Further, since Public Law 114–218 became effective on its date of enactment and is already in effect, VA finds good cause to make this change effective on the date of its publication.

Unfunded Mandates

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

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number (5 CFR 1320.8(b)(3)(vi)). This action contains no new or revised collections of information.

Regulatory Flexibility Act

The VA Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–12). This final rule merely updates the authority citation for 38 CFR 17.169; it does not revise any substantive criteria in the regulation, and this rulemaking will not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the regulatory flexibility analysis requirements of section 604.

Executive Order 13563 and Executive Order 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review)

emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this rule are 64.009 Veterans Medical Care Benefits and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on March 29, 2017, for publication.

Dated: March 30, 2017.

Janet Coleman,

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

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Dental health, Government contracts, Health care, Health professions, Health records, Veterans.

For the reasons set forth in the supplementary information of this rulemaking, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding an entry for § 17.169 in numerical order to read in part as follows:

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

* * * * *

Section 17.169 also issued under 38 U.S.C. 1712C.

* * * * *

§ 17.169 [Amended]

■ 2. Amend § 17.169 by removing the sectional authority citation.

[FR Doc. 2017–06579 Filed 4–3–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 530 and 531

[Docket No. 16–05]

RIN 3072–AC53

Amendments to Regulations Governing Service Contracts and NVOCC Service Arrangements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (FMC or Commission) amends its rules governing Service Contracts and NVOCC Service Arrangements. The rule is intended to update and modernize the Commission's regulations and reduce the regulatory burden.

DATES: *Effective Date:* May 5, 2017.

FOR FURTHER INFORMATION CONTACT: For technical questions, contact: Florence A. Carr, Director, Bureau of Trade Analysis, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. *Phone:* (202) 523–5796. *Email: TradeAnalysis@fmc.gov*. For legal questions, contact: Tyler J. Wood, General Counsel, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001. *Phone:* (202) 523–5740. *Email: GeneralCounsel@fmc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In 1984, Congress passed the Shipping Act of 1984 (the Shipping Act or the Act), 46 U.S.C. 40101 *et seq.,* which introduced the concept of carriage under service contracts filed with the Federal Maritime Commission. The pricing of liner services via negotiated contracts, rather than exclusively by public tariffs, was a change that had profound effects on the liner industry. FMC regulations require all ocean freight rates, surcharges, and accessorial charges in liner trades be published in ocean common carrier tariffs or agreed to in service contracts filed with the Commission. Contemporaneous with the filing of service contracts, carriers are also required to make available to the public a concise statement of essential terms in tariff format.

In 1998, Congress passed the Ocean Shipping Reform Act (OSRA), amending the Shipping Act of 1984 relating to service contracts. To facilitate compliance and minimize the filing burdens on the oceanborne commerce of the United States, service contracts and amendments effective after April 30, 1999, are required by FMC regulations to be filed with the Commission in electronic format. This eliminated the regulatory burden of filing in paper format, thereby saving ocean carriers both time and money. In addition, OSRA reduced the essential terms that had to be made publicly available.[1] Service contracts and amendments continue to be filed in the Commission's electronic filing system, SERVCON.

In 2005, the Commission issued a rule exempting non-vessel-operating common carriers (NVOCCs) from certain tariff publication requirements of the Shipping Act, pursuant to section 16 of the Shipping Act, 46 U.S.C. 40103. 69 FR 75850 (Dec. 20, 2004) (final rule). Under the exemption, NVOCCs are relieved from certain Shipping Act tariff requirements, provided that the carriage in question is performed pursuant to an NVOCC Service Arrangement (NSA)

[1] Prior to OSRA, contract rates were published in the essential terms tariff publication, thereby allowing similarly situated shippers to request and obtain similar terms. In enacting OSRA, Congress limited the essential terms publication to the following terms: The origin and destination port ranges, the commodities, the minimum volume or portion, and the duration.

filed with the Commission and that the essential terms are published in the NVOCC's tariff. 46 CFR 531.1, 531.5, and 531.9.

This rulemaking is the first comprehensive review of the FMC's service contract regulations in part 530 since the Commission promulgated implementing rules pursuant to OSRA and the first substantive revisions to the NSA regulations in part 531 since NSAs were introduced by rule in 2005. Given the industry changes that have transpired since these rules were last revised, the Commission has sought extensive public comment throughout this rulemaking process. Most recently, the Commission published a Notice of Proposed Rulemaking (NPRM) proposing to amend parts 530 and 531, and received six comments. 81 FR 56559–56571 (Aug. 22, 2016). Previously, the Commission sought public input through the publication of an Advance Notice of Proposed Rulemaking (ANPRM) 81 FR 10198–10204 (Feb. 29, 2016), and received twelve comments. In addition, public comments were received earlier from the National Customs Brokers and Forwarders Association of America, Inc. (NCBFAA) and a group of major ocean common carriers in response to the Commission's Plan for Retrospective Review of Existing Rules.[2] All the aforementioned comments are available on the Commission's Web site under Docket No. 16–05 through the Electronic Reading Room link at: *http://www.fmc.gov/16–05.*

The six comments filed specifically in response to the NPRM were submitted by Crowley Latin America Services, LLC and Crowley Caribbean Services, LLC (jointly, Crowley); NCBFAA; the National Industrial Transportation League (NITL); UPS Ocean Freight Services, Inc., UPS Europe SPRL, UPS Asia Group Pte. Ltd. and UPS Supply Chain Solutions, Inc. (collectively, UPS); the World Shipping Council (WSC), and one anonymous commenter purporting to be an export trading company that trades agricultural products.

The commenters in this proceeding represent a broad cross-section of industry stakeholders, including vessel-operating common carriers (VOCCs), major trade associations, licensed NVOCCs and freight forwarders, registered foreign-based NVOCCs, beneficial cargo owners, a shippers' association, and a tariff publishing and contract management firm. The Commission has benefited from the wide public participation of stakeholders in this rulemaking and carefully considered their perspectives.

II. Discussion

The Commission's primary focus in this rulemaking has been to identify areas appropriate for possible regulatory relief, as well as opportunities to streamline both FMC and industry business processes and leverage Commission technology to facilitate compliance, while maintaining the Commission's ability to carry out its oversight responsibilities. In addition, recent Executive Orders have highlighted the benefits of reducing unnecessary and costly regulations.[3] Although these Executive Orders may not directly apply to the Commission,[4] the Commission respects the purpose of the Executive Orders and is committed to reducing regulatory burdens where feasible. Accordingly, the Commission has carefully considered the appropriate regulatory relief that will allow parties to commercial shipping transactions to more efficiently engage in the movement of U.S. import and export cargo on the high seas, while protecting shippers from potential financial harm. While this rule is deregulatory in nature, the rule preserves the Commission's ability to carry out its mission under the Shipping Act of 1984.

Below, on a section-by-section basis, is a discussion of the regulations governing service contracts and NSAs in 46 CFR parts 530 and 531, respectively. In some instances, the Commission has determined that proposed changes in the NPRM do not necessarily decrease regulatory burdens on the industry and is thus not adopting those changes in the final rule. The Commission is deferring these changes for the time being but may reconsider them in a future rulemaking.

Part 530—Service Contracts

Subpart A—General Provisions

Section 530.3 Definitions

Section 530.3 Affiliate

The current regulations regarding service contracts do not define the term ''affiliate,'' and the Commission periodically receives requests from ocean carriers for guidance regarding the criteria used to determine affiliation with respect to the shipper party to service contracts. Whether an entity is determined to be an affiliate of the contract shipper is an important matter because affiliates, as parties to the service contract, have full access to the rates, terms and conditions of the otherwise confidential contract. In contrast, the Commission's regulations governing NSAs at § 531.3(b) and NVOCC Negotiated Rate Arrangements (NRAs) at § 532.3(e) define the term *affiliate,* to mean: ''two or more entities which are under common ownership or control by reason of being parent and subsidiary or entities associated with, under common control with, or otherwise related to each other through common stock ownership or common directors or officers.'' To the extent that a lack of clarity regarding service contract shipper party affiliates stems from the absence of a definition of *affiliate* in part 530, the Commission sought to address this inconsistency by proposing to adopt the same definition currently published in parts 531 and 532.

The Commission's NPRM requested comment on this issue. In its comments, Crowley supported the addition of the definition ''subject to the understanding that carriers would remain free to adopt alternative definitions (*e.g.,* by requiring a minimum level of common ownership).'' To this point, WSC, in its earlier comment on the ANPRM, asked the Commission to clarify that the adoption of the definition ''does not preclude more specific definitions of that term in service contracts or tariffs, so long as those more specific definitions fall within the scope of the Commission's definition.'' WSC cited as an example the inclusion in an individual carrier's service contract of a minimum level of ownership between two shipper entities to be considered affiliates. The Commission confirms that the inclusion of the definition of *affiliate* in part 530 does not preclude an individual carrier adopting a more narrow definition of affiliate in its service contracts.

UPS raised a separate concern regarding affiliates in its NPRM comments, stating that global logistics

[2] The commenting carriers consisted of 30 ocean carriers participating in the following agreements active at that time: The 14 members of the Transpacific Stabilization Agreement; 10 members of the Westbound Transpacific Stabilization Agreement; the 6 members of the Central America Discussion Agreement; the 11 members of the West Coast of South America Discussion Agreement; the 5 members of the Venezuela Discussion Agreement; the 3 members of the ABC Discussion Agreement; the 6 members of the United States Australasia Discussion Agreement; and the 3 members of the Australia and New Zealand-United States Discussion Agreement.

[3] Executive Order (EO) 13771, *Reducing Regulation and Controlling Regulatory Costs* (Jan. 30, 2017); EO 13777, *Enforcing the Regulatory Reform Agenda* (February 24, 2017).

[4] *See* Office of Information and Regulatory Affairs, *Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled* ''*Reducing Regulation and Controlling Regulatory Costs*'' (Feb. 2, 2017).

companies commonly employ non-affiliated overseas agents to facilitate the movement of cargo and that those agents have historically been listed as the NVOCC's ''affiliates'' under service contracts with VOCCs. This enables the local agent to originate bookings under the service contract. In connection with such shipments, UPS states that the overseas agent is listed as the ''shipper'' on the VOCC's master bill of lading, with the FMC licensed or registered NVOCC listed as the ''consignee.'' UPS asks the Commission to ''consider and address'' whether this practice is still compliant as long as the non-affiliated booking agent clearly acts as the agent for the NVOCC and/or the NVOCC appears on the VOCC's master bill of lading as the consignee or notify party.

Given the concerns in the comments about the effect of this change on current industry practices and the Commission's determination, as noted above, to only adopt in this final rule those changes that will immediately reduce regulatory burdens, the Commission has determined not to add a definition of *affiliate* to Part 530.

Section 530.3(i) Effective date

Pursuant to Commission rules, a service contract or amendment cannot become effective prior to its filing with the Commission. Carriers and shippers have asserted that the service contract effective date requirement is overly restrictive, given current commercial practices, particularly with respect to service contract amendments. Further, carriers aver that the majority of amendments are for minor revisions to commercial terms, such as a revised rate or the addition of a new origin/destination or commodity. Carriers have cited instances in which the parties have agreed to amend the contract, however, due to unavoidable circumstances, the cargo was received before the carrier filed the amendment with the Commission. In such cases, the amendment's rates and terms may not be applied to that cargo pursuant to the Commission's rules, leading the parties to effect a commercial remedy in a future amendment to compensate the shipper for the financial harm resulting from the carrier's failure to timely file the amendment. In their comments, carriers and shippers requested that the Commission consider introducing regulatory flexibility by allowing up to 30 days for the filing of service contract amendments after agreement is reached between the parties.

As noted, during this regulatory review the Commission has carefully weighed the extent to which the regulatory burden imposed on the ocean transportation industry could potentially be reduced, given the FMC's mission, strategic goals and oversight responsibilities. In the NPRM, the Commission sought additional comment on a proposal to allow the filing of sequential service contract amendments in the SERVCON system within 30 days of the effective date of the agreement reached between the shipper and carrier. NCBFAA, NITL, WSC, UPS and Crowley all supported this change for service contract amendments in their NPRM comments.

While NCBFAA supports a 30-day period for filing both service contract amendments and NSA amendments, it tempers its support with a note of caution. NCBFAA advises that VOCCs often announce General Rate Increases (GRIs) and Peak Season Surcharges that are later mitigated prior to their effective dates. NCBFAA requests that the Commission ''ensure that any retroactive amendment reflects the actual agreement between the parties at the time that agreement is reached.'' The Commission believes that adherence to the agreed upon terms of a service contract provides the shipper with important protections. Carrier abuse of those protections is a serious matter under the Shipping Act and such carrier behavior will be subject to close scrutiny by the Commission, with appropriate Commission action if violations of the Act are found. In addition, a shipper that believes a carrier has breached the agreed-upon terms of a contract may bring an action in the appropriate court or in another forum agreed to by the contract parties.[5]

The Commission also sought comment in the NPRM regarding the concerns of Global Maritime Transportation Services, Inc. (GMTS) regarding the impact of a 30-day period for filing service contract amendments on carrier compliance with § 530.6 and § 515.27, which require carriers to obtain proof that an NVOCC has complied with the Shipping Act and prohibit carriers from serving noncompliant NVOCCs. In its comments to the ANPRM, GMTS asserted that the current requirement for filing a service contract amendment on or before its effective date ensures that full compliance with the tariff, contract, and amendments are determined prior to filing with the FMC. In its comments to the NPRM, WSC maintains that, from both a regulatory and commercial perspective, carriers and shippers are incentivized to manage service contract documentation carefully.

The Commission has carefully considered the request for regulatory relief by both carriers and shippers to allow amendments to service contracts to become effective prior to their being filed with the Commission. The Commission notes the inherent commercial difficulties when a service contract rate cannot be applied to a given shipment due to a delay in filing. Additionally, the Commission has considered the impact of this change on the carriers' associated filing burden. Ocean carriers have cited the regulatory burden associated with filing more than 550,000 service contract amendments annually with the Commission as the largest administrative burden for both carriers and their customers. For example, under the current filing requirements, during a 30-day period, a service contract amendment can only be processed and filed on or before its effective date. The proposed relief would allow the processing and filing of multiple service contract amendments initiated during a 30-day period at a set or scheduled time during that period as determined by the carrier.

The Commission has also weighed the need to fulfill its regulatory responsibilities to ensure shipper protections and the impact this relief would have on its ability to successfully maintain those protections. On balance, the Commission believes that this change will reduce the filing burdens on the shipping industry while maintaining the Commission's ability to protect the shipping public. Further, by adjusting the date on which amendments can become effective, this change reduces the commercial harm from delayed filings by allowing the parties to apply the rates and terms agreed to in a service contract amendment to the intended shipments. The Commission has therefore determined to amend the definition of ''effective date'' to mean the date upon which a service contract amendment is scheduled to go into effect by the parties, so long as that date is no more than 30 days prior to the amendment being filed with the Commission.

Section 530.5 Duty To file

The Commission sought comment in the NPRM regarding its proposal to amend the regulations to ensure that ocean carriers are aware of the availability of the automated web services process for filing original service contracts and amendments. No comments were received in response to the NPRM on this issue. The Commission has determined not to adopt its proposal to amend the regulations to provide notice of the

[5] *See* 46 U.S.C. 40502(f).

availability of the automated web services process because it does not appear to immediately reduce regulatory burdens.

Section 530.6 Certification of Shipper Status

Shippers entering into service contracts must certify their status, and VOCCs are required to obtain proof of an NVOCC's compliance with tariff and financial responsibility requirements. Section 530.6(b) currently allows carriers to obtain such proof by any of the methods in 46 CFR 515.27. Many carriers routinely utilize one of the prescribed methods, consulting the FMC's Web site, *www.fmc.gov,* to verify whether an NVOCC contract holder or affiliate is in good standing, while other carriers employ more rigorous standards by requiring copies of the NVOCC's bond and the title page of its published tariff.[6] In addition, many VOCCs incorporate the NVOCC's 6-digit FMC Organization Number into the service contract, indicating that the VOCC validated its compliance with the requirements of § 530.6 for shipper parties that are NVOCCs. A carrier that meets the requirements in § 530.6(a) and (b) is also deemed to be in compliance with 46 U.S.C. 41104(12) (section 10(b)(12) of the Shipping Act), which prohibits carriers from knowingly and willfully entering into service contracts with ocean transportation intermediaries that do not meet the Act's tariff and financial responsibility requirements.[7]

In response to regular queries from carriers about the capability of FMC's electronic systems to automatically determine the status of an NVOCC party in a service contract and to verify compliance with § 530.6, Commission staff explored potential options that would leverage technology and the FMC's databases. The Commission asked for comments in its NPRM on whether the FMC should move forward in requiring filings to include the 6-digit FMC Organization Number of any NVOCC parties to a service contract in a new data field created on the SERVCON filing screen. This would reduce a carrier's need to consult the Commission's Web site or use other methods to obtain proof of NVOCC compliance with the relevant requirements before filing service contracts.

The Commission received comments to the NPRM regarding this proposal from WSC, Crowley and UPS, all of which supported an additional dedicated field in SERVCON for entry of an NVOCC's Organization Number to validate whether the NVOCC is in good standing. UPS's comments sought assurance that the practice of reliance on the NVOCC's certification and the FMC's Web site information would continue to provide a ''safe harbor'' under § 530.6(d) with respect to 46 U.S.C. 41104(12). WSC's support was based on their understanding that ''carriers could continue to rely upon existing compliance procedures outside of SERVCON if they so choose.''

The Commission has further investigated the technical feasibility of adding the proposed Organization Number entry and verification capabilities to SERVCON and has determined that the necessary improvements would take well over a year to make to the system. In addition, the comments suggest a preference by some VOCCs to continue to use current methods to certify NVOCC compliance, rather than relying on verification from SERVCON in response to the entry of the NVOCC's Organization Number. Given the time and resources necessary to reprogram SERVCON, and the uncertainty raised by the comments regarding the benefit to the industry from the change, the Commission is not adopting the requirement that VOCCs input an NVOCC's 6-digit FMC Organization Number in a new data field in the SERVCON system, when an NVOCC is the contract holder or affiliate. The Commission may reconsider this requirement in a future rulemaking.

Subpart B—Filing Requirements

Section 530.8 Service Contracts

For the reasons discussed above, the Commission is permitting the filing of service contract amendments up to 30 days after the effective date of the agreement. Accordingly, as proposed in the NPRM, the Commission is revising § 530.8(a) to reflect this change. The Commission believes that permitting immediate implementation of changes to service contracts upon agreement by the parties rather than delaying implementation until the contract amendment is filed with the FMC, will result in positive benefits affecting the business processes of shippers, carriers, and the maritime industry supply chain as a whole by expediting the flow of commerce. This assertion is also supported by comments in this rulemaking record received by both ocean carriers and shippers.

The Commission sought comment in the NPRM on two options for allowing service contract amendments to be filed up to 30 days after agreement: (1) Filing each service contract amendment individually and sequentially within 30 days of its effectiveness; or (2) consolidating any number of service contract amendments into a single document, to be filed within 30 days of the effective date of the earliest of all amendments contained in the document. The Commission engaged in a detailed explanation in the NPRM of the manner in which service contract amendments are presently filed into the SERVCON system, and described considerations that filers should take into account when evaluating and commenting on the two approaches.

Option 1 closely reflects current filing procedures, and therefore, requires minimal, if any, reprogramming of SERVCON. Under this sequential amendment filing procedure, SERVCON would process the initial service contract as Amendment ''0,'' with subsequent amendments to the contract numbered sequentially, beginning with Amendment No. ''1.'' Each amendment filing would require the filer to enter the effective date of that amendment. Under this option, the only difference from the present process would be that the effective date of the contract entered into the SERVCON system could be up to 30 days prior to the filing date.

Option 2 would allow the consolidation of multiple service contract amendments into a single ''batch'' filing. This option was considered based on an earlier carrier proposal to aggregate several contract amendments into a single document to effect a monthly filing. As explained in the NPRM, SERVCON is not currently capable of processing multiple amendments consolidated into a single filing, *e.g.,* Amendment Nos. 2 through 10, with multiple effective dates. Thus, this approach would require a substantial amount of reprogramming and considerable expense to enable the system to capture multiple effective dates and multiple amendment numbers. Consolidating several service contract amendments would also prevent carriers from using the Commission's web services technology in accordance with § 530.5, thereby offsetting the advantages of web services, which requires no manual data entry and is intended to streamline processes and reduce the burden of filing.

[6] In addition to permitting carriers to consult the FMC Web site to obtain proof NVOCC compliance with the tariff financial responsibility requirements, § 515.27 permits carriers to use any other appropriate procedure to obtain such proof, provided that the procedure is set forth in the carrier's tariff.

[7] 46 CFR 530.6(d).

In this regard, the WSC's NPRM comments stated:

> In light of the programming changes that would be required in SERVCON (and the possible programming requirements that might be required by carriers), WSC at this stage accepts the Commission's proposal not to change the SERVCON system to accept multiple amendments in a single document. Simplicity, not additional complexity, should be the guiding principle. If it becomes possible for the Commission to process multiple amendments in a single document, then the Commission should accept such filing when the capability becomes available.

Crowley further commented:

> Moreover, given a choice between a prompt implementation of the proposals contained in the NPR and delaying implementation of those proposals until the SERVCON system can be reprogrammed to accommodate batch-type filings, Crowley would prefer prompt implementation of the proposals. However, having said this Crowley does not believe that reprogramming of the SERVCON system is necessary to accommodate batch-type filings.

NITL also commented on this issue, stating that in light of the technical difficulties associated with filing ''batches'' of amendments, it agreed with the Commission's sequential filing approach. While Crowley suggests that reprogramming of the SERVCON system would not be required to accommodate ''batch'' filing of multiple service contract amendments in a single document, the Commission's Office of Information Technology disagrees with Crowley's assessment.

The Commission's current service contract filing system requires filers to specify the effective date when uploading an original service contract or a contract amendment. The Commission's rules do not prohibit the inclusion in an original service contract or amendment of rates and terms that become effective on a date that is later than the contract or amendment's overall effective date. Carriers are reminded, however, of their obligations under 46 CFR 530.12(b) to provide ''certainty of terms'' in service contracts, including clearly designating all effective dates and the specific terms to which such dates have application. Based on the comments received, the Commission has determined to maintain its existing protocol requiring sequentially numbered amendments to service contracts, *i.e.,* Option 1.

Section 530.10 Amendment, Correction, Cancellation, and Electronic Transmission Errors

This section of the regulations addresses how service contracts may be amended, corrected, cancelled, and how to treat electronic transmission errors. VOCCs' earlier comments noted that current service contract correction procedures are outdated, and maintained that these procedures are ''ill suited'' to the manner in which service contracts are employed today. The carriers requested a number of revisions to these requirements. The NPRM sought comment regarding service contract correction requests and corrected transmissions. An item by item discussion follows.

Electronic Transmission Errors

Pursuant to § 530.10(d), carriers may file a ''Corrected Transmission'' (CT) within forty-eight (48) hours of filing a service contract or amendment into SERVCON, but only to correct a purely technical data transmission error or a data conversion error that occurred during uploading. A CT may not be used to make changes to rates, terms or conditions and, accordingly, its application is limited.

Most service contract filings are uploaded into the Commission's SERVCON system without encountering problems. When electronic transmission errors do occur, however, carriers often do not discover the error until after the initial 48-hour period has passed. Generally, these types of mistakes are attributable to data entry errors on the SERVCON upload screen (*e.g.,* a typographical error is made when entering the amendment number, service contract number or effective date, or the incorrect contract or amendment is attached during uploading).

The Commission believes that allowing additional time to correct technical data transmission errors would provide regulatory relief to a narrow category of service contract filing problems without hampering the Commission's regulatory responsibilities. Consequently, in the NPRM, the Commission proposed extending the time permitted to file a Corrected Transmission from 48 hours after the service contract or amendment filing to 30 days. None of the commenters objected to this proposal and WSC, Crowley, and NCBFAA expressly supported the change.

The Commission recognizes that purely technical data transmission errors occur when service contracts and amendments are uploaded into the SERVCON system and has determined to provide regulatory relief by substantially extending the time period to correct such errors. While the industry has not submitted data quantifying the cost savings of this relief, the Commission anticipates that this change will allow service contract filers additional flexibility in conjunction with the 30-day amendment process, further streamlining their business processes. Accordingly, the Commission hereby amends its regulations to allow the filing of Corrected Transmissions within 30 days of the service contract or amendment filing.

Extend Filing Period for Correction Requests to 180 Days

The Commission's rules at § 530.10(c) permit the retroactive correction of a clerical or administrative error in a service contract if the request for correction is filed in accordance with the Commission's requirements and is submitted within 45 days of service contract filing. Current practices in ocean shipping can result in long transit times due to carriers' global pendulum services or slow steaming, at times leading to the shipper's discovery of a discrepancy between the rate quoted and that filed in its service contract long after cargo has been moved and invoiced on the bill of lading. These administrative or clerical errors therefore might not be detected within 45 days of the cargo being tendered for transportation. In other cases, shippers may initiate internal or outsourced audits of their bills of lading, which detect errors in filed service contracts that differ from rates offered. These audits may occur well after the 45-day period.

The Commission recognizes that the discovery of a clerical or administrative error in a service contract which is contrary to the agreement of the parties may not occur within 45 days of filing. The Commission frequently responds to inquiries from carriers asking to correct a service contract error which was not discovered until after the current 45-day time limit for correction requests has expired. In such cases, no regulatory remedy exists and the parties must make a commercial accommodation in the service contract to address the problem.

Given the foregoing, the Commission's NPRM proposed extending the period in which to file a service contract correction request from 45 days after the contract's filing to 180 days. None of the commenters objected to this proposal, and WSC, Crowley, and NCBFAA support extending the time to file a service contract correction request to 180 days. The Commission believes that extending the time period to file service contract correction requests provides a more efficient solution to address a service contract administrative or clerical error than the costly commercial ''work arounds''

described by carriers and used to address an error to remain in compliance with existing regulations.

The Commission recognizes that ocean carriers and shippers can avoid the potentially costly consequences of such errors if they have more time to file a service contract correction request. Increasing the time to file by four-fold will not only better align the Commission's filing requirements with industry business processes used to identify and correct errors, it will eliminate costly and inefficient commercial solutions used to comply with the current regulations.

Therefore, the Commission is hereby amending its regulations to allow a service contract correction request to be filed within 180 days of the contract's filing with the Commission.

Eliminate Carrier Affidavit and Significantly Reduce Filing Fee

Ocean carriers requested that the Commission eliminate the affidavit requirement for a service contract correction request and reduce the filing fee, previously set at $315. NITL supported the elimination of the affidavit requirement terming it ''unduly burdensome.'' If the affidavit requirement were eliminated, however, Commission time spent researching and verifying information would lengthen considerably, and concomitantly, the filing fee would increase commensurate with the additional time required for research and analysis. The Commission has determined that eliminating the carrier affidavit requirement would not be beneficial to the service contract correction process, as the filing party is required to attest with specificity to the factual circumstances surrounding the clerical or administrative error. With respect to the request to lower the filing fee, in the Commission recently reduced the fee in a separate rulemaking, from $315 to $95, to reflect the Commission's streamlined internal processes, which rely upon the affidavits submitted with the requests.[8] The Commission has therefore determined to maintain the existing affidavit requirement as it provides clarity and certainty to the corrections process and results in a lower filing fee for correction requests.

Extend the Service Contract Correction Procedure To Include Unfiled Contracts and Amendments

Prior to the initiation of this rulemaking and in response to the Commission's request for comments on its Plan for Retrospective Review of Existing Rules, the ocean carriers requested that the Commission allow the correction process to also be used for unfiled service contracts and service contract amendments. That is, they wanted to use the process for correcting clerical or administrative errors to fix the error of failing to file a service contract or amendment in the first place. In response to the ANPRM, GMTS indicated its support for this proposal, provided that the Commission maintain the requirement that an entity seeking a correction file an affidavit supporting the correction. In the NPRM, the Commission did not propose extending the correction process for clerical or administrative errors to situation in which a carrier failed to file the contract. The Commission explained that extending the correction process in this manner would undermine the Shipping Act's filing requirements and shippers' reliance thereon.

None of the commenters to the NPRM directly sought to revive the carriers' proposal. NITL did, however, mention it in its comment and stated that ''[t]he failure to file a contract or contract amendment that is agreed upon between the shipper and carrier can have serious adverse consequences for the shipper.'' NITL further noted that ''[w]ithout a contract on file the tariff must apply which is often higher.'' NITL accordingly emphasized that ''there should be a process available to ensure that a shipper is not penalized for a carrier's error in failing to file'' a service contract or amendment thereto.

To the extent that the ''process'' NITL seeks is the carriers' proposal to extend the correction process to include failing to file a service contract or amendment, the Commission reiterates that the Shipping Act requires that service contracts be filed with the Commission. In the past, shippers have expressed confidence in knowing that both the shipper and carrier will honor those commitments found in service contracts filed with the FMC. As discussed above, the Commission recognizes that some flexibility in filing is needed and is allowing amendments to service contracts to be filed within 30 days of the agreement between the parties.

The potential for abuse of the correction process by allowing the submission of unfiled contracts and amendments as much as 180 days after shipments have commenced, however, raises significant concerns of potential harm to shippers. As noted supra, commenters such as NCBFAA have raised concerns that retroactive filings may lead shipper parties to learn of GRIs or other additional charges only when the retroactive filing is made with the Commission; such changes, in effect, deprive the shipper of the opportunity to negotiate the mitigation of any new or previously uncommunicated charges. In the case of original service contracts, shipper protections at the time of contracting and for the ensuing contract term are best assured by requiring that the agreement be contemporaneously filed as the best evidence of the actual agreement between the parties when first reached. Such a change could also compromise the Commission's ability to conduct its investigatory and enforcement duties if unfiled contracts were submitted on such a delayed basis through the correction process. Unlike those limited and modest revisions to accommodate industry needs for correction of contract amendments, failure to file the original contract may conceal the very existence of a contractual arrangement in a given trade lane or lanes, avoiding early detection of market-distorting practices by individual carriers. For competing carriers and NVOCCs, extension of the correction process to unfiled original service contracts also may serve to conceal or delay recognition of another VOCC's failure to adequately distinguish between NVOCCs lawfully entitled to contract with VOCCs, and those unlicensed or unregistered entities who are completely barred under the statute from so contracting.

Given the foregoing considerations, the Commission is not expanding the service contract correction process to include unfiled service contracts and amendments.

Subpart C—Publication of Essential Terms

Section 530.12 Publication

During discussions with stakeholders held prior to the initiation of this rulemaking, several advised that essential terms publications were no longer accessed by the public or useful. The Commission did not propose modifying its rules regarding the publication of essential terms. NITL, however, commented:

> In our view, the publication of essential terms of service contracts has likely now outlived its commercial value. We do not believe that shippers or other primary stakeholders engaged in the ocean shipping market rely on their publication any longer; it is likely a regulatory burden without any benefit, and we encourage the Commission to eliminate the requirement for publication of essential terms in a service contract.

However, other stakeholders indicated that they rely on them for various purposes, such as during a

[8] *See* FMC Docket No. 16–06, *Update of Existing and Addition of New User Fees,* 81 FR 59141–59145 (Aug. 29, 2016). The reduced fee became effective October 1, 2016.

grievance proceeding under collective bargaining agreements. Given that some stakeholders have indicated they still find them of value, the Commission is not eliminating this requirement.

UPS commented that it supports the ''concept of allowing amendments to be filed and essential terms publication to be completed within a reasonable time after the effective date, rather than in advance.'' In this regard, 46 CFR 530.12(h) provides that when the published statement of essential terms is affected by filed amendments, corrections or cancellations, the current terms shall be changed and published as soon as possible. We interpret that to mean the essential terms publication associated with an amendment should be contemporaneous with the filing of the amendment with the Commission.

Subpart D—Exceptions and Implementation

Section 530.13 Exceptions and Exemptions

Section 530.13(a) Statutory Exceptions

Section 530.13(a) of the Commission's regulations exempts certain commodities from the tariff publication and service contract filing requirements of the Shipping Act. See 46 U.S.C. 40501(a)(1) and 40502(b)(1). Commodities currently exempt pursuant to the Act are bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, and waste paper or paper waste.

WSC and Crowley supported expanding the list of exempt commodities in their comments on the ANPRM. Concerns regarding expansion of the list of exempt commodities centered around shipper experiences pertaining to currently exempt commodities. Of note, two of the commodities proposed for exemption by WSC and the ocean carriers are commodities for which shippers pay some of the highest freight rates in the U.S. export trade, namely, refrigerated cargoes and cattle hides. Exporters of currently exempt commodities have expressed frustration regarding the ocean carrier practice of offering exempt commodity tariff rates with periods of limited duration, in some cases for only 30 to 60 days, rather than for the longer periods that are customary in service contracts. Further, exempt commodity tariffs are not published and do not provide shippers with 30 days' notice prior to implementation of rate increases. Whereas service contracts allow shippers to negotiate rates and terms with carriers to tailor services and terms to the shipper's specific needs, many exporters advise that shippers of exempt commodities are not afforded this opportunity.

Only two parties commented on the issue of expanding the exempt commodity list. NITL stated that it ''believes this matter merits further examination and public dialogue.'' NITL did not elaborate or provide any additional information regarding the nature of the dialogue it suggests. Nor did it suggest that this matter be addressed in the current rulemaking.

A second, anonymous commenter identifying itself as an export trading company which trades agricultural products and ships approximately 5,000 TEUs annually, opposes expanding the current exempt list of commodities, citing ''the business struggles it would create for ourselves and our customers that would arise if we did not have a service contracts *[sic]* with carriers.'' [9] The company explains that the contracts they enter into with their customers ''contain many requirements that are also guaranteed in our service contracts with ocean carriers'' and expresses ''fear'' that without service contracts, rates may only be offered to them on a 30-day basis. As this export trading company's sales timeline is usually 90 days or more forward, they anticipate that the ocean carriers would ''gouge'' them on price, assessing GRIs and raising rates without notice.

Given the potential disadvantage to shippers in negotiating with ocean carriers for transportation of exempt commodities, and the lack of shipper support for exempting additional commodities, the Commission will not exercise its exemption authority under 46 U.S.C. 40103 (section 16 of the Shipping Act) at this time to add new commodities to the list of those exempted from the FMC's tariff publication and service contract filing requirements. Opening a dialogue on whether to expand the exempt commodity list could significantly delay this rulemaking, and the Commission notes that concerned stakeholders with compelling reasons to request an exemption may petition the Commission at any time.

Section 530.14 Implementation

As the Commission will allow up to 30 days for filing service contract amendments after the agreement of the parties, corresponding changes will be made in this section to address when performance may commence under a service contract amendment. No comments were received regarding these changes.

Part 531—NVOCC Service Arrangements

Subpart A—General Provisions

In response to the NPRM, NCBFAA reiterated its earlier comments in response to the Commission's Plan for Retrospective Review of Existing Rules, and NCBFAA's petition for rulemaking in FMC Docket No. P2–15.[10] NCBFAA supported the Commission's consideration of regulatory changes focused on reducing unnecessary regulatory burdens and easing compliance by potentially allowing more time to process amendments to service contracts and NSAs, and to correct technical or substantive errors made in filings. More specifically, NCBFAA supports the filing of amendments for NSAs to be delayed up to 30 days after an amendment is agreed to by the parties. UPS also supports the concept of allowing NSA amendments to be filed ''within a reasonable time after the effective date,'' as does NITL.

NCBFAA also proposes, both in its comments to the NPRM and in its P2–15 petition, to ''eliminate NSA filing and publication requirements and broaden the utility of NVOCC Negotiated Rate Agreements ('NRAs').'' UPS strongly opposes ''phasing out'' NSAs in favor of unfiled NRAs. And NITL believes that the Commission ''has correctly deferred a decision on proposing more fundamental changes in the NVOCC regulatory realm to a future proceeding.''

The Commission will address the requests to eliminate the NSA filing and publication requirements in a separate rulemaking in response to NCBFAA's petition. Accordingly, the Commission takes no position at this time on the comments supporting or opposing such a change, and the Commission hereby implements those amendments to part 531, described in detail below, specific to this rulemaking.

Section 531.3 Definitions

Section 531.3(k) Effective Date

The Commission's regulations presently require that an NSA or

[9] Although exempting additional commodities from the tariff publication and service contract filing requirements would not prevent shippers and carriers from entering into service contracts for those commodities, it appears that the commenter is echoing our concern, stated above, that carriers often do not afford shippers of exempt commodities the opportunity to enter into service contracts.

[10] NCBFAA filed a petition for rulemaking on April 18, 2015. See Docket No. P2–15, *Petition of the National Customs Brokers and Forwarders Association of America, Inc. for Initiation of Rulemaking* (NCBFAA Petition). The Commission has accepted the NCBFAA Petition and, as previously announced, will address the proposals presented therein in a subsequent rulemaking proceeding.

amendment be filed on or before the date it becomes effective. The majority of commenters addressing NSA amendments supported the Commission granting NVOCCs the same flexibility in filing NSA amendments that it is granting to carriers in filing service contract amendments. As described in detail above, the Commission has determined to allow the filing of service contract amendments up to 30 days after an amendment is agreed to by the contract parties. The Commission believes that it is appropriate to extend the same regulatory relief to NVOCCs and hereby allow amendments to NSAs to become effective on the date specified by the parties, so long as the amendment is filed no later than 30 days after agreement is reached.

Section 531.5 Duty To File

The Commission is adding regulatory language in § 530.5 to apprise service contract filers of the option to use the automated web services when filing contracts and their corresponding amendments. As larger volume filers of NSAs may find web services advantageous, the Commission wishes to avail NVOCCs of this option as well. Therefore, the Commission is adding language to this section to alert NSA filers of their ability to use web services to file NSAs and amendments, should they so choose.

Subpart B—Filing Requirements

Section 531.6 NVOCC Service Arrangements

Currently, the Commission's regulations require that an NSA or amendment be filed on or before the date it becomes effective. As discussed above, the Commission will allow up to 30 days for filing NSA amendments after their effective date, and will make corresponding changes to § 531.6. As with service contracts, amendments are to be filed sequentially rather than in ''batches.''

Section 531.6(d) Other Requirements

Pursuant to § 531.6(d)(4), an NVOCC may not knowingly and willfully enter into an NSA with another NVOCC that is not in compliance with the Commission's tariff and proof of financial responsibility requirements. As more fully discussed above with respect to the revisions in § 530.6, the industry frequently refers to the Commission's Web site, *www.fmc.gov,* to verify whether an NVOCC contract holder or affiliate is compliant with these requirements.

The NPRM requested comment on different options that, upon development, would allow the FMC's SERVCON system to alert filers at the time of uploading service contracts, NSAs, and amendments thereto, if an NVOCC contract signatory or affiliate is not in good standing. The system-generated alert notifying the filer that an NVOCC is not in good standing is intended to leverage technology to assist filers with compliance. It does not result in the rejection of an NSA filing.

The Commission has further investigated the technical feasibility of adding the proposed Organization Number entry and verification capabilities to SERVCON and has determined that the necessary improvements would take well over a year to make to the system. As with the corresponding review of allowing VOCCs to check the status of an NVOCC, the Commission has determined not to proceed with regulatory modifications at this time. The Commission may take up this issue in future rulemaking proceedings.

Section 531.6(d)(5) Certification of Shipper Status

As noted above, shipper parties to service contracts must certify their status under the current service contract regulations in part 530. The Commission sought comment on whether to make this requirement consistent and uniform for both service contracts and NSAs. No comments were filed that directly addressed certification of shipper status in NSAs. Because this proposal would not result in immediate deregulatory impacts, the Commission has determined not to adopt an amendment to this requirement.

Section 531.8 Amendment, Correction, Cancellation, and Electronic Transmission Errors

Under the Commission's regulations, both VOCC service contracts and NSAs are agreements between a common carrier and a shipper for the carriage of cargo. Given these congruencies, the Commission plans to treat NSAs in a similar manner as service contracts regarding the correction procedures. A complete discussion of the changes requested by commenters concerning service contract amendment, correction, cancellation, and electronic transmission errors is included above. NCBFAA and NITL supported applying the regulatory relief extended to VOCCs to NVOCCs as well.

Therefore, the Commission is: (1) Extending the period to file a Corrected Transmission to remedy an NSA electronic transmission error under § 531.8(c) from 48 hours to 30 days after the NSA or amendment's filing; and (2) extending the period to file an NSA correction request under § 531.8(b) from 45 days to 180 days after the NSA or amendment's filing.

Subpart C—Publication of Essential Terms

Section 531.9 Publication

As noted previously, NCBFAA's comments requested that the Commission consider whether the NSA filing and the essential term publication requirements are necessary, and proposed eliminating those requirements. Similarly, NITL expressed that, in their view, the publication of essential terms has likely outlived its commercial value.

The Commission will address the request to eliminate all NSA publication requirements in the future rulemaking regarding NCBFAA's petition, No. P2–15.

Subpart D—Exceptions and Implementation

Section 531.10 Excepted and Exempted Commodities

The Commission sought comment on whether to treat VOCC service contracts and NSAs, as well as the tariffs of both VOCCs and NVOCCs, in a similar fashion with respect to exempted commodities. No comments were filed addressing this issue in the context of NVOCCs. As the Commission is not exercising its exemption authority under 46 U.S.C. 40103 (section 16 of the Shipping Act to exempt additional commodities for VOCCs, it will not do so for NVOCCs under this section.

Section 531.11 Implementation

Changes regarding the effective date of service contract amendments have been adopted by the Commission under part 530. The Commission is adopting similar requirements for NSA amendments in part 531.

III. Regulatory Notices and Analysis

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553), the agency must prepare and make available a final regulatory flexibility analysis (FRFA) describing the impact of the rule on small entities, unless the head of the agency certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 604–605. The

Chairman of the Federal Maritime Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The Commission has determined that VOCCs generally do not qualify as small under the guidelines of the Small Business Administration (SBA),[11] while the majority of NVOCCs and some shippers do qualify as small under the SBA guidelines. The Commission concludes, however, that the final rule would not have a significant economic impact on a substantial number of small entities.

In this regard, the final rule would affect the filing of service contracts and NSAs, both of which may have small NVOCCs or shippers as parties. This final rule will increase the flexibility of these arrangements by allowing service contract and NSA amendments to become effective before being filed with the Commission and by extending the time period in which parties can file Corrected Transmissions and correction requests with respect to service contracts and NSAs. Accordingly, this final rule will not have a significant impact on small NVOCCs or small shippers.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11.

The information collection requirements in part 530, Service Contracts, and part 531, NVOCC Service Arrangements, are currently authorized under OMB Control Numbers 3072–0065 and 3072–0070, respectively.

In compliance with the PRA, the Commission submitted the proposed revised information collections to the Office of Management and Budget. Notice of the revised information collections was published in the **Federal Register** and public comments were invited. *See* 81 FR 51446 (August 22, 2016). Comments received regarding the proposed changes, as well as the Commission's responses, are discussed above. No comments specifically addressed the revised information collections in part 530 and part 531.

[11] *See FMC Policy and Procedures Regarding Proper Considerations of Small Entities in Rulemakings* 4 (Feb. 7, 2003), *available at http://www.fmc.gov/assets/1/Page/SBREFA_Guidelines_2003.pdf.*

As noted above, this final rule will increase the flexibility of these arrangements by allowing service contract and NSA amendments to become effective before being filed with the Commission and by extending the time period in which parties can file Corrected Transmissions and correction requests with respect to service contracts and NSAs. In addition, the Commission is not adopting the proposed requirement that carrier parties to service contracts and NSAs enter into SERVCON an NVOCC's 6-digit FMC Organization Number in a new data field in the SERVCON system, when an NVOCC is the contract holder or affiliate. Accordingly, the Commission has determined that this rule will not increase the burdens associated with the relevant information collections.

Congressional Review Act

The rule is not a ''major rule'' as defined by the Congressional Review Act, codified at 5 U.S.C. 801 *et seq.* The rule will not result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies. 5 U.S.C. 804(2).

National Environmental Policy Act

The Commission's regulations categorically exclude rulemakings related to the receipt of service contracts from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4(a)(5). This rule falls within the categorical exclusion, and no environmental assessment or environmental impact statement is required.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects

46 CFR Part 530

Freight, Maritime carriers, Report and recordkeeping requirements.

46 CFR Part 531

Freight, Maritime carriers, Report and recordkeeping requirements.

For the reasons stated in the supplementary information, the Federal Maritime Commission amends 46 CFR parts 530 and 531 as follows:

PART 530—SERVICE CONTRACTS

■ 1. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. 305, 40301–41306, 40501–40503, 41307.

■ 2. Amend § 530.3 by revising paragraph (i) to read as follows:

§ 530.3 Definitions.

* * * * *

(i) *Effective date* means the date upon which a service contract or amendment is scheduled to go into effect by the parties to the contract. For an original service contract, the effective date cannot be prior to the filing date with the Commission. For a service contract amendment, the effective date can be no more than thirty (30) calendar days prior to the filing date with the Commission. A service contract or amendment thereto becomes effective at 12:01 a.m. Eastern Standard Time on the beginning of the effective date.

* * * * *

■ 3. Amend § 530.8 by revising paragraph (a) to read as follows:

§ 530.8 Service contracts.

(a) Authorized persons shall file with BTA, in the manner set forth in appendix A of this part, a true and complete copy of:

(1) Every service contract before any cargo moves pursuant to that service contract; and

(2) Every amendment to a filed service contract no later than thirty (30) days after any cargo moves pursuant to that service contract amendment.

* * * * *

■ 4. Amend § 530.10 by revising the introductory text of paragraph (c) and the first sentence of paragraph (d) to read as follows:

§ 530.10 Amendment, correction, cancellation, and electronic transmission errors.

* * * * *

(c) *Corrections.* Requests shall be filed, in duplicate, with the Commission's Office of the Secretary

within one-hundred eighty (180) days of the contract's filing with the Commission, accompanied by remittance of a $95 service fee and shall include:

* * * * *

(d) *Electronic transmission errors.* An authorized person who experiences a purely technical electronic transmission error or a data conversion error in transmitting a service contract filing or amendment thereto is permitted to file a Corrected Transmission (''CT'') of that filing within 30 days of the date and time of receipt recorded in SERVCON.

* * *

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■ 5. Amend § 530.14 by revising paragraph (a) to read as follows:

§ 530.14 Implementation.

(a) *Generally.* Performance under an original service contract may not begin before the day it is effective and filed with the Commission. Performance under a service contract amendment may not begin until the day it is effective, provided that the amendment is filed with the Commission no later than thirty (30) calendar days after the effective date.

* * * * *

PART 531—NVOCC SERVICE ARRANGEMENTS

■ 6. The authority citation for part 531 continues to read as follows:

Authority: 46 U.S.C. 40103.

■ 7. Amend § 531.3 by revising paragraph (k) to read as follows.

§ 531.3 Definitions.

* * * * *

(k) *Effective date* means the date upon which an NSA or amendment is scheduled to go into effect by the parties to the contract. For an original NSA, the effective date cannot be prior to the filing date with the Commission. For an NSA amendment, the effective date can be no more than thirty (30) calendar days prior to the filing date with the Commission. An NSA or amendment thereto becomes effective at 12:01 a.m. Eastern Standard Time on the beginning of the effective date.

* * * * *

■ 8. Amend § 531.6 by revising paragraphs (a) and (d)(1) to read as follows:

§ 531.6 NVOCC Service Arrangements.

(a) Authorized persons shall file with BTA, in the manner set forth in appendix A of this part, a true and complete copy of:

(1) Every NSA before any cargo moves pursuant to that NSA; and

(2) Every amendment to a filed NSA no later than thirty (30) days after any cargo moves pursuant to that NSA amendment.

* * * * *

(d) * * *

(1) For service pursuant to an NSA, no NVOCC may, either alone or in conjunction with any other person, directly or indirectly, provide service in the liner trade that is not in accordance with the rates, charges, classifications, rules and practices contained in an effective NSA.

* * * * *

■ 9. Amend § 531.8 by revising paragraphs (b)(1) and (c) to read as follows:

§ 531.8 Amendment, correction, cancellation, and electronic transmission errors.

* * * * *

(b) * * *

(1) Requests shall be filed, in duplicate, with the Commission's Office of the Secretary within one-hundred eighty (180) days of the NSA's filing with the Commission, accompanied by remittance of a $95 service fee.

* * * * *

(c) *Electronic transmission errors.* An authorized person who experiences a purely technical electronic transmission error or a data conversion error in transmitting an NSA or an amendment thereto is permitted to file a Corrected Transmission (''CT'') of that filing within 30 days of the date and time of receipt recorded in SERVCON. This time-limited permission to correct an initial defective NSA filing may not be used to make changes in the original NSA rates, terms or conditions that are otherwise provided for in § 531.6(b). The CT tab box in SERVCON must be checked at the time of resubmitting a previously filed NSA, and a description of the correction made must be stated at the beginning of the corrected NSA in a comment box. Failure to check the CT box and enter a description of the correction will result in the rejection of a file with the same name, since documents with duplicate file names or NSA and amendment numbers are not accepted by SERVCON.

* * * * *

■ 10. Revise § 531.11 to read as follows.

§ 531.11 Implementation.

Generally. Performance under an original NSA may not begin before the day it is effective and filed with the Commission. Performance under an NSA amendment may not begin until the day it is effective, provided that the amendment is filed no later than thirty (30) calendar days after the effective date.

By the Commission.

Rachel Dickon,

Assistant Secretary.

[FR Doc. 2017–06557 Filed 4–3–17; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 54

[WC Docket No. 10–90, WT Docket No. 10–208; FCC 17–11]

Connect America Fund; Universal Service Reform—Mobility Fund

Correction

In rule document 2017–05665 appearing on page 15422 in the issue of Tuesday, March 28, 2017, make the following corrections:

§ 54.1016 Letter of credit (a)(2) [Corrected]

■ 1. On page 15452, in the third column, in the 51st through 54th line, paragraph (2) should read:

''(2) The bank issuing the letter of credit shall be acceptable to the Commission. A bank that is acceptable to the Commission is:''

§ 54.1019 Annual reports (f) [Corrected]

■ 2. On page 15455, in the second column, in the 56th through 64th line, paragraph (f) should read:

''(g) A mobile eligible telecommunications carrier that submits the annual reporting information required by this section within three (3) days of the July 1 deadline will not receive a reduction in support if the mobile eligible telecommunications carrier has not missed the July 1 deadline in any prior year.''

§ 54.1020 Milestone reports (2)(g) [Corrected]

■ 3. On pages 15455 and 15456, § 54.1020(2)(g) should read:

''(f) A mobile eligible telecommunications carrier that submits the milestone reporting information required by this section within three (3) days of the deadline will not receive a reduction in support if the mobile eligible telecommunications carrier has not missed the deadline in any prior year.''

[FR Doc. C1–2017–05665 Filed 4–3–17; 8:45 am]

BILLING CODE 1301–00–D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 92

[Docket No. FWS–R7–MB–2016–0136; FF09M21200–156–FXMB1231099BPP0]

RIN 1018–BB71

Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2017 Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing migratory bird subsistence harvest regulations in Alaska for the 2017 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives. The rulemaking is necessary because the regulations governing the subsistence harvest of migratory birds in Alaska are subject to annual review. This rulemaking establishes region-specific regulations that go into effect on March 31, 2017, and expire on August 31, 2017.

DATES: This is rule is effective March 31, 2017 through August 31, 2017.

FOR FURTHER INFORMATION CONTACT: Donna Dewhurst, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Mail Stop 201, Anchorage, AK 99503; (907) 786–3499.

SUPPLEMENTARY INFORMATION:

Why is this rulemaking necessary?

This rulemaking is necessary because, by law, the migratory bird harvest season is closed unless opened by the Secretary of the Interior, and the regulations governing subsistence harvest of migratory birds in Alaska are subject to public review and annual approval. This rule establishes regulations for the taking of migratory birds for subsistence uses in Alaska during the spring and summer of 2017. This rule also sets forth a list of migratory bird season openings and closures in Alaska by region.

How do I find the history of these regulations?

Background information, including past events leading to this rulemaking, accomplishments since the Migratory Bird Treaties with Canada and Mexico were amended, and a history, were originally addressed in the **Federal Register** on August 16, 2002 (67 FR 53511) and most recently on April 1, 2016 (81 FR 18781).

Recent **Federal Register** documents and all final rules setting forth the annual harvest regulations are available at *http://www.fws.gov/alaska/ambcc/regulations.htm* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

What is the process for issuing regulations for the subsistence harvest of migratory birds in Alaska?

The U.S. Fish and Wildlife Service is establishing migratory bird subsistence-harvest regulations in Alaska for the 2017 season. These regulations allow for the continuation of customary and traditional subsistence uses of migratory birds in Alaska and prescribe regional information on when and where the harvesting of birds may occur. These regulations were developed under a co-management process involving the Service, the Alaska Department of Fish and Game, and Alaska Native representatives.

The Alaska Migratory Bird Co-management Council (Co-management Council) held meetings on April 6–7, 2016, to develop recommendations for changes that would take effect during the 2017 harvest season. The Co-management Council also amended the consent agenda package of carry-over regulations to request a limited emperor goose harvest for 2017; these recommended changes were presented first to the Pacific Flyway Council and then to the Service Regulations Committee (SRC) for approval at the SRC meeting on July 31, 2015.

On February 10, 2017, we published in the **Federal Register** a proposed rule (82 FR 10316) to amend 50 CFR part 92 to establish regulations for the 2017 spring and summer subsistence harvest of migratory birds in Alaska at subpart D, and to make certain changes to the permanent regulations at subpart C. We accepted public comments on the proposed rule for 30 days, ending March 13, 2017. A summary of the comments we received, and our responses to them, is provided below, under Summary of Comments and Responses.

This Final Rule

This rule contains no changes from the proposed regulation amendments published in the February 10, 2017, proposed rule (82 FR 10316).

Who is eligible to hunt under these regulations?

Eligibility to harvest under the regulations established in 2003 was limited to permanent residents, regardless of race, in villages located within the Alaska Peninsula, Kodiak Archipelago, the Aleutian Islands, and in areas north and west of the Alaska Range (50 CFR 92.5). These geographical restrictions opened the initial migratory bird subsistence harvest to about 13 percent of Alaska residents. High-populated, roaded areas such as Anchorage, the Matanuska-Susitna and Fairbanks North Star boroughs, the Kenai Peninsula roaded area, the Gulf of Alaska roaded area, and Southeast Alaska were excluded from eligible subsistence harvest areas.

In response to petitions requesting inclusion in the harvest in 2004, we added 13 additional communities consistent with the criteria set forth at 50 CFR 92.5(c). These communities were Gulkana, Gakona, Tazlina, Copper Center, Mentasta Lake, Chitina, Chistochina, Tatitlek, Chenega, Port Graham, Nanwalek, Tyonek, and Hoonah, with a combined population of 2,766. In 2005, we added three additional communities for glaucous-winged gull egg gathering only in response to petitions requesting inclusion. These southeastern communities were Craig, Hydaburg, and Yakutat, with a combined population of 2,459, according to the latest census information at that time.

In 2007, we enacted the Alaska Department of Fish and Game's request to expand the Fairbanks North Star Borough excluded area to include the Central Interior area. This action excluded the following communities from participation in this harvest: Big Delta/Fort Greely, Healy, McKinley Park/Village, and Ferry, with a combined population of 2,812.

In 2012, we received a request from the Native Village of Eyak to include Cordova, Alaska, for a limited season that would legalize the traditional gathering of gull eggs and the hunting of waterfowl during spring. This request resulted in a new, limited harvest of spring waterfowl and gull eggs starting in 2014.

What is different in the regulations for 2017?

Subpart C

Under subpart C, General Regulations Governing Subsistence Harvest, we are amending § 92.22, the list of birds open to subsistence harvest, by adding emperor goose (*Chen canagica*) and by

amending cackling goose to allow egg gathering.

The Co-management Council proposed a new emperor goose limited subsistence hunt for the 2016 season. Since 2012, the Co-management Council has received regulatory proposals from the Sun'aq Tribe of Kodiak, the Kodiak-Aleutians Subsistence Regional Advisory Council, the Yaquillrit Keutisti Council (Bristol Bay), and the Bering Strait/Norton Sound Migratory Bird Council (Kawerak) to open the harvest of emperor geese for the subsistence season. Since the hunting season has been closed since 1987 for emperor geese, the Co-management Council created a subcommittee to address these proposals. The emperor goose harvest was guided by the 2006 Pacific Flyway Management Plan and the 2005–2006 Yukon-Kuskokwim Delta Goose Management Plan. Between 80 and 90 percent of the emperor goose population breeds on the Yukon-Kuskokwim Delta of Alaska, and most emperor geese winter in remote western Alaska, with the remainder wintering in Russia.

Two studies were conducted concurrently by the Service and the Alaska Department of Fish and Game. The first study provided a comprehensive evaluation of all available emperor goose survey data and assessed harvest potential of the population. The second study developed a Bayesian state space population model to improve estimates of population size by integrating current population assessment methods using all available data sets. The model provides a framework from which to make inferences about survival rates, age structure, and population size. The results of these studies will assist in amending the management plans.

The 2016 spring emperor goose survey was conducted April 21–24, 2016. The spring index was 79,348 birds, which represented a 19.2 percent decrease from the previous count in 2015. The current 3-year (2014–2016) average count of 85,795 is 4.8 percent above the previous 3-year (2012–2015 [no survey in 2013]) average of 81,875. Further, it is above the threshold for consideration of an open hunting season on emperor geese as specified in the Yukon-Kuskokwim Delta Goose Management Plan and the Pacific Flyway Council Management Plan for emperor geese.

As a result of this new information, the Co-management Council amended their motion of the consent agenda to add an allowance for a limited emperor goose harvest in 2016. The Pacific Flyway Council met in July 2015, and supported the Co-management Council's recommendation to work with the State of Alaska and the Service to develop harvest regulations and monitoring for a limited emperor goose harvest in 2016. On July 31, 2015, the SRC supported the Co-management Council's proposed limited harvest of emperor geese for the 2016 Alaska spring and summer subsistence season. However, the approval was provisional based upon the following:

(1) A limited harvest of 3,500 emperor geese to ensure that population growth continues toward the Flyway management plan objective;

(2) A harvest allocation (*e.g.,* an individual, family, or Village quota or permit hunt) that ensures harvest does not exceed 3,500;

(3) Agreement on a monitoring program to index abundance of the emperor goose population; and

(4) A revised Pacific Flyway Emperor Goose Management Plan, including harvest allocation among all parties (including spring/summer and fall/winter), population objective, population monitoring, and thresholds for season restriction or closure.

The harvest allocation design and harvest monitoring plan were to be completed by November 1, 2016. Additionally, there was an explicit statement that the limited, legalized harvest of 3,500 birds was not in addition to existing subsistence harvest (approximately 3,200 emperor geese). The 3,500-bird allowable harvest was to be allocated to subsistence users during the spring and summer subsistence season. The SRC suggested that the allowable harvest should be monitored to ensure it does not exceed 3,500 birds.

On August 13–14, and September 21, 2015, the Co-management Council Native Caucus met separately and with all partners to discuss options available to limit and monitor the harvest, as well as options to allocate the 3,500 birds across the six regions where emperor geese occur. Given the limited time provided to address the four conditions placed on this new harvest by the SRC, all partners agreed that the best course of action would be to spend additional time working together to develop a culturally sensitive framework tailored to each participating region that conserves the population and adequately addresses the data needs of all partners. In support of this recommendation, the Co-management Council took action to: Postpone an emperor goose harvest until 2017; work with all partners to develop the harvest framework; and work with their Emperor Goose Subcommittee and the Pacific Flyway Council on updating the Pacific Flyway Emperor Goose Management Plan.

In 2016, work continued on the Alaska Migratory Bird Co-management Council draft Management Plan for emperor geese. The Co-management Council's Management Plan was the first of its kind developed cooperatively for managing the emperor goose population of Alaska and was signed by the Co-management Council on September 1, 2016. Adoption of the Co-management Council's Emperor Goose Management Plan was contingent on the adoption of the Pacific Flyway Emperor Goose Management Plan by the Pacific Flyway Council. The Pacific Flyway Council adopted the 2016 Pacific Flyway Emperor Goose Management Plan on September 30, 2016. The Co-management Council's Management Plan specifies regulations for the spring/summer subsistence hunt period and will serve as a companion to the 2016 revision of the Pacific Flyway Management Plan for the Emperor Goose, which specifies regulations for the fall/winter harvest of emperor geese. The Co-management Council's Management Plan supersedes the Yukon-Kuskokwim Delta Goose Management Plan for emperor goose management. In both management plans, the spring survey index was been replaced by a summer survey index of indicated total birds (total bird index) derived from aerial surveys of emperor goose abundance on the Yukon-Kuskokwim Delta (YKD Coastal Zone Survey). The total bird index is less biased and more precise than the spring survey index and is based on statistical sampling theory. The 2016 survey index was 34,109 (SE = 2,490) emperor geese, which equates to a total rangewide population of about 177,000 geese. The most recent 3-year (2014–2016) average population index is 30,965 emperor geese, representing a total rangewide population of about 161,000 geese. The Co-management Council's Plan for the emperor goose establishes a population objective consistent with the abundance achieved in 2016 (*i.e.,* abundance index = 34,109) after about 30 years of hunting season closures.

The total bird index and population objective are viewed as interim strategies that will be reevaluated after 3 years of the Co-management Council's Management Plan implementation, while other population-assessment models are further evaluated and refined, and an agreement developed on the most appropriate short- and long-term survey protocols.

The Co-management Council's Management Plan outlines an emperor goose harvest strategy based on using a

total bird index from the YKD Coastal Zone Survey to assess population status relative to a regulatory harvest threshold. The total bird index is a relative measure of population size based on the number of geese detected from aerial surveys on the Yukon-Kuskokwim Delta during the early nesting period. The Co-management Council's Plan allows for an open subsistence harvest when the YKD Coastal Zone Survey index equals or exceeds 28,000 geese, which equates to a total rangewide population size of about 146,000 geese based on current model-based estimates. A more restrictive harvest quota will be considered if the population index declines below 28,000 geese to help reduce the probability for a subsequent closed season. The harvest season will be closed if the population index declines below 23,000 emperor geese, which equates to a total rangewide population size of about 120,000 geese. The decision to restrict the harvest quota when the population is between 23,000 and 28,000 geese depends on Co-management Council recommendations to the Service after review of current year population status relative to the objective, trends, and other information. The Service maintains authority to establish a more conservative quota for allowable take if determined appropriate.

The population thresholds for consideration of hunting season restrictions and closure represent about 80 percent and 70 percent of the population objective (*i.e.,* abundance level achieved in 2016; 34,109 geese). Selection of these thresholds by the Service and the Co-management Council were informed by an analysis conducted by the Service. The Service's analysis derived the hunting season restrictions and closure thresholds given conservation and harvest objectives, uncertainty in abundance and harvest estimation, and a predictive demographic model (E. Osnas and C. Frost, U.S. Fish and Wildlife Service, unpublished report).

The term of this harvest strategy is 5 years. However, during the 3-year period (2017–2019) following implementation, the Subcommittee will annually review available data (*e.g.,* harvest survey data, population status and trend, and other relevant information) and consider the need for conservation measures. After the 3-year period, the Subcommittee will conduct a thorough analysis of the available data to determine efficacy of the harvest strategy and will consider alternative strategies if warranted. Alternatives will be considered as amendments to the management plan and be effective for the remainder of the 5-year term. The spring/summer subsistence harvest-strategy is complementary to the fall/winter harvest strategy included in the Pacific Flyway Emperor Goose Management Plan. In recognition that emperor geese are a shared resource, the Co-Management Council has established the following spring/summer subsistence-harvest guidelines:

(1) The harvest strategy seeks to maintain a population of emperor geese above an index of 23,000 birds based on the total bird index from the most recent YKD Coastal Zone Survey;

(2) If the total bird index from the previous year is greater than 23,000 birds, then spring/summer subsistence harvest of emperor geese will be open to customary and traditional practices;

(3) If the total bird index from the previous year drops below 28,000 birds, the Co-management Council will consider implementing conservation measures that include: Increased outreach and education programs, reduced season length (*e.g.,* 2-week harvest season), extension of the 30-day closure, cessation of egg collection, limiting hunting to elder and ceremonial harvest only, or other measures as identified by the parties to the management plan; and

(4) If the total bird index from the previous year is less than 23,000 birds, then emperor goose hunting will be closed.

The Service finds that this approach will provide for the preservation and maintenance of emperor geese in Alaska. See 16 U.S.C. 712(1).

The Association of Village Council Presidents' Waterfowl Conservation Committee submitted a proposal to open egg gathering of the cackling goose subspecies of Canada goose (*Branta canadensis*) in the Yukon/Kuskokwim Delta Region of Alaska. Currently all of the cackling geese nest on the Yukon/Kuskokwim Delta. The 2016 fall cackling Canada goose population index is 327,453 ± 21,104 (SE) birds and the 3-year (2014–2016) average is 320,658 birds. These estimates are 5.7 percent below and 0.9 percent above, respectively, those reported in 2015, and above the population objective threshold of 250,000 birds. The Co-management Council voted in April 2016 to support the proposal with the modification that the dates for egg collecting would be lumped with the existing harvest season that is announced annually by the Service's Regional Director or his designee, after consultation with field biologists and the Association of Village Council Presidents' Waterfowl Conservation Committee. This season would include a 30-day closure to protect nesting birds. Likewise, we find that this approach will provide for the preservation and maintenance of the subspecies population of cackling geese.

Subpart D

The regulations in subpart D, Annual Regulations Governing Subsistence Harvest, include changes from our 2016 regulations for the Prince William Sound East and Northwest Arctic regions as discussed below.

The Chugach Regional Resource Commission submitted a proposal to open the Cordova subsistence harvest, on the barriers islands of Prince William Sound, to include residents of Tatitlek and Chenega Bay. This would allow residents of these two small communities also to be able to take advantage of this limited harvest opportunity in their area. The number of participants from Cordova is much smaller than originally anticipated; thus, it is likely that added eligibility for these two small communities would not pose a significant increase in harvest. The Co-management Council supported this proposal with the provision that registration would be available in each community, and that outreach would be provided on the regulations.

The Northwest Arctic Regional Council submitted a proposal to amend hunting season dates to reflect a trend for earlier spring migration and to be able to hunt molting geese that stage in their area. In subsequent meetings between the Service and the Regional Council, dates were adjusted and clarified to have waterfowl harvest, including hunting and egg gathering, from April 2 through June 14, which would resume July 16, after the required 30-day nesting closure. The harvest of nonbreeding, molting geese would run July 1 through July 15. The Co-management Council unanimously supported the amended dates at their Statewide meeting in April 2016.

How will the service ensure that the subsistence migratory bird harvest complies with the Migratory Bird Treaty Act, and will not threaten the conservation of endangered and threatened species?

We have monitored subsistence harvest for the past 25 years through the use of household surveys in the most heavily used subsistence harvest areas, such as the Yukon-Kuskokwim Delta. In recent years, more intensive surveys combined with outreach efforts focused on species identification have been added to improve the accuracy of information gathered from regions still

reporting some subsistence harvest of listed or candidate species.

Based on our monitoring of the migratory bird species and populations taken for subsistence, we find that this regulation will provide for the preservation and maintenance of migratory bird stocks as required by the Migratory Bird Treaty Act (16 U.S.C. 703–712). The Act's 16 U.S.C. 712(1) provision states that the Service, ''is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.'' Communication and coordination between the Service, the Co-management Council, and the Pacific Flyway Council have allowed us to set harvest regulations to ensure the long-term viability of the migratory bird stocks. In addition, Alaska migratory bird subsistence harvest rates have continued to decline since the inception of the subsistence-harvest program, reducing concerns about the program's consistency with the preservation and maintenance of stocks of migratory birds.

As for the ensuring the conservation of Endangered Species Act (ESA)-listed species, spectacled eiders (*Somateria fischeri*) and the Alaska-breeding population of Steller's eiders (*Polysticta stelleri*) are listed as threatened species. Their migration and breeding distribution overlap with areas where the spring and summer subsistence migratory bird hunt is open in Alaska. Both species are closed to hunting, although harvest surveys and Service documentation indicate both species are taken in several regions of Alaska. We have determined that this final rule complies with the ESA (see Endangered Species Act Consideration discussion, below).

The Service has dual objectives and responsibilities for authorizing a subsistence harvest while protecting migratory birds and threatened species. Although these objectives continue to be challenging, they are not irreconcilable, provided that: (1) Regulations continue to protect threatened species, (2) measures to address documented threats are implemented, and (3) the subsistence community and other conservation partners commit to working together. With these dual objectives in mind, the Service, working with North Slope partners, developed measures in 2009 to further reduce the potential for shooting mortality or injury of closed species. These conservation measures included: (1) Increased waterfowl hunter outreach and community awareness through partnering with the North Slope Migratory Bird Task Force; and (2) continued enforcement of the migratory bird regulations that are protective of listed eiders.

This rule continues to focus on the North Slope from Barrow to Point Hope because Steller's eiders from the listed Alaska breeding population are known to breed and migrate there, and harvest survey data and direct observations indicate take during subsistence harvest has occurred there. These regulations are designed to address several ongoing eider-management needs by clarifying for subsistence users that (1) Service law enforcement personnel have authority to verify species of birds possessed by hunters, and (2) it is illegal to possess any species of bird closed to harvest. This rule also describes how the Service's existing authority of emergency closure would be implemented, if necessary, to protect Steller's eiders. We are always willing to discuss regulations with our partners on the North Slope to ensure protection of closed species while providing subsistence hunters an opportunity to maintain the culture and traditional migratory bird harvest of the community. These regulations pertaining to bag checks and possession of illegal birds are deemed necessary to monitor take of closed eider species during the subsistence hunt.

In collaboration with North Slope partners, a number of conservation efforts have been implemented to raise awareness and educate hunters on Steller's eider conservation via the bird fair, meetings, radio shows, signs, school visits, and one-on-one contacts. Limited intermittent monitoring on the North Slope, focused primarily at Barrow, found no evidence that listed eiders were shot in 2009 through 2012; one Steller's eider and one spectacled eider were found shot during the summer of 2013; one Steller's eider was found shot in 2014; and no listed eiders were found shot in 2015 or 2016. Elsewhere in Alaska, one spectacled eider that appeared to have been shot was found dead on the Yukon-Kuskokwim Delta in 2015. The Service acknowledges progress made with the other eider conservation measures, including partnering with the North Slope Migratory Bird Task Force, for increased waterfowl-hunter awareness, continued enforcement of the regulations, and in-season verification of the harvest. To reduce the threat of shooting mortality of threatened eiders, we continue to work with North Slope partners to conduct education and outreach. In addition, the emergency-closure authority provides another level of assurance if an unexpected number of Steller's eiders are killed by shooting (50 CFR 92.21 and 50 CFR 92.32).

In-season harvest-monitoring information will be used to evaluate the efficacy of regulations, conservation measures, and outreach efforts. Conservation measures are being continued by the Service, with the amount of effort and emphasis being based on regulatory adherence.

The longstanding general emergency-closure provision at 50 CFR 92.21 specifies that the harvest may be closed or temporarily suspended upon finding that a continuation of the regulation allowing the harvest would pose an imminent threat to the conservation of any migratory bird population. With regard to Steller's eiders, the regulations at 50 CFR 92.32, carried over from the past 6 years, clarify that we will take action under 50 CFR 92.21 as is necessary to prevent further take of Steller's eiders, and that action could include temporary or long-term closures of the harvest in all or a portion of the geographic area open to harvest. When and if mortality of threatened eiders is documented, we will evaluate each mortality event by criteria such as cause, quantity, sex, age, location, and date. We will consult with the Co-management Council when we are considering an emergency closure. If we determine that an emergency closure is necessary, we will design it to minimize its impact on the subsistence harvest.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act (16 U.S.C. 1536) requires the Secretary of the Interior to ''review other programs administered by him and utilize such programs in furtherance of the purposes of the Act'' and to ''insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. * * *'' We conducted an intra-agency consultation with the Service's Fairbanks Fish and Wildlife Field Office on this harvest as it will be managed in accordance with this final rule and the conservation measures. The consultation was completed with a biological opinion dated March 13, 2017, that concluded the final rule and conservation measures are not likely to jeopardize the continued existence of

Steller's and spectacled eiders or result in the destruction or adverse modification of designated critical habitat.

Summary of Comments and Responses

On February 10, 2017, we published in the **Federal Register** a proposed rule (82 FR 10316) to amend 50 CFR part 92 to establish regulations in Alaska for the 2017 subsistence season. We accepted public comments on the proposed rule for 30 days, ending March 13, 2017. We posted an announcement of the comment-period dates for the proposed rule, as well as the rule itself and related historical documents, on the Co-management Council's Internet homepage. By facsimile (fax), we issued a press release, announcing our request for public comments and the pertinent deadlines for such comments, to the media Statewide in Alaska. Additionally, we made all relevant documents available on *http://www.regulations.gov.* In response to the proposed rule, the Service received seven comments. The comments are addressed below by topic.

Comments (1 and 2): We received one general comment on the overall regulations that expressed strong opposition to the concept of allowing any hunting of migratory birds in Alaska; another commenter read the above-mentioned comment online and rebutted it, defending waterfowl hunting and its sustainability.

Service Response: For centuries, indigenous inhabitants of Alaska have harvested migratory birds for subsistence purposes during the spring and summer months. The Canada and Mexico migratory bird treaties were amended for the express purpose of allowing subsistence hunting for migratory birds during the spring and summer. The amendments indicate that the Service should issue regulations allowing such hunting as provided in the Migratory Bird Treaty Act; see 16 U.S.C. 712(1). See also Statutory Authority, below, for more details.

Comment (3): We received two comments on the opening of the emperor goose harvest that expressed support for the renewed hunt, stating that a properly managed hunt may actually help the birds by putting more money into management of the species. Also, one commenter stated that they were pleased this co-management effort will give Alaskans the opportunity to hunt emperor geese again.

Service Response: The Service appreciates the support on this conservation success story for emperor geese. Additional information is provided in our response to *Comments (4)* and *(5).*

Comment (4): We received two comments on opening the emperor goose harvest that expressed concern that the way the upcoming open subsistence hunt is structured poses a risk to the emperor goose population. Both commenters suggested lowering the number of emperor geese allowed to be taken.

Service Response: The harvestable quotas were arrived at via a co-management process that involved the Service, Alaska Department of Fish and Game, and Alaska Native Peoples from all regions supporting emperor geese. The term of this harvest strategy is 5 years. However, during the 3-year period (2017–2019) following implementation, available harvest-related data (*e.g.,* harvest survey data, population status and trend, and other relevant information) will be examined and the need for conservation measures will be considered. Further, the harvest strategy adopted by the Pacific Flyway Council and the Alaska Migratory Bird Co-Management Council includes specific population indices associated with customary and traditional harvest, restricted harvest, and closure.

Comment (5): We received one comment on the upcoming emperor goose harvest that suggested limiting the hunt to a narrower geographical region to protect the nesting grounds.

Service Response: The majority of emperor geese nest on the Yukon-Kuskokwim Delta. The Pacific Flyway Council and Alaska Migratory Bird Co-Management Plans incorporate the use of the Yukon-Kuskokwim Coastal Zone Breeding Pair Survey to monitor this population and the potential effects of harvest, thereby ensuring the increased likelihood of detecting any negative impacts to the breeding population. Finally, as agreed upon in the amendment of the Migratory Bird Treaty Act (Japan Treaty), the Yukon-Kuskokwim Delta region is required to identify and enforce a 30-day closure period during the nesting season.

The structure of the emperor goose subsistence harvest in Alaska was developed in a co-management process that provides equal access to all qualified subsistence users. However, Alaska Native peoples living in this region have primarily relied on Pacific white-fronted geese and cackling Canada geese. While important from cultural and traditional aspects, emperor geese have not comprised a substantive proportion of migratory bird harvest in this region, and we do not expect high levels of subsistence hunting activities on nesting grounds requiring that we adopt the commenter's suggestion.

Statutory Authority

We derive our authority to issue these regulations from the Migratory Bird Treaty Act of 1918, at 16 U.S.C. 712(1), which authorizes the Secretary of the Interior, in accordance with the treaties with Canada, Mexico, Japan, and Russia, to ''issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.''

Effective Date of This Rule

The amendments to subparts C and D of 50 CFR part 92 will take effect on March 31, 2017 (see **DATES**, above). If there was a delay in the effective date of these regulations after this final rulemaking, subsistence hunters would not be able to take full advantage of their subsistence hunting opportunities. We therefore find that ''good cause'' exists justifying the earlier start date, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–712).

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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

this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A regulatory flexibility analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. This rule legalizes a pre-existing subsistence activity, and the resources harvested will be consumed.

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. It legalizes and regulates a traditional subsistence activity. It will not result in a substantial increase in subsistence harvest or a significant change in harvesting patterns. The commodities that will be regulated under this rule are migratory birds. This rule deals with legalizing the subsistence harvest of migratory birds and, as such, does not involve commodities traded in the marketplace. A small economic benefit from this rule derives from the sale of equipment and ammunition to carry out subsistence hunting. Most, if not all, businesses that sell hunting equipment in rural Alaska qualify as small businesses. We have no reason to believe that this rule will lead to a disproportionate distribution of benefits.

(b) Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. This rule does not deal with traded commodities and, therefore, will not have an impact on prices for consumers.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This rule deals with the harvesting of wildlife for personal consumption. It will not regulate the marketplace in any way to generate substantial effects on the economy or the ability of businesses to compete.

Unfunded Mandates Reform Act

We have determined and certified under the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, State, or tribal governments or private entities. 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 is not required. Participation on regional management bodies and the Co-management Council requires travel expenses for some Alaska Native organizations and local governments. In addition, they assume some expenses related to coordinating involvement of village councils in the regulatory process. Total coordination and travel expenses for all Alaska Native organizations are estimated to be less than $300,000 per year. In a notice of decision (65 FR 16405; March 28, 2000), we identified 7 to 12 partner organizations (Alaska Native nonprofits and local governments) to administer the regional programs. The Alaska Department of Fish and Game also incurs expenses for travel to Co-management Council and regional management body meetings. In addition, the State of Alaska will be required to provide technical staff support to each of the regional management bodies and to the Co-management Council. Expenses for the State's involvement may exceed $100,000 per year, but should not exceed $150,000 per year. When funding permits, we make annual grant agreements available to the partner organizations and the Alaska Department of Fish and Game to help offset their expenses.

Takings (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule will not have significant takings implications. This rule is not specific to particular land ownership, but applies to the harvesting of migratory bird resources throughout Alaska. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. We discuss effects of this rule on the State of Alaska in the *Unfunded Mandates Reform Act* section, above. We worked with the State of Alaska to develop these regulations. Therefore, a federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

The Department, in promulgating this rule, has determined that it will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Government-to-Government Relations With Native American Tribal Governments

Consistent with Executive Order 13175 (65 FR 67249; November 6, 2000), ''Consultation and Coordination with Indian Tribal Governments'', and Department of Interior policy on Consultation with Indian Tribes (December 1, 2011), in February 2016, we sent letters via electronic mail to all 229 Alaska Federally recognized Indian tribes. Consistent with Congressional direction (Pub. L. 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267), we also sent letters to approximately 200 Alaska Native corporations and other tribal entities in Alaska soliciting their input if they would like the Service to consult with them on the 2017 migratory bird subsistence harvest regulations. We received no requests for consultation.

We implemented the amended treaty with Canada with a focus on local involvement. The treaty calls for the creation of management bodies to ensure an effective and meaningful role for Alaska's indigenous inhabitants in the conservation of migratory birds. According to the Letter of Submittal, management bodies are to include Alaska Native, Federal, and State of Alaska representatives as equals. They develop recommendations for, among other things: Seasons and bag limits, methods and means of take, law enforcement policies, population and harvest monitoring, education programs, research and use of traditional knowledge, and habitat protection. The management bodies involve village councils to the maximum extent possible in all aspects of management. To ensure maximum input at the village level, we required each of the 11 participating regions to create regional management bodies consisting of at least one representative from the participating villages. The regional management bodies meet twice annually to review and/or submit proposals to the Statewide body.

Paperwork Reduction Act of 1995 (PRA)

This rule does not contain any new collections of information that require

Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved our collection of information associated with:

- Voluntary annual household surveys that we use to determine levels of subsistence take (OMB Control Number 1018–0124, expires October 31, 2019).
- Permits associated with subsistence hunting (OMB Control Number 1018–0075, expires June 30, 2019).
- Emperor Goose Spring Subsistence Harvest Survey (to include number of geese harvested, age, sex, and mass of birds harvested associated) (OMB Control Number 1090–0011, expires August 31, 2018).

National Environmental Policy Act Consideration (42 U.S.C. 4321 et seq.)

The annual regulations and options are considered in a December 2016 environmental assessment, ''Managing Migratory Bird Subsistence Hunting in Alaska: Hunting Regulations for the 2017 Spring/Summer Harvest.'' Copies are available from the person listed under **FOR FURTHER INFORMATION CONTACT** or at *http://www.regulations.gov.*

Energy Supply, Distribution, or Use (Executive Order 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This is not a significant regulatory action under this Executive Order; it allows only for traditional subsistence harvest and improves conservation of migratory birds by allowing effective regulation of this harvest. Further, this rule is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action under Executive Order 13211, and a Statement of Energy Effects is not required.

List of Subjects in 50 CFR Part 92

Hunting, Treaties, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, we amend title 50, chapter I, subchapter G, of the Code of Federal Regulations as follows:

PART 92—MIGRATORY BIRD SUBSISTENCE HARVEST IN ALASKA

■ 1. The authority citation for part 92 continues to read as follows:

Authority: 16 U.S.C. 703–712.

Subpart C—General Regulations Governing Subsistence Harvest

■ 2. Amend § 92.22 by:
■ a. Redesignating paragraph (a)(3) as paragraph (a)(4);
■ b. Adding a new paragraph (a)(3); and
■ c. Revising paragraph (a)(6).

The addition and revision read as follows:

§ 92.22 Subsistence migratory bird species.

* * * * *

(a) * * *

(3) Emperor goose (*Chen canagica*).

* * * * *

(6) Canada goose, subspecies cackling goose.

* * * * *

Subpart D—Annual Regulations Governing Subsistence Harvest

■ 3. Amend subpart D by adding § 92.31 to read as follows:

§ 92.31 Region-specific regulations.

The 2017 season dates for the eligible subsistence-harvest areas are as follows:

(a) *Aleutian/Pribilof Islands Region.*

(1) Northern Unit (Pribilof Islands):

(i) Season: April 2–June 30.

(ii) Closure: July 1–August 31.

(2) Central Unit (Aleutian Region's eastern boundary on the Alaska Peninsula westward to and including Unalaska Island):

(i) Season: April 2–June 15 and July 16–August 31.

(ii) Closure: June 16–July 15.

(iii) Special Black Brant Season Closure: August 16–August 31, only in Izembek and Moffet lagoons.

(iv) Special Tundra Swan Closure: All hunting and egg gathering closed in Game Management Units 9(D) and 10.

(3) Western Unit (Umnak Island west to and including Attu Island):

(i) Season: April 2–July 15 and August 16–August 31.

(ii) Closure: July 16–August 15.

(b) *Yukon/Kuskokwim Delta Region.*

(1) Season: April 2–August 31.

(2) Closure: 30-day closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. This 30-day period will occur between June 1 and August 15 of each year. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(3) Special Black Brant and Cackling Canada Goose Season Hunting Closure: From the period when egg laying begins until young birds are fledged. Closure dates to be announced by the Service's Alaska Regional Director or his designee, after consultation with field biologists and the Association of Village Council President's Waterfowl Conservation Committee. A press release announcing the actual closure dates will be forwarded to regional newspapers and radio and television stations.

(c) *Bristol Bay Region.*

(1) Season: April 2–June 14 and July 16–August 31 (general season); April 2–July 15 for seabird egg gathering only.

(2) Closure: June 15–July 15 (general season); July 16–August 31 (seabird egg gathering).

(d) *Bering Strait/Norton Sound Region.*

(1) Stebbins/St. Michael Area (Point Romanof to Canal Point):

(i) Season: April 15–June 14 and July 16–August 31.

(ii) Closure: June 15–July 15.

(2) Remainder of the region:

(i) Season: April 2–June 14 and July 16–August 31 for waterfowl; April 2–July 19 and August 21–August 31 for all other birds.

(ii) Closure: June 15–July 15 for waterfowl; July 20–August 20 for all other birds.

(e) *Kodiak Archipelago Region,* except for the Kodiak Island roaded area, which is closed to the harvesting of migratory birds and their eggs. The closed area consists of all lands and waters (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest.

(1) Season: April 2–June 30 and July 31–August 31 for seabirds; April 2–June 20 and July 22–August 31 for all other birds.

(2) Closure: July 1–July 30 for seabirds; June 21–July 21 for all other birds.

(f) *Northwest Arctic Region.*

(1) Season: April 2–June 14 and July 16–August 31 (hunting in general); waterfowl egg gathering April 2–June 14 only; seabird egg gathering May 20–July 12 only; hunting molting/non-nesting waterfowl July 1–July 15 only.

(2) Closure: June 15–July 15, except for the taking of seabird eggs and molting/non-nesting waterfowl as provided in paragraph (f)(1) of this section.

(g) *North Slope Region.*

(1) Southern Unit (Southwestern North Slope regional boundary east to Peard Bay, everything west of the longitude line 158°30′ W. and south of the latitude line 70°45′ N. to the west bank of the Ikpikpuk River, and everything south of the latitude line 69°45′ N. between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 29 and July 30–August 31 for seabirds; April 2–June 19 and July 20–August 31 for all other birds.

(ii) Closure: June 30–July 29 for seabirds; June 20–July 19 for all other birds.

(iii) Special Black Brant Hunting Opening: From June 20–July 5. The open area consists of the coastline, from mean high water line outward to include open water, from Nokotlek Point east to longitude line 158°30′ W. This includes Peard Bay, Kugrua Bay, and Wainwright Inlet, but not the Kuk and Kugrua river drainages.

(2) Northern Unit (At Peard Bay, everything east of the longitude line 158°30′ W. and north of the latitude line 70°45′ N. to west bank of the Ikpikpuk River, and everything north of the latitude line 69°45′ N. between the west bank of the Ikpikpuk River to the east bank of Sagavinirktok River):

(i) Season: April 2–June 6 and July 7–August 31 for king and common eiders; April 2–June 15 and July 16–August 31 for all other birds.

(ii) Closure: June 7–July 6 for king and common eiders; June 16–July 15 for all other birds.

(3) Eastern Unit (East of eastern bank of the Sagavanirktok River):

(i) Season: April 2–June 19 and July 20–August 31.

(ii) Closure: June 20–July 19.

(4) All Units: yellow-billed loons. Annually, up to 20 yellow-billed loons total for the region inadvertently entangled in subsistence fishing nets in the North Slope Region may be kept for subsistence use.

(5) North Coastal Zone (Cape Thompson north to Point Hope and east along the Arctic Ocean coastline around Point Barrow to Ross Point, including Iko Bay, and 5 miles inland).

(i) No person may at any time, by any means, or in any manner, possess or have in custody any migratory bird or part thereof, taken in violation of subparts C and D of this part.

(ii) Upon request from a Service law enforcement officer, hunters taking, attempting to take, or transporting migratory birds taken during the subsistence harvest season must present them to the officer for species identification.

(h) *Interior Region.*

(1) Season: April 2–June 14 and July 16–August 31; egg gathering May 1–June 14 only.

(2) Closure: June 15–July 15.

(i) *Upper Copper River Region* (Harvest Area: Game Management Units 11 and 13) (Eligible communities: Gulkana, Chitina, Tazlina, Copper Center, Gakona, Mentasta Lake, Chistochina and Cantwell).

(1) Season: April 15–May 26 and June 27–August 31.

(2) Closure: May 27–June 26.

(3) The Copper River Basin communities listed above also documented traditional use harvesting birds in Game Management Unit 12, making them eligible to hunt in this unit using the seasons specified in paragraph (h) of this section.

(j) *Gulf of Alaska Region.*

(1) Prince William Sound Area West (Harvest area: Game Management Unit 6[D]), (Eligible Chugach communities: Chenega Bay, Tatitlek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(2) Prince William Sound Area East (Harvest area: Game Management Units 6[B]and [C]—Barrier Islands between Strawberry Channel and Softtuk Bar), (Eligible Chugach communities: Cordova, Tatitlek, and Chenega Bay):

(i) Season: April 2–April 30 (hunting); May 1–May 31 (gull egg gathering).

(ii) Closure: May 1–August 31 (hunting); April 2–30 and June 1–August 31 (gull egg gathering).

(iii) Species Open for Hunting: greater white-fronted goose; snow goose; gadwall; Eurasian and American wigeon; blue-winged and green-winged teal; mallard; northern shoveler; northern pintail; canvasback; redhead; ring-necked duck; greater and lesser scaup; king and common eider; harlequin duck; surf, white-winged, and black scoter; long-tailed duck; bufflehead; common and Barrow's goldeneye; hooded, common, and red-breasted merganser; and sandhill crane. Species open for egg gathering: Glaucous-winged, herring, and mew gulls.

(iv) Use of Boats/All-Terrain Vehicles: No hunting from motorized vehicles or any form of watercraft.

(v) Special Registration: All hunters or egg gatherers must possess an annual permit, which is available from the Cordova offices of the Native Village of Eyak and the U. S. Forest Service.

(3) Kachemak Bay Area (Harvest area: Game Management Unit 15[C] South of a line connecting the tip of Homer Spit to the mouth of Fox River) (Eligible Chugach Communities: Port Graham, Nanwalek):

(i) Season: April 2–May 31 and July 1–August 31.

(ii) Closure: June 1–30.

(k) *Cook Inlet* (Harvest area: portions of Game Management Unit 16[B] as specified below) (Eligible communities: Tyonek only):

(1) Season: April 2–May 31—That portion of Game Management Unit 16(B) south of the Skwentna River and west of the Yentna River, and August 1–31—That portion of Game Management Unit 16(B) south of the Beluga River, Beluga Lake, and the Triumvirate Glacier.

(2) Closure: June 1–July 31.

(l) *Southeast Alaska.*

(1) Community of Hoonah (Harvest area: National Forest lands in Icy Strait and Cross Sound, including Middle Pass Rock near the Inian Islands, Table Rock in Cross Sound, and other traditional locations on the coast of Yakobi Island. The land and waters of Glacier Bay National Park remain closed to all subsistence harvesting (50 CFR part 100.3(a)):

(i) Season: Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(2) Communities of Craig and Hydaburg (Harvest area: Small islands and adjacent shoreline of western Prince of Wales Island from Point Baker to Cape Chacon, but also including Coronation and Warren islands):

(i) Season: Glaucous-winged gull egg gathering only: May 15–June 30.

(ii) Closure: July 1–August 31.

(3) Community of Yakutat (Harvest area: Icy Bay (Icy Cape to Point Riou), and coastal lands and islands bordering the Gulf of Alaska from Point Manby southeast to and including Dry Bay):

(i) Season: Glaucous-winged gull egg gathering: May 15–June 30.

(ii) Closure: July 1–August 31.

■ 4. Amend subpart D by adding § 92.32 to read as follows:

§ 92.32 Emergency regulations to protect Steller's eiders.

Upon finding that continuation of these subsistence regulations would pose an imminent threat to the conservation of threatened Steller's eiders *(Polysticta stelleri),* the U.S. Fish and Wildlife Service Alaska Regional Director, in consultation with the Co-management Council, will immediately under § 92.21 take action as is necessary to prevent further take. Regulation

changes implemented could range from a temporary closure of duck hunting in a small geographic area to large-scale regional or Statewide long-term closures of all subsistence migratory bird hunting. These closures or temporary suspensions will remain in effect until the Regional Director, in consultation with the Co-management Council, determines that the potential for additional Steller's eiders to be taken no longer exists.

Dated: March 28, 2017.

Maureen D. Foster,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–06592 Filed 3–31–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF332

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels using trawl gear to vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to allow the A season apportionment of the 2017 total allowable catch of Pacific cod to be harvested.

DATES: Effective March 31, 2017 through 1200 hours, Alaska local time (A.l.t.), June 10, 2017.

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

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

The A season allowance of the 2017 Pacific cod total allowable catch (TAC) apportioned to catcher vessels using trawl gear in the Central Regulatory Area of the GOA is 6,933 metric tons (mt), as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that catcher vessels using trawl gear will not be able to harvest 1,500 mt of the A season apportionment of the 2017 Pacific cod TAC allocated to those vessels under § 679.20(a)(12)(i)(B)(*4*). In accordance with § 679.20(a)(12)(ii)(B) the Regional Administrator has also determined that vessels using pot gear in the Central Regulatory Area of the GOA currently have the capacity to harvest this excess allocation and reallocates 1,500 mt to vessels using pot gear. Therefore, NMFS apportions 1,500 mt of Pacific cod from the A season apportionments for catcher vessels using trawl gear to vessels using pot gear in the Central Regulatory Area of the GOA.

The harvest specifications for Pacific cod included in the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 26, 2017) are revised as follows: 5,433 mt to the A season apportionment and 12,141 mt to the annual amount for catcher vessels using trawl gear and 7,349 mt to the A season apportionment and 10,621 mt to the annual amount to vessels using pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from catcher vessels using trawl gear to vessels using pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 29, 2017.

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

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

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

Dated: March 30, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–06644 Filed 3–30–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 82, No. 63

Tuesday, April 4, 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.

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1002

[Docket No. CFPB–2017–0009]

RIN 3170–AA65

Amendments to Equal Credit Opportunity Act (Regulation B) Ethnicity and Race Information Collection

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) proposes amendments to Regulation B to permit creditors additional flexibility in complying with Regulation B in order to facilitate compliance with Regulation C, to add certain model forms and remove others from Regulation B, and to make various other amendments to Regulation B and its commentary to facilitate the collection and retention of information about the ethnicity, sex, and race of certain mortgage applicants.

DATES: Comments must be received on or before May 4, 2017.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2017–0009 or RIN 3170–AA65, by any of the following methods:

- *Email: FederalRegisterComments@cfpb.gov.* Include Docket No. CFPB–2017–0009 or RIN 3170–AA65 in the subject line of the email.
- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552. Include CFPB–2017–0009 or RIN 3170–AA65 in a reference line at the top of the submission.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002. Include CFPB–2017–0009 or RIN 3170–AA65 in a reference line at the top of the submission.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: Kathryn Lazarev or James Wylie, Counsels, Office of Regulations, at 202–435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

Regulation B implements the Equal Credit Opportunity Act (ECOA) and, in part, prohibits a creditor from inquiring about the race, color, religion, national origin or sex of a credit applicant except under certain circumstances.[1] One of those circumstances is a requirement for creditors to collect and retain certain information about applicants for certain dwelling-secured loans under Regulation B § 1002.13. Another circumstance is the applicant information required to be collected and reported under Regulation C by financial institutions. Regulation C, 12 CFR part 1003, implements the Home Mortgage Disclosure Act (HMDA), as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[2] Regulation B also includes certain optional model forms for use in complying with certain Regulation B requirements. One of those forms is a 2004 version of the Uniform Residential Loan Application (URLA) issued by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises).

The Bureau issued a final rule in October of 2015 amending Regulation C (2015 HMDA final rule), which included changes to the collection of applicants' ethnicity and race information.[3] The Enterprises recently issued a new version of the URLA (2016 URLA).[4] The Bureau proposes to amend various sections of Regulation B to further the purposes of ECOA including to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract) and other protected characteristics. The proposed amendments to § 1002.13 would permit a creditor additional flexibility in how it collects applicant ethnicity and race information in order to better align with Regulation C, as amended in the 2015 HMDA final rule. The proposed amendments to Appendix B would remove the URLA dated January 2004 (2004 URLA) from Regulation B and add additional sample forms to Regulation B to facilitate compliance. The proposed amendments to § 1002.5 would permit creditors to collect applicant information in certain circumstances when they would not otherwise be required to do so. The proposed amendments to § 1002.12 would address retention of information about certain applicants.

[1] 15 U.S.C. 1691, 12 CFR part 1002.

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[3] Home Mortgage Disclosure (Regulation C); 80 FR 66128 (Oct. 28, 2015).

[4] *See* Fannie Mae, Guide Forms (2016), *available at, https://www.fanniemae.com/singlefamily/selling-servicing-guide-forms* (listing all selling and servicing guide forms); *see also* Freddie Mac, Forms and Documents (2016) *http://www.freddiemac.com/singlefamily/guide/* (same).

II. Background

A. Regulation B and Ethnicity and Race Information Collection

With some exceptions, Regulation B § 1002.5(b) prohibits a creditor from inquiring about the race, color, religion, national origin, or sex of an applicant or any other person (protected applicant-characteristic information) in connection with a credit transaction. Section 1002.5(a)(2) provides an exception to that prohibition for information that creditors are required to request for certain dwelling-secured loans under § 1002.13, and for information required by a regulation, order, or agreement issued by or entered into with a court or an enforcement agency to monitor or enforce compliance with ECOA, Regulation B, or other Federal or State statutes or regulations, including Regulation C.

Section 1002.13 sets forth the scope, required information, and manner for collecting information about an applicant's ethnicity, race, sex, marital status, and age under Regulation B (In this notice, ''applicant demographic information'' refers to information about an applicant's ethnicity, race, or sex information collected under § 1002.13 or, as discussed below, Regulation C, while ''certain protected applicant-characteristic information'' refers to all information collected under § 1002.13, including age and marital status.) Under § 1002.13(a)(1), creditors that receive an application for credit primarily for the purchase or refinancing of a dwelling occupied (or to be occupied) by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, must collect certain protected applicant-characteristic information, including specified race and ethnicity categories. These race and ethnicity categories correspond to the OMB standards for the classification of Federal data on ethnicity and race minimum standards.[5] Certain of these categories include several more specific race, heritage, nationality, or country of origin groups. For example, Hispanic or Latino as defined by OMB for the 2010 Census refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin.[6] Section 1002.13(b) through (c) provides instructions on the manner of collection. Unlike financial institutions covered by Regulation C, creditors subject to § 1002.13 but not to Regulation C are required only to collect and retain, but not to report, the required protected applicant-characteristic information.

B. 2015 HMDA Final Rule

The Dodd-Frank Act transferred rulemaking authority for HMDA to the Bureau, effective July 2011.[7] It also amended HMDA to add new data points and authorized the Bureau to require additional information from covered institutions. Regulation C implements HMDA and sets out specific requirements for the collection, recording, reporting, and disclosure of mortgage lending information, including a requirement to collect and report information about an applicant's ethnicity, race, and sex (applicant demographic information).

In July 2014, the Bureau proposed amendments to Regulation C to implement the Dodd-Frank Act changes to require collection, recording, and reporting of additional information to further HMDA's purposes, and to modernize the manner in which covered institutions report HMDA data.[8] The Bureau published a final rule on October 28, 2015, amending Regulation C, with many of the amendments taking effect January 1, 2018.[9] (In this notice, ''current Regulation C'' refers to Regulation C prior to January 1, 2018, and ''revised Regulation C'' refers to Regulation C as it will be in effect on or after January 1, 2018, as amended by the 2015 HMDA final rule.) For data collected in or after 2018, the 2015 HMDA final rule amends the requirement for collection and reporting of applicant demographic information. Specifically, covered institutions must permit applicants to self-identify their ethnicity and race using certain disaggregated ethnic and racial subcategories. Covered institutions will report the disaggregated information provided by applicants. However, revised Regulation C will not require or permit covered institutions to use the disaggregated subcategories when collecting and reporting the applicant's ethnicity and race based on visual observation or surname.[10]

Revised Regulation C § 1003.2(g)(1)(v) and 1003.2(g)(2)(ii) also introduces an exemption to the requirement to report information for financial institutions that originated fewer than 25 closed-end mortgage loans or fewer than 100 open-end lines of credit in either of the two prior years. As a result, when revised Regulation C takes effect, an institution's obligation to collect and report information under Regulation C may change over time based on its prior loan volume.

C. Uniform Residential Loan Application

The Enterprises, currently under the conservatorship of the Federal Housing Finance Agency (FHFA), prepare and periodically revise a Uniform Residential Loan Application (URLA) used by many lenders for certain dwelling-related loans. A mortgage loan application must be documented using the URLA in the mortgage loan file for the loan to be eligible for sale to the Enterprises.[11] A version of the URLA dated January 2004 (2004 URLA) is included in appendix B to Regulation B as a model form for use in complying with § 1002.13. Appendix B provides that the use of its model forms is optional under Regulation B but that, if a creditor uses an appropriate appendix B model form, or modifies a form in accordance with instructions provided in appendix B, that creditor shall be deemed to be acting in compliance with § 1002.5(b) through (d).[12]

The Enterprises, under the conservatorship of the FHFA, issued a revised and redesigned URLA on August 23, 2016 (2016 URLA).[13] This issuance was part of the effort of these

[5] Office of Mgmt. and Budget, *Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,* 62 FR 58782–90 (Oct. 30, 1997).

[6] *See* U.S. Census Bureau, C2010BR–02, *Overview of Race and Hispanic Origin: 2010,* at 2 (2011), *available at http://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf.*

[7] Public Law 111–203, 124 Stat. 1376.

[8] Home Mortgage Disclosure (Regulation C), 79 FR 51731 (Aug. 29, 2014).

[9] 80 FR 66128 (Oct. 28, 2015).

[10] *Id.* at 66314 (amendments to appendix B to Regulation C, effective January 1, 2018).

[11] Fannie Mae, *Selling Guide: Single Family Seller Servicer* (Dec. 16, 2016), § B1–1–01, *available at https://www.fanniemae.com/content/guide/selling/b1/1/01.html;* Freddie Mac, *Single-Family Seller/Servicer Guide* (Sep. 21, 2016), § 3401.7, *available at http://www.freddiemac.com/singlefamily/guide/bulletins/snapshot.html.*

[12] Comment app. B–1 provides that a previous version of the URLA, dated October 1992, may be used by creditors without violating Regulation B. In addition, comment app. B–2 provides that the home-improvement and energy loan application form prepared by the Enterprises, dated October 1986, complies with the requirements of Regulation B for some creditors but not others, depending on whether the creditor is governed by § 1002.13(a) or subject to a substitute monitoring program under § 1002.13(d). The Enterprises no longer offer the home-improvement and energy loan application form identified in comment app. B–2 *See* Fannie Mae, Guide Forms (2016), *available at https://www.fanniemae.com/singlefamily/selling-servicing-guide-forms* (listing all current selling and servicing guide forms); *see also* Freddie Mac, Forms and Documents (2016) *available at http://www.freddiemac.com/singlefamily/guide/* (same).

[13] Fannie Mae, Uniform Residential Loan Application (Aug. 2016), *https://www.fanniemae.com/content/guide_form/urla-borrower-information.pdf; see also* Press Release, Uniform Mortgage Data Program, Fannie Mae and Freddie Mac at the direction of the FHFA, *The Redesigned URLA and ULAD Mapping Document Are Here!* (Aug. 23, 2016), *available at https://www.fanniemae.com/content/news/urla-announcement-august-2016.pdf.*

entities to update the Uniform Loan Application Dataset (ULAD). Among other changes, the 2016 URLA includes a Demographic Information section (section 7) that addresses the requirements in revised Regulation C for collecting applicant demographic information, including the requirement that financial institutions permit applicants to self-identify using disaggregated ethnicity and race categories beginning January 1, 2018. The Enterprises also made available a Demographic Information Addendum, which is identical in form to section 7 of the 2016 URLA.[14] The Enterprises have advised that the Demographic Information Addendum may be used by lenders at any time on or after January 1, 2017, as a replacement for section X (Information for Government Monitoring Purposes) in the current URLA, dated 7/05 (revised 6/09).[15] The Enterprises have not yet provided a date when lenders may begin using the 2016 URLA (the effective date) or the date lenders are required to use the 2016 URLA (the cutover date), but have stated their intention to collaborate with industry stakeholders to help shape the implementation timeline for the 2016 URLA, with a goal to provide lenders with more precise information in 2017 regarding the cutover date.[16]

D. Bureau Approval Notice

On September 23, 2016, the Bureau issued a notice concerning the collection of expanded information about ethnicity and race in 2017 (Bureau Approval Notice).[17] Under current Regulation C § 1003.4(a)(10), covered financial institutions are required to collect, record, and report applicant demographic information. Revised Regulation C will require financial institutions to permit applicants to self-identify using disaggregated ethnic and racial categories beginning January 1, 2018.[18] However, before that date, such inquiries are not required by current Regulation C and would not have been allowed under Regulation B § 1002.5(a)(2), and therefore creditors would have been prohibited by Regulation B § 1002.5(b) from requesting applicants to self-identify using disaggregated ethnic and racial categories before January 1, 2018.

The Bureau Approval Notice provided that, anytime from January 1, 2017, through December 31, 2017, a creditor may, at its option, permit applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to revised Regulation C. During this period, a creditor adopting the practice of permitting applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to revised Regulation C shall be deemed to be in compliance with Regulation B § 1002.13(a)(i).

In the same notice, the Bureau also determined that the relevant language in the 2016 URLA is in compliance with the regulatory provisions of Regulation B § 1002.5(b) through (d), regarding requests for protected applicant-characteristic information and certain other information. The notice provides that, although the use of the 2016 URLA by creditors is not required under Regulation B, a creditor that uses the 2016 URLA without any modification that would violate § 1002.5(b) through (d) acts in compliance with § 1002.5(b) through (d).

III. Outreach

As part of the Bureau's outreach to financial institutions, vendors, and other mortgage industry participants to prepare for the implementation of the 2015 HMDA final rule, the Bureau has received questions about the requirement to permit applicants to self-identify using disaggregated ethnicity and race categories and how that requirement intersects with compliance obligations under Regulation B. The Bureau also received questions related to the Bureau Approval Notice about whether the approval for collecting disaggregated ethnicity and race categories under Regulation B in 2017 would be extended to 2018. In light of these inquiries, the Bureau determined that it would be beneficial to establish through rulemaking appropriate standards in Regulation B concerning the collection of an applicant's ethnicity and race information similar to those in revised Regulation C. Because many of the financial institutions most affected by this proposed rule are supervised by the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), and the National Credit Union Administration (NCUA), the Bureau conducted outreach to these agencies. The Bureau specifically sought input from these prudential regulators concerning their use of applicant ethnicity and race information collected under § 1002.13 but not reported or anticipated to be reported under current or revised Regulation C and their views on appropriate standards for collection and retention of this information. The Bureau also conducted outreach with other Federal agencies, including Securities and Exchange Commission, the Department of Justice, the Department of Housing and Urban Development, the Federal Housing Finance Agency, the Federal Trade Commission, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the Department of the Treasury, concerning this proposed rule.

IV. Legal Authority

The Bureau is issuing this proposed rule pursuant to its authority under section 703 of ECOA, as amended by section 1085 of the Dodd-Frank Act.[19] ECOA authorizes the Bureau to issue regulations to carry out the purposes of ECOA.[20] These regulations may contain but are not limited to such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Bureau are necessary or proper to effectuate the purposes of ECOA, to prevent circumvention or evasion of ECOA, or to facilitate or substantiate compliance with ECOA.[21] A purpose of ECOA is to promote the availability of credit to all creditworthy applicants without regard to race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract) and other protected characteristics.[22] ECOA section 703 serves as a source of authority to establish rules concerning the taking and evaluation of credit applications, collection and retention of applicant demographic information concerning the applicant or co-applicant, use of designated model forms, and substantive requirements to carry out the purposes of ECOA.

The Bureau is also issuing this proposed rule pursuant to its authority under sections 1022 and 1061 of the

[14] Fannie Mae, Demographic Information Addendum (Aug. 2016), *available at https://www.fanniemae.com/content/guide_form/urla-demographic-addendum.pdf.*

[15] Press Release, Uniform Mortgage Data Program, Fannie Mae and Freddie Mac at the direction of the FHFA, *URLA Implementation Guidance and Update* (Nov. 1, 2016), *available at https://www.fanniemae.com/content/news/urla-announcement-november-2016.pdf;* Uniform Mortgage Data Program, Fannie Mae and Freddie Mac at the direction of the FHFA, *Uniform Residential loan Application (URLA)/Uniform Loan Application Dataset (ULAD) FAQs,* ¶ 6 (Nov. 1, 2016), *available at https://www.fanniemae.com/content/faq/urla-ulad-faqs.pdf.*

[16] Press Release, Uniform Mortgage Data Program, Fannie Mae and Freddie Mac at the direction of the FHFA, *URLA Implementation Guidance and Update* (Nov. 1, 2016), *available at https://www.fanniemae.com/content/news/urla-announcement-november-2016.pdf.*

[19] 15 U.S.C. 1691b; Public Law 111–203, 124 Stat. 1376, 2083–84 (2010).

[20] 15 U.S.C. 1691b(a).

[21] *Id.*

[22] 12 CFR 1002.1(b).

Dodd-Frank Act. Under Dodd-Frank Act section 1022(b)(1), the Bureau has authority to prescribe rules as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws and to prevent evasions thereof.[23] Section 1061 of the Dodd-Frank Act transferred to the Bureau consumer financial protection functions previously vested in certain other Federal agencies, including the authority to prescribe rules or issue orders or guidelines pursuant to any Federal consumer financial law and perform appropriate functions to promulgate and review such rules, orders, and guidelines.[24] Both ECOA and title X of the Dodd-Frank Act are consumer financial laws.[25] Accordingly, the Bureau has authority to issue regulations to administer ECOA.

V. Proposed Implementation Period

Except as set forth below, the Bureau proposes an effective date of January 1, 2018, for any final rule based on this proposal to align with the effective dates of the relevant provisions of the 2015 HMDA final rule. As an effective date for any final rule removing the 2004 URLA from appendix B of Regulation B, the Bureau proposes the cutover date designated by the Enterprises for the mandatory use of the 2016 URLA or January 1, 2022, whichever occurs first.

VI. Section-by-Section Analysis

Section 1002.5 Rules Concerning Requests for Information

Section 1002.5 provides rules concerning requests for information. In general, § 1002.5(b) prohibits a creditor from inquiring about protected applicant-characteristic information in connection with a credit transaction, except under certain circumstances. The Bureau is proposing to add proposed § 1002.5(a)(4), to authorize creditors to collect such information under certain additional circumstances. The Bureau is proposing to make conforming changes to comment 5(a)(2)–2 to reference the types of loans covered by revised Regulation C and provide a citation to Regulation C. The Bureau is also proposing to add proposed comment 5(a)(4)–1 to provide guidance on proposed § 1002.5(a)(4).

5(a) General Rules

5(a)(4) Other Permissible Collection of Information

Section 1002.5(a)(2) provides that, notwithstanding the limitations in § 1002.5(b) through (d) on collecting protected applicant-characteristic information and other applicant information, a creditor shall request information for monitoring purposes as required by § 1002.13. Section 1002.5(a)(2) further provides that a creditor may obtain information required by a regulation, order, or agreement issued by, or entered with, a court or an enforcement agency to monitor or enforce compliance with ECOA, Regulation B, or other Federal or State statutes and regulations. However, § 1002.5(a)(2) does not authorize collection of information beyond what is required by law. The Bureau is proposing to add § 1002.5(a)(4) to authorize a creditor to obtain information in certain additional specified circumstances other than information required as described in § 1002.5(a)(2). Proposed § 1002.5(a)(4) would provide that, notwithstanding § 1002.5(b), a creditor may collect information under the circumstances included under that section, provided that the creditor collects the information in compliance with appendix B to revised Regulation C.

The Bureau understands that certain creditors who will be excluded from reporting under revised Regulation C in a given reporting year may want to continue to collect or report applicant demographic information during that time to maintain consistent compliance standards from year-to-year. The Bureau also understands that certain creditors who are not subject to revised Regulation C in a given calendar year but may become subject to reporting in the next calendar year may want to collect applicant demographic information for applications that may become revised Regulation C covered loans if the creditor becomes subject to reporting and final action is taken on the application in the next calendar year. Therefore, the Bureau believes that it is appropriate to permit creditors to collect such information in the specifically permitted circumstances explained below. The Bureau believes that permitting creditors to collect information without interruption or break from year-to-year would further the purposes of ECOA by easing overall burden on creditors and improving the quality and reliability of the data that are used to promote the availability of credit to all creditworthy applicants. The Bureau also believes that permitting creditors to collect certain protected applicant-characteristic information in these circumstances provides a narrow exception to the general limitations in § 1002.5(b) through (d) that preserves the protection and respects the purposes of those prohibitions.

Under proposed § 1002.5(a)(4)(i) a creditor that is a financial institution under revised Regulation C § 1003.2(g) may collect information regarding the applicant demographic information of an applicant for a closed-end mortgage loan that is an excluded transaction under revised Regulation C § 1003.3(c)(11) if it submits HMDA data concerning those applications and loans or if it submitted HMDA data concerning closed-end mortgage loans in any of the preceding five calendar years. The proposal would permit a financial institution that voluntarily reports HMDA data concerning closed-end mortgage loans to collect applicant demographic information for such reporting in compliance with Regulation B. The proposal would also permit a financial institution to collect applicant demographic information for closed-end mortgage loans for up to five years after it fell below the loan volume threshold for closed-end mortgage loans in revised Regulation C § 1003.3(c)(11). The Bureau believes that creditors in this latter situation may not want to incur the burden of altering their compliance process, particularly when they may become subject to reporting again in the near future. The Bureau believes that permitting such collection for five years provides an appropriate time frame under which a financial institution should be permitted to continue collecting the information without having to change its compliance processes; the Bureau believes the period is long enough that it would provide a creditor a strong indication that its present business trend is unlikely to subject it to reporting in the near future, but the period would not be so long as to permit a creditor to collect protected applicant-characteristic information for a period of time that is too attenuated from the previous Regulation C legal requirement and associated compliance process. The Bureau invites comment on this proposal to permit collection of applicant demographic information in these circumstances and the proposed five-year time frame.

Under proposed § 1002.5(a)(4)(ii), a creditor that is a financial institution under Regulation C § 1003.2(g) may collect information regarding the applicant demographic information of an applicant for an open-end line of credit that is an excluded transaction

[23] Public Law 111–203, 124 Stat. 1375, 1980 (2010) (codified at 12 U.S.C. 5512(b)(1)).

[24] Public Law 111–203, 124 Stat. 1375, 2035–39 (2010) (codified at 12 U.S.C. 5581).

[25] 12 U.S.C. 5481(12), (14).

under revised Regulation C § 1003.3(c)(12) if it submits HMDA data concerning those applications and open-end lines of credit or if it submitted HMDA data concerning open-end lines of credit in any of the preceding five calendar years. Similar to proposed § 1002.5(a)(4)(i), the proposal would permit a financial institution that voluntarily reports HMDA data concerning open-end lines of credit to collect applicant demographic information for such reporting in compliance with Regulation B. The proposal would also permit a financial institution to collect applicant demographic information for open-end lines of credit for up to five years after it fell below the loan volume threshold for open-end lines of credit in revised Regulation C § 1003.3(c)(12). The Bureau believes that the proposal is justified for similar reasons and provides similar benefits to proposed § 1002.5(a)(4)(i) discussed above. The Bureau invites comment on this proposal to permit collection of applicant demographic information in these circumstances and the proposed five-year time frame.

Under proposed § 1002.5(a)(4)(iii), a creditor that submitted HMDA data for any of the preceding five calendar years but is not currently a financial institution under revised Regulation C § 1003.2(g) may collect information regarding the applicant demographic information of an applicant for a loan that would otherwise be a covered loan under revised Regulation C § 1003.2(e) if not excluded by Regulation C §§ 1003.3(c)(11) or (12). This proposal would permit a creditor that falls below the loan-volume threshold [26] and is therefore no longer required to collect and report information under revised Regulation C to continue to collect applicant demographic information. The Bureau believes that the proposal is justified for similar reasons and provides similar benefits to proposed § 1002.5(a)(4)(i) discussed above. The Bureau invites comment on this proposal to permit collection of applicant demographic information in these circumstances and the proposed five-year time frame.

Under proposed § 1002.5(a)(4)(iv), a creditor that exceeded a loan volume threshold in the first year of a two-year threshold period provided in revised Regulation C §§ 1003.2(g), 1003.3(c)(11), or 1003.3(c)(12) may, in the subsequent year, collect the applicant demographic information of an applicant for a loan that would otherwise be a covered loan under Regulation C § 1003.2(e) if not excluded by revised Regulation C § 1003.3(c)(11) or (12). The proposal would benefit creditors in certain situations in which the creditor is uncertain whether it will be required to report information under revised Regulation C in a future calendar year. For example, where a creditor meets the closed-end mortgage loan coverage threshold or open-end line of credit coverage threshold in revised Regulation C § 1003.2(g)(1)(v) and (g)(2)(ii) for the first time in a given calendar year, it may wish to begin collecting certain protected applicant-characteristic information for applications received in the next calendar year (second calendar year) so as to be prepared to report that information if final action is taken in the following calendar year (third calendar year), when the creditor would be required to report the information under revised Regulation C if it exceeded the applicable two-year threshold at the end the second calendar year. The Bureau believes that a creditor would benefit from being able to collect applicant demographic information concerning such applications with assurance of compliance with § 1002.5 regardless of whether or not it becomes subject to HMDA reporting at the end of the two-year threshold period. The Bureau invites comment on this proposal to permit collection of applicant demographic information in these circumstances.

The Bureau is also proposing to add new comment 5(a)(4)–1 which provides that applicant demographic information that is not required to be collected pursuant to Regulation C may nevertheless be collected under the circumstances set forth in § 1002.5(a)(4) without violating § 1002.5(b) and highlights that, as discussed below, such information should be retained pursuant to § 1002.12. The Bureau also invites comment on whether there are other specific, narrowly tailored circumstances not described in § 1002.5(a)(2) or proposed § 1002.5(a)(4) under which a creditor would benefit from being able to collect applicant demographic information for mortgage loan applicants.

Section 1002.12 Record Retention

Section 1002.12 provides rules concerning permissible and required record retention. In light of proposed § 1002.5(a)(4), the Bureau is also proposing to amend § 1002.12(b)(1)(i) to require retention of certain protected applicant-characteristic information obtained pursuant to proposed § 1002.5(a)(4).

12(a) Retention of Prohibited Information

12(b) Preservation of Records

12(b)(1) Applications

12(b)(1)(i)

Section 1002.12(b)(1) provides that a creditor must retain certain records for 25 months. Under § 1002.12(b)(1)(i), these records include any information required to be obtained concerning characteristics of the applicant to monitor compliance with ECOA and Regulation B or other similar law. The Bureau is proposing to amend § 1002.12(b)(1)(i) to include within its preservation requirements any information obtained pursuant to proposed § 1002.5(a)(4). The Bureau believes that, if a creditor voluntarily collects applicant demographic information pursuant to proposed § 1002.5(a)(4), the creditor should be required to maintain those records in the same manner as protected applicant-characteristic information it is required to collect. This would allow the information to be available for its primary purpose of monitoring and enforcing compliance with ECOA, Regulation B, and other Federal or State statutes or regulations. Without a corresponding record retention requirement, a creditor could collect but not retain the information, thus preventing the use of the information for these purposes. The Bureau is also proposing to amend comment 12(b)–2 to require retention of applicant demographic information obtained pursuant to proposed § 1002.5(a)(4). The Bureau invites comment on the proposed amendment.

Section 1002.13 Information for Monitoring Purposes

Section 1002.13 sets forth the scope, required information, and manner for the mandatory collection of certain protected applicant-characteristic information under Regulation B. Section 1002.13(a)(1) requires creditors to collect information about the applicant, including ethnicity and race information, for certain dwelling-related loans. Among other revisions to § 1002.13 and its commentary, the Bureau proposes to amend § 1002.13(a)(1)(i) to provide that, for applications subject to § 1002.13(a)(1), a creditor must collect the applicant's information using either aggregate ethnicity and race categories or the ethnicity and race categories and subcategories set forth in appendix B to

[26] The loan-volume thresholds in revised Regulation C are 25 or more closed-end mortgage loans originated in each of the two proceeding calendar years and 100 open-end lines of credit in each of the two proceeding calendar years. Revised Regulation C § 1003.2(g)(1)(v), (g)(2)(ii).

revised Regulation C, which provide disaggregated ethnicity and race categories.

13(a) Information To Be Requested

13(a)(1)

13(a)(1)(i)

Under § 1002.13(a)(1), creditors that receive an application for credit primarily for the purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling, must collect certain information about the applicant, including ethnicity and race information. Specifically, under current § 1002.13(a)(1)(i) creditors must collect information regarding the applicant's ethnicity using the categories Hispanic or Latino and not Hispanic or Latino, and the applicant's race using the categories American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White. Under Regulation B, creditors are required to collect and retain such data, but have no obligation to report the data to a regulator.[27]

As set forth above, in 2015 the Bureau issued the 2015 HMDA final rule, which adopted certain revisions to Regulation C.[28] Under current Regulation C, financial institutions are required to collect and report an applicant's or borrower's information using aggregate ethnicity and race categories that are identical to the ethnicity and race categories set forth under current § 1002.13(a)(1)(i). In contrast, under revised Regulation C, financial institutions are required to permit applicants or borrowers to self-identify using disaggregated ethnicity and race categories.[29] Once revised Regulation C goes into effect on January 1, 2018, the race and ethnicity categories financial institutions use to collect information under revised Regulation C will no longer correspond with the race and ethnicity categories a creditor uses to collect information under current § 1002.13(a)(1)(i). Many creditors are subject to both § 1002.13 and revised Regulation C. The Bureau believes that such creditors should not be subject to differing collection requirements, and that aligning the two requirements furthers the purposes of ECOA by facilitating practices that promote the availability of credit to all creditworthy applicants.[30]

Accordingly, the Bureau proposes to revise § 1002.13(a)(1)(i) to provide that, for applications subject to § 1002.13(a)(1), a creditor must collect an applicant's information using either the aggregate or disaggregated ethnicity and race categories (creditors subject to revised Regulation C will be required to use the disaggregated race and ethnicity categories for applications subject to revised Regulation C). Specifically, the Bureau proposes to amend § 1002.13(a)(1)(i) to allow a creditor to comply with either § 1002.13(a)(1)(i)(A) or § 1002.13(a)(1)(i)(B). Under proposed § 1002.13(a)(1)(i)(A), a creditor may collect information regarding the applicant using the aggregate ethnicity and race categories set forth in current § 1002.13(a)(1)(i). Under proposed § 1002.13(a)(1)(i)(B), a creditor may collect an applicant's ethnicity and race information using the categories and subcategories set forth in appendix B to revised Regulation C, which provides disaggregated ethnicity and race categories. Thus, under the proposal, a creditor subject to collection requirements under both § 1002.13(a)(1) and revised Regulation C that collects information pursuant to the requirements of appendix B to revised Regulation C would also satisfy § 1002.13(a)(1)(i).

For applications subject to § 1002.13(a)(1), the Bureau believes there are compelling reasons for permitting a creditor to collect an applicant's information using disaggregated ethnicity and race categories, even if the creditor is not required to submit HMDA data concerning the application under revised Regulation C (Regulation B-only creditors or transactions). As discussed in the preamble to the 2015 HMDA final rule, among other reasons, the Bureau revised Regulation C to require financial institutions to allow applicants to self-identify using the disaggregated ethnicity and race categories based on the conclusion that it would further HMDA's purpose to identify possible discriminatory lending patterns, encourage self-reporting by applicants and borrowers, and more accurately reflect the nation's ethnic and racial diversity.[31] The Bureau believes these same benefits will also further the purpose of ECOA, which, similar to HMDA, seeks to promote the availability of credit to all creditworthy applicants without regard to protected characteristics, such as national origin and race.

The Bureau believes that optional collection of disaggregated ethnicity and race information under proposed § 1002.13(a)(1)(i)(B) is also appropriate given that the 2016 URLA provides for the collection of disaggregated ethnicity and race categories. As noted above, the Enterprises have indicated their intent to mandate use of the 2016 URLA at some point in the future for all loans eligible for purchase by the Enterprises. Given the widespread use of the current URLA among lenders, the Bureau expects that on or prior to the cutover date, many creditors will want to adopt the 2016 URLA irrespective of whether the creditor or transaction is subject to the collection and reporting requirements in revised Regulation C. Accordingly, the Bureau believes that the proposed revisions will facilitate the transition to the 2016 URLA for all creditors seeking to use the updated form.

The Bureau also considered the alternative, for all applications subject to § 1002.13(a)(1), of requiring creditors to use the disaggregated ethnicity and race categories. The Bureau is not proposing this approach for several reasons. First, the Bureau believes that the creditors that would be most affected by such a change would primarily be small creditors that will not meet the loan-volume thresholds, asset-size thresholds, or location test under revised Regulation C.[32] Creditors within the scope of revised Regulation C would be minimally affected as they will already be required to use the disaggregated ethnicity and race categories under revised Regulation C. Regulation B-only creditors, however, would incur various costs and heightened compliance burdens as a result of adopting this alternative option, including updating application forms, revising policies and procedures, and providing additional training. Second, these small creditors would potentially have a short timeframe to come into compliance with any requirement to use the disaggregated ethnicity and race categories. To resolve the differences between Regulation B and revised Regulation C in a timely manner, the proposed revisions to

[27] 12 CFR 1002.12 and 1002.13.

[28] 80 FR 66127 (Oct. 28, 2015).

[29] *See also* revised Regulation C § 1003.4(a)(10)(i) and comment 4(a)(10)(i)–1 (requiring financial institution to report information about the applicant's or borrower's ethnicity and race using the instructions in appendix B to Regulation C).

[30] Because of the differences between revised Regulation C and current § 1002.13, some creditors may be uncertain whether compliance with revised Regulation C also satisfies compliance with current § 1002.13 or whether additional collection to satisfy current § 1002.13 would also be required. The Bureau believes that resolving this issue through rulemaking will provide certainty to such creditors.

[31] 80 FR 66127, 66190 (Oct. 28, 2015).

[32] Revised Regulation C § 1003.2(g)(i), (ii), and (v); *see also id.* § 1003.3(c)(11) and (12).

§ 1002.13(a)(1) would ideally take effect on or prior to January 1, 2018. While the Bureau could impose a staggered effective date for Regulation B-only creditors, the Bureau believes such an approach would create additional complexity that the Bureau would like to avoid. Thus, the burden of this alternative option on affected creditors would likely be compounded by the short implementation timeline available. Third, the Bureau believes the benefits of requiring (rather than permitting) creditors to use the disaggregated ethnicity and race categories would be limited, as most creditors will likely adopt the disaggregated ethnicity and race categories under the proposed optional approach, eventually if not immediately. Many will be required to use the disaggregated information under revised Regulation C, and many that are not subject to revised Regulation C are nevertheless likely to adopt the 2016 URLA at some point because of business considerations unrelated to Regulations B and C.

On the other hand, the Bureau acknowledges that requiring creditors to use the disaggregated ethnicity and race categories under § 1002.13(a)(1)(i) may maximize the benefits of disaggregation by affecting all applications subject to § 1002.13(a)(1). The Bureau also acknowledges that under this alternative option, Regulation B-only creditors would incur the costs of collecting disaggregated ethnicity and race information, and would not incur the more costly burdens of also reporting such data.

Despite these considerations, the Bureau believes the potential incremental benefits of requiring creditors to use disaggregated ethnicity and race categories for applications subject to § 1002.13(a)(1) do not outweigh the burdens of such a proposal on Regulation B-only creditors.

In addition to the alternative approach discussed above, the Bureau also considered eliminating altogether the requirement in § 1002.13(a)(1)(i) that creditors collect information on an applicant's ethnicity and race. While there is significant overlap between § 1002.13 and revised Regulation C, the transactions covered under the two regulations are not identical and, as discussed above, many creditors are not subject to Regulation C. Based on outreach to other regulators, including the FDIC, OCC, FRB, and NCUA, the Bureau understands that a substantial percentage of supervised entities are expected to be Regulation B-only creditors and that the protected-applicant characteristic information collected under § 1002.13 is frequently relied upon by such regulators to monitor compliance with fair lending laws. Accordingly, the Bureau believes that the collection of applicant race and ethnicity information under § 1002.13 serves the important function of monitoring and enforcing compliance with ECOA and other antidiscrimination laws and therefore continues to serve the purposes of ECOA.

For the reasons discussed above, the Bureau proposes to revise § 1002.13(a)(1)(i), including adding § 1002.13(a)(1)(i)(A) and § 1002.13(a)(1)(i)(B) to set forth the two options available to creditors. Under the proposal, for any applications subject to § 1002.13(a)(1), a creditor must seek to collect information concerning the applicant using, at its option, either aggregate race and ethnicity categories (proposed § 1002.13(a)(1)(i)(A)) or disaggregated race and ethnicity categories (proposed § 1002.13(a)(1)(i)(B)).

Proposed § 1002.13(a)(1)(i)(A) is intended to mirror the ethnicity and race categories set forth in existing § 1002.13(a)(1)(i). The addition of the word ''aggregate'' in proposed § 1002.13(a)(1)(i)(A) is not a substantive revision but, rather, is included to clarify that the enumerated categories in proposed § 1002.13(a)(1)(i)(A) differ from the disaggregated ethnicity and race categories under proposed § 1002.13(a)(1)(i)(B).

Proposed § 1002.13(a)(1)(i)(B) provides that a creditor may alternatively collect information regarding the applicant using the categories and subcategories for the collection of race and ethnicity set forth in appendix B to revised Regulation C. Proposed § 1002.13(a)(1)(i)(B) cross-references the ethnicity and race categories and subcategories set forth in appendix B to revised Regulation C; the proposed provision does not recite those categories and subcategories. Thus, a creditor would comply with proposed § 1002.13(a)(1)(i)(B) so long as it collects information concerning an applicant's ethnicity and race using all of the same categories and subcategories as then in effect under appendix B to revised Regulation C. For example, if appendix B to revised Regulation C is amended at a later date to require a financial institution to collect, for example, additional or different ethnicity and race categories or subcategories, then a creditor seeking to comply with proposed § 1002.13(a)(1)(i)(B) must also allow an applicant to select such amended categories or subcategories. The Bureau solicits comment on this proposal.

The Bureau also proposes to add comment 13(a)–8 to clarify that a creditor may choose, on an application-by-application basis, whether to collect aggregate information pursuant to proposed § 1002.13(a)(1)(i)(A) or disaggregated information pursuant to proposed § 1002.13(a)(1)(i)(B). The Bureau solicits comment on proposed comment 13(a)–8.

In addition, the Bureau proposes to revise comment 13(a)–7 to provide, for applications subject to § 1002.13(a)(1), that a creditor that collects information about the ethnicity, race, and sex of an applicant in compliance with the requirements of appendix B to revised Regulation C will be acting in compliance with § 1002.13 concerning the collection of an applicant's ethnicity, race, and sex information. Section 1002.13(b) through (c) provides instructions on how to collect an applicant's ethnicity, race, and sex information, including directions on how to obtain the required information, required disclosures concerning the collection, and instructions on when to collect the information on the basis of visual observation or surname. As discussed above, many applications subject to § 1002.13(a)(1) will also be subject to collection and reporting under revised Regulation C. While the instructions for the collection of applicant demographic information in appendix B to revised Regulation C impose similar requirements as those set forth in § 1002.13(b) through (c), the Bureau acknowledges that the two sets of instructions are not identical and that revised Regulation C sometimes provides additional instructions absent from § 1002.13. For example, paragraph 12 of appendix B to revised Regulation C provides that, if an applicant begins an application by mail, Internet, or telephone and does not provide the requested applicant information but does not check or select the ''I do not wish to provide this information'' box on the application, and the applicant then meets in person with the financial institution and the financial institution requests the information but the applicant does not provide the information during the in-person meeting, the financial institution must collect the information on the basis of visual observation or surname. Current § 1002.13, on the other hand, is silent on whether a creditor is required to collect applicant demographic information if the application is initiated by mail, internet, and telephone, and the applicant subsequently meets in-person with the creditor.

While the Bureau believes that the instructions in § 1002.13 for the collection of applicant demographic information are not inconsistent with revised Regulation C, to eliminate any uncertainty, the Bureau proposes to revise comment 13(a)–7 to provide that for applications subject to § 1002.13(a)(1), a creditor that collects an applicant's ethnicity, race, and sex information in compliance with the instructions set forth in appendix B to revised Regulation C is acting in compliance with § 1002.13 concerning the collection of an applicant's ethnicity, race, and sex information. The Bureau believes this clarification will also reduce the compliance burden on creditors subject to both § 1002.13(a)(1) and revised Regulation C by allowing such creditors to follow a single set of instructions.

The Bureau solicits comment on proposed comment 13(a)–7.

13(b) Obtaining Information

Section 1002.13(b) provides rules and instructions for obtaining applicant information required under § 1002.13(a). The Bureau is proposing to amend § 1002.13(b) to provide that, when a creditor collects ethnicity and race information pursuant to proposed § 1002.13(a)(1)(i)(B), the creditor must comply with any restrictions on the collection of an applicant's ethnicity or race on the basis of visual observation or surname set forth in appendix B to revised Regulation C.

Among other instructions, current § 1002.13(b) provides that, if an applicant chooses not to provide some or all of the requested applicant demographic information, the creditor shall, to the extent possible, note on the form the ethnicity, race, and sex of the applicant on the basis of visual observation or surname. Instruction 10 in appendix B to revised Regulation C provides, however, that when a financial institution collects an applicant's ethnicity, race, and sex on the basis of visual observation or surname, the financial institution must select from the aggregate ethnicity and race categories.

In light of the revisions to proposed § 1002.13(a)(1)(i), the Bureau proposes to amend § 1002.13(b) to restrict the collection of applicant demographic information where collected on the basis of visual observation or surname. The Bureau believes that a creditor that wishes to collect an applicant's ethnicity and race information under proposed § 1002.13(a)(1)(i)(B) should be subject to the same restrictions as set forth in appendix B to revised Regulation C. The Bureau further believes that keeping the requirements aligned is appropriate given the similar requirements and to promote regulatory consistency. The Bureau invites comment on this amendment.

Comment 13(b)–1 provides guidance on the forms a creditor may use to collect applicant information under § 1002.13(a). The Bureau is proposing to amend the comment to reference the data collection model forms the Bureau proposes to provide in appendix B of Regulation B, as further discussed below. The Bureau is also proposing to amend comment 13(b)–1. First proposed comment 13(b)–1 would reiterate the current interpretation that when a creditor collects only aggregate ethnicity and race information pursuant to proposed § 1002.13(a)(1)(i)(A) (current § 1002.13(a)(1)(i)), the applicant must be offered the option to select more than one racial designation. Proposed comment 13(b)–1 would also provide that when a creditor collects applicant information pursuant to § 1002.13(a)(1)(i)(B), the applicant must be offered the option to select more than one ethnicity and more than one racial designation. The Bureau invites comment on these proposed amendments.

13(c) Disclosure to Applicant(s)

Section 1002.13(c) sets forth the required disclosures a creditor must provide to applicants when collecting the required protected applicant-characteristic information. Current comment 13(c)–1 provides, among other things, that appendix B contains a sample disclosure and that a creditor may devise its own disclosure so long as it is substantially similar. In light of the proposed amendments to appendix B described below, the Bureau is proposing to amend comment 13(c)–1 to reference the two data collection model forms provided for in proposed appendix B. While the Bureau acknowledges that the disclosures in the two data collection model forms are slightly different from each other, the Bureau concludes that use of either form complies with § 1002.13(c) and that the two forms are substantially similar. The Bureau invites comment on this proposed amendment.

Appendix B to Part 1002—Model Application Forms

Regulations B and C both contain an appendix B that provides model forms for use when collecting applicant demographic information required under the regulations. Current appendix B to Regulation B (Regulation B appendix) includes the 2004 URLA, which provides for the same ethnicity and race categories as required under current § 1002.13. Appendix B to current and revised Regulation C (current Regulation C appendix or revised Regulation C appendix, as applicable) includes instructions and a data collection model form for collecting applicant demographic information. In light of the proposed revisions to § 1002.13(a)(1)(i), the Bureau also proposes to amend the Regulation B appendix.

The current Regulation B appendix includes five model forms, each designated for use in a particular type of consumer credit transaction. The fifth model form, the 2004 URLA, is described in the Regulation B appendix as appropriate for residential mortgage transactions and contains a model disclosure for use in complying with current § 1002.13. While use of the model forms is optional, if a creditor uses the appropriate model form, or modifies a form in accordance with the instructions provided in the Regulation B appendix, that creditor is deemed to be acting in compliance with § 1002.5(b) through (d).[33] The section in the 2004 URLA used to collect an applicant's ethnicity and race information (section X) conforms with the aggregate ethnicity and race categories set forth in current § 1002.13(a)(1)(i). The most current version of the URLA (prior to the 2016 URLA) used by the Enterprises is dated July 2005 and was revised in June 2009.

On September 23, 2016, the Bureau issued the Bureau Approval Notice, which approved, pursuant to section 706(e) of ECOA, use of the 2016 URLA.[34] In the Bureau Approval Notice, the Bureau determined that, while a creditor is not required to use the 2016 URLA, a creditor that uses the form without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d).[35] Unlike prior versions of the URLA, the 2016 URLA permits the applicant to select disaggregated ethnicity and race categories, as required under revised Regulation C.

As explained above, the Bureau proposes to revise § 1002.13(a)(1)(i) to provide that, for applications subject to § 1002.13(a)(1), a creditor must collect information concerning the applicant using, at its option, either aggregate or disaggregated ethnicity and race categories. In light of this revision, the Bureau proposes to revise the

[33] Appendix B to part 1002 ¶¶ 1, 3.

[34] *Status of New Uniform Residential Loan Application and Collection of Expanded Home Mortgage Disclosure Act Information About Ethnicity and Race in 2017,* 81 FR 66930 (Sep. 23, 2016).

[35] *Id.*

Regulation B appendix to reflect these alternative approaches in proposed § 1002.13(a)(1)(i). Given the release of the 2016 URLA and the Bureau's approval of that form in the Bureau Approval Notice, the Bureau also proposes to remove the 2004 URLA from the Regulation B appendix, effective upon the Enterprises' cutover date for the 2016 URLA or January 1, 2022, whichever comes first. Each of these proposed revisions is discussed in depth below.

Model Forms for Complying With Proposed § 1002.13(a)(1)(i)

Under proposed § 1002.13(a)(1)(i)(B) a creditor may request information concerning the applicant using disaggregated ethnicity and race categories. In light of this revision, the Bureau believes it is appropriate to provide creditors a model form to use when complying with proposed § 1002.13(a)(1)(i)(B). Specifically, the Bureau proposes to cross-reference the data collection model form included in the revised Regulation C appendix and thereby establish it as a model form for complying with proposed § 1002.13(a)(1)(i)(B). The Bureau proposes to cross-reference this form, rather than create a new model form, based on the belief that doing so will ease the compliance burden on creditors by providing them a single form that may be used with both revised Regulation C and proposed § 1002.13(a)(1)(i)(B). The Bureau believes cross-referencing the data collection model form in revised Regulation C is also appropriate because it will avoid the possibility of inconsistent forms.

The Bureau considered the alternative approach of including the 2016 URLA as a model form for use in complying with proposed § 1002.13(a)(1)(i)(B). The Bureau is not proposing this alternative for several reasons. As discussed above, the Bureau approved use of the 2016 URLA under section 706(e) of ECOA through the Bureau Approval Notice and believes that including the 2016 URLA as a model form is unnecessary given the approvals already provided to the 2016 URLA in that notice. The Bureau also believes that a model form designated for use in complying with § 1002.13(a)(1)(i)(B) is properly limited to include only information relevant to the collection applicant demographic information and that inclusion of unrelated sections of the 2016 URLA is not necessary to further the purposes of ECOA or provide relevant guidance to creditors. Moreover, the Bureau anticipates that the Enterprises may update the 2016 URLA in the future. By maintaining approval of the 2016 URLA in a freestanding notice, the Bureau avoids the risk that the model form will become outdated or that the Bureau will need to make ongoing revisions and updates within Regulation B. Although the Bureau does not propose to include the 2016 URLA in Regulation B as a model form, the Bureau notes that the substance and form of section 7 of the 2016 URLA is substantially similar to the data collection model form the Bureau proposes to designate for use in complying with revised § 1002.13(a)(1)(i)(B). The Bureau does not intend to convey disapproval of the 2016 URLA and has no plans at this time to revise or withdraw the Bureau Approval Notice currently in effect.

The Bureau also proposes to add a model form to the Regulation B appendix to be used for the collection of an applicant's ethnicity and race information in compliance with proposed § 1002.13(a)(1)(i)(A). The text of the proposed model form substantially mirrors both section X in the 2004 URLA and the data collection model form contained in the current Regulation C appendix. Given these similarities, the Bureau believes that a creditor can comply with revised § 1002.13(a)(1)(i)(A) without modifying its existing forms for the collection of an applicant's ethnicity and race information. Like the proposed model form that may be used in compliance with § 1002.13(a)(1)(i)(B), the Bureau's proposed model form for § 1002.13(a)(1)(i)(A) is one-page in length and limited to information concerning the applicant's ethnicity, race, and sex.

The Bureau solicits comment on this proposal to provide alternative model forms for compliance with revised § 1002.13(a)(1)(i).

Removal of the 2004 URLA as a Model Form

As discussed above, the current Regulation B appendix includes the 2004 URLA as a model form for use in complying with § 1002.13. In light of the proposed revisions to § 1002.13(a)(1)(i) and the proposal to provide two additional model forms for use in complying with revised § 1002.13(a)(1)(i), the Bureau proposes to remove the 2004 URLA as a model form in Regulation B. The Bureau proposes that the 2004 URLA be removed on the cutover date the Enterprises designate for use of the 2016 URLA or January 1, 2022, whichever comes first.

As noted above, the Bureau expects the Enterprises will designate in 2017 a cutover date for mandatory use of the 2016 URLA. The Bureau expects that the vast majority of creditors that use the URLA either currently do not use the already outdated 2004 URLA or will cease using the 2004 URLA on or prior to the 2016 URLA cutover date. Accordingly, the Bureau believes that removal of the 2004 URLA from appendix B upon the cutover date designated by the Enterprises will successfully eliminate an outdated form without imposing an appreciable burden on creditors. Alternatively, if the cutover date is after January 1, 2022, the Bureau proposes an effective date of January 1, 2022; the Bureau believes that five years provides creditors ample time to update their forms if they wish to.

The Bureau further believes that removal of the 2004 URLA is appropriate because it would be duplicative of the form the Bureau proposes to provide for use in complying with proposed § 1002.13(a)(1)(i)(A). As discussed above, the proposed one-page data collection model form is substantially similar to section X of the 2004 URLA. The Bureau believes that retention of the 2004 URLA in Regulation B is therefore unnecessary and could create uncertainty as to the purpose of the two forms.

Finally, the Bureau believes that removal of the 2004 URLA from Regulation B is appropriate in light of the proposal not to include the 2016 URLA as a model form. The Bureau is concerned that maintaining the 2004 URLA as a model form in Regulation B, while not including the 2016 URLA, may discourage some creditors from using the 2016 URLA or the disaggregated ethnicity and race categories. The Bureau further believes that removal of the 2004 URLA from Regulation B is appropriate for many of the same reasons the Bureau identified above for not proposing to include the 2016 URLA, including that the 2004 URLA contains numerous sections that are irrelevant to compliance with § 1002.13. In proposing to remove the 2004 URLA, however, the Bureau does not intend to suggest that the content and wording of the form no longer complies with § 1002.5(b) through (d) or § 1002.13(a)(1)(i).

In light of these considerations, the Bureau proposes to remove the 2004 URLA as a model form in the Regulation B appendix, effective upon the cutover date designated by the Enterprises for use of the 2016 URLA or January 1, 2022, whichever comes first. The Bureau solicits comment on this proposal.

Removal of the Official Commentary to Appendix B

As discussed above, commentary to appendix B includes a discussion of two forms created by the Enterprises that are no longer in use: A 1992 version of the URLA and a 1986 home-improvement and energy loan application form. Given that neither form discussed in the commentary to the Regulation B appendix is currently used by the Enterprises, the Bureau believes that few, if any, creditors continue to use the referenced forms. Accordingly, the Bureau proposes to remove in its entirety the commentary to the Regulation B appendix based on the belief that it no longer provides useful guidance to creditors. While the Bureau acknowledges that the commentary in the Regulation B appendix instructs creditors to delete, strike, or modify the data-collection section on the referenced forms when using the forms for transaction not covered by § 1002.13(a), the Bureau believes that this language is unnecessary and duplicative of appendix B itself, which provides that a creditor may alter the model forms by deleting any information request. The Bureau solicits comment on this proposal, including specifically whether any portion of the current commentary to appendix B should be retained.

VII. Dodd-Frank Act Section 1022(b) Analysis

A. Overview

In developing the proposed rule, the Bureau has considered the potential benefits, costs, and impacts.[36] The Bureau requests comment on the preliminary analysis presented below as well as submissions of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts. The Bureau has consulted, or offered to consult with, the prudential regulators (the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency), the Securities and Exchange Commission, the Department of Justice, the Department of Housing and Urban Development, the Federal Housing Finance Agency, the Federal Trade Commission, the U.S. Department of Veterans Affairs, the U.S. Department of Agriculture, and the Department of the Treasury, including regarding consistency with any prudential, market or systematic objectives administered by such agencies.

The purpose of ECOA, as implemented by Regulation B, is to promote access to credit by all creditworthy applicants without regard to protected characteristics. The proposal would make three substantive changes to Regulation B, along with other clarifications, minor changes, and technical corrections to align the language of Regulation B with Regulation C as amended by the 2015 HMDA Final Rule. The first would give persons who collect and retain race and ethnicity information in compliance with ECOA as implemented in Regulation B the option of permitting applicants to self-identify using the disaggregated race and ethnicity categories required by the 2015 HMDA Final Rule. In practice, this would allow entities that report race and ethnicity in accordance with the 2015 HMDA Final Rule and Regulation C to comply with Regulation B without further action, while entities that do not report under HMDA but record and retain race and ethnicity data under Regulation B would have the option of recording data either using the existing aggregated categories or the new disaggregated categories.

The Bureau believes that, absent this change, entities which currently report race and ethnicity data under the HMDA could conclude that they have different obligations under Regulation B and Regulation C once the 2015 HMDA Final Rule goes into effect on January 1, 2018. This would lead to unnecessary burden from collecting both aggregated and disaggregated data. By making disaggregated collection an option under Regulation B, entities who will report race and ethnicity information under the HMDA final rule will also be in compliance with Regulation B with certainty. The Bureau believes that making collection of disaggregated race and ethnicity an option for all entities covered by Regulation B will pose little or no additional burden on those entities who are not HMDA reporters. The proposed amendment may have some benefits to non-HMDA reporting entities, as the current language of Regulation B would not allow these entities to use the 2016 version of the Enterprises' Uniform Residential Loan Application (URLA) for the purpose of collecting race and ethnicity data, as the 2016 URLA uses the disaggregated race and ethnicity categories matching the 2015 HMDA Final Rule and not the specific categories required by current Regulation B. Thus, the proposed amendment has the added benefit that it will allow non-HMDA reporting entities to use the 2016 URLA as an instrument to collect race and ethnicity information.

The second substantive change would remove the outdated 2004 URLA as a model form, concurrent with the date that the Enterprises have announced they will cease accepting that form or on January 1, 2022, whichever occurs first. The Bureau issued an Approval Notice under its authority in section 706(e) of ECOA on September 23, 2016, that a creditor that uses the 2016 URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d). The Bureau is not proposing to add the 2016 URLA as a model form in place of the 2004 version. Instead, the Bureau is proposing to provide for two alternative data collection model forms for the purpose of collecting ethnicity and race information. The Bureau believes this practice of acknowledging future versions of the URLA via a Bureau Approval Notice rather than a revision to Regulation B will avoid the risk that the model form included in Regulation B will become outdated in the future.

Finally, the Bureau proposes amending Regulation B and the associated commentary to allow creditors to collect ethnicity, race and sex from mortgage applicants in certain cases where the creditor is not required to report under HMDA and Regulation C. These cases include creditors that submit HMDA data even though not required to do so, and creditors that submitted HMDA data in any of the preceding five calendar years. This change would primarily benefit institutions that may be near the loan volume reporting threshold, such that they may be required to report under HMDA and Regulation C in some years and not others, or may be uncertain about their reporting status. The Bureau believes that allowing voluntary collection will reduce the burden of compliance with Regulation C on some entities and provide certainty regarding Regulation B compliance over time.

B. Potential Benefits and Costs to Consumers and Covered Persons

Providing an Option To Collect Disaggregated Race and Ethnicity for Regulation B

Relative to the state of Regulation B and Regulation C following the effective date of the 2015 HMDA Final Rule, the proposed amendment provides clear

[36] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

benefits to entities that will be required to collect and report race and ethnicity data under HMDA. Currently the disaggregated race and ethnicity categories required by the amendments to Regulation C in the 2015 HMDA Final Rule, effective January 1, 2018, do not match the categories specified in current Regulation B. Because of the differences between the categories, some creditors required to collect and report race and ethnicity using the disaggregated categories set forth in Regulation C may be uncertain whether additional collection using aggregated categories would also be required to satisfy current Regulation B. Complying with both Regulations would require burdensome and duplicative collection of race and ethnicity data at both the aggregated and disaggregated level. In practice, the proposal simply makes clear that the existing collection that will be required for Regulation C is sufficient for compliance with Regulation B.

The proposal may have small benefits to consumers, to the extent that lending entities voluntarily choose to collect disaggregated race and ethnicity information. As discussed in the section 1022 analysis for the 2015 HMDA Final Rule, collection of disaggregated race and ethnicity data can enhance the ability of regulators to conduct fair lending analysis. These benefits are limited for three reasons, however. First, non-HMDA reporters will not be required to permit applicants to self-identify using disaggregated ethnicity and race categories. Second, many Regulation B-only creditors will be exempt from reporting under Regulation C because they originate fewer than 25 closed-end mortgage loans in each of the two preceding calendar years, which means both that few consumers would be affected and that the resulting data would likely be too sparse for statistical analysis even of the aggregated race and ethnicity data. Finally, demographic data retained by Regulation B-only creditors is not reported under Regulation C. Consequently, most oversight and analysis of demographic data retained by Regulation B-only creditors will be done only by regulators, whereas researchers and community groups also conduct analysis of HMDA data reported under Regulation C. The Bureau believes the proposal will not impose any costs on consumers.

The proposal may have benefits to some Regulation B-only creditors. Although these entities need not make any changes to their race and ethnicity collection procedures, they may desire to do so in the future by adopting the 2016 URLA for non-HMDA reportable loan applications. The Enterprises have announced that they will cease accepting older versions of the URLA at a date to be determined and require firms that sell to the Enterprises to use the 2016 URLA form. Some Regulation B-only creditors sell mortgages to the Enterprises, and would benefit from being able to use the 2016 URLA. Because the policy change on the part of the Enterprises is not a part of the rule, the Bureau believes any operational costs from adopting the 2016 URLA are part of the normal course of business and are not a cost of the proposed rule change.

In addition to the proposed change, the Bureau considered two alternatives to address the differing race and ethnicity requirements of Regulation B and Regulation C. The Bureau considered requiring all persons subject to the collection and retention requirement of Regulation B to permit applicants to self-identify using disaggregated race and ethnicity categories. To the extent that consumers would benefit from disaggregated race and ethnicity collection, this alternative would provide greater benefits than the Bureau's proposal. However, of the three limitations to consumer benefits listed above, only the first (that disaggregated categories would be optional) is alleviated by requiring the use of disaggregated race and ethnicity categories under Regulation B. It is still the case that due to the low volume of mortgages by many affected entities and the lack of reporting, disaggregated race and ethnicity data may have limited benefits. Finally, the Bureau believes many entities will adopt the 2016 URLA as part of the course of business and thus permit applicants to self-identify using disaggregated race and ethnicity categories.

At the same time, mandatory use of disaggregated collection of race and ethnicity categories would impose greater costs on firms than the Bureau's proposal, particularly on smaller entities. These costs include greater operational costs and one-time database upgrades. Unlike adoption of the 2016 URLA, these costs would not be incurred in the normal course of business. The Bureau does not have data available to estimate these costs, but given the small marginal benefits of mandatory use of disaggregated race and ethnicity categories, the Bureau is not proposing making disaggregated race and ethnicity categories mandatory for compliance with Regulation B. The Bureau requests comments on both the costs and benefits associated with this alternative approach.

The Bureau also considered eliminating entirely the collection and retention requirement of Regulation B. Although this alternative would reduce burden to firms who do not report under HMDA, the Bureau believes it may impose costs on consumers. The prudential regulators confirm that data collected and retained by entities subject to Regulation B but not Regulation C may be used for fair lending supervision and enforcement. Institutions subject to Regulation B but not Regulation C include, for example, institutions that do not have a branch or home office in a Metropolitan Statistical Area, do not meet an applicable asset threshold, or do not meet an applicable loan volume threshold.

For instance, the 2015 NCUA Call Report and the 2015 Nationwide Mortgage Licensing System & Registry (NMLS) Mortgage Call Report data include 489 credit unions and 161 non-depository institutions that originated at least 25 closed-end mortgages that are not found in the 2015 HMDA data.[37] In addition, many community banks in rural areas are already exempt from HMDA reporting because they do not have a branch or home office in a Metropolitan Statistical Area (MSA).[38] Demographic information collected under Regulation B by those institutions with larger loan volumes may be used in statistical analysis that supports fair lending supervision and enforcement. Removing the Regulation B requirement altogether would make detection of any discrimination by these entities more difficult, with potentially large costs to consumers where such discrimination exists. Even for institutions with very small volumes of originations that may not be subject to HMDA reporting because they do not meet an applicable loan volume threshold, the retained information may be useful for comparative file reviews. In 2015 there were 1,178 institutions that reported HMDA data but had fewer than 25 originations and therefore would likely be exempt under the 2015 HMDA Final Rule if they continue to originate loans at a similar volume. Although the loan

[37] The criteria for being a financial institution and reporting transactions under HMDA are different in some ways from the criteria for reporting under the NMLS Mortgage Call Report and reporting transactions under it. It is possible that the NMLS omits some non-depository institutions that originated at least 25 closed-end mortgages, did not report HMDA data, and are subject to Regulation B. Some or all of these institutions may also not have been required to report HMDA data.

[38] The Bureau does not have an estimate of the number of rural community banks that are currently exempt from HMDA reporting and originate at least 25 loans per year. The FFIEC call report for banks does not report originations for depository institutions that do not report to HMDA.

volumes of most of these institutions would be too sparse for statistical analysis, the ability to conduct comparative file reviews using data retained under Regulation B has some benefit. Accordingly, the Bureau does not propose removing the Regulation B requirement to collect and retain race and ethnicity information.

Model Forms for Collecting Race and Ethnicity Data

The Bureau believes that the proposal to change the model forms for collecting race and ethnicity data will have modest benefits to firms collecting these data, by providing updated model forms, and reducing confusion regarding the outdated 2004 URLA. The proposal does not impose any new costs on firms, nor does the Bureau believe that consumers will experience any cost or benefit from the proposal. The Bureau requests comment regarding the costs and benefits associated with this proposal.

Allowing Voluntary Collection of Applicant Information

Regarding the proposal to allow certain creditors to voluntarily collect demographic information, the Bureau believes the financial institutions that will most likely exercise such options would be low-volume, low-complexity institutions that have made a one-time investment in HMDA collection and reporting and would like to utilize that collection process already in place. The Bureau believes the proposed provision will provide modest benefits to such institutions, by saving on one-time adjustment costs required to shift in and out of collection. The Bureau expects that institutions will only exercise this option if voluntary collection provides a net benefit. The Bureau does not believe that consumers will experience any cost or benefit from the proposal. The Bureau requests comment regarding the costs and benefits associated with this proposal, particularly data on the number of firms that might be interested in voluntary collection under this provision.

C. Impact on Depository Institutions and Credit Unions With $10 Billion or Less in Assets, As Described in Dodd-Frank Section 1026

The Bureau believes that depository institutions and credit unions with $10 billion or less in assets will not be differentially affected by the substantive proposed amendments. The primary benefit to lenders from the proposed rule is the reduced uncertainty and compliance burden from allowing the disaggregated race and ethnicity information collected under Regulation C to be used to comply with Regulation B. Both certain depository institutions and credit unions with less than $10 billion in assets and covered persons with more than $10 billion in assets currently report data under HMDA and thus will receive these benefits. The benefits may be somewhat larger for depository institutions and credit unions with less than $10 billion in assets because the relative costs of duplicative collection would be greater for these entities.

D. Impact on Access to Credit

The Bureau does not believe that there will be an adverse impact on access to credit resulting from any of the proposed provisions.

E. Impact on Consumers in Rural Areas

The Bureau believes that rural areas might benefit from the provision to allow collection of disaggregated race and ethnicity information more than urban areas. One of the exceptions to the reporting requirements under HMDA is for entities which do not have a branch or home office located in an MSA. Such entities likely serve primarily customers in rural areas. To the extent that the proposed provision benefits firms and consumers, consumers in rural areas will see the largest benefits.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small business, small governmental units, and small nonprofit organizations. The RFA defines a ''small business'' as a business that meets the size standard developed by the Small Business Administration pursuant to the Small Business Act.

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The Bureau also is subject to certain additional procedures under RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.

An IRFA is not required for this proposal because the proposal, if adopted, would not have a significant economic impact on any small entities. The Bureau does not expect the proposal to impose costs on covered persons. All methods of compliance under current law will remain available to small entities if the proposal is adopted. Thus, a small entity that is in compliance with current law need not take any additional action if the proposal is adopted, save those already required by the 2015 HMDA Final Rule.

Accordingly, the undersigned certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

IX. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.),* Federal agencies are generally required to seek the Office of Management and Budget (OMB)'s approval for information collection requirements prior to implementation. The collections of information related to Regulation B and Regulation C have been previously reviewed and approved by OMB and assigned OMB Control Number 3170–0013 (Regulation B) and 3170–0008 (Regulation C). Under the PRA, the Bureau may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to an information collection unless the information collection displays a valid control number assigned by OMB.

The Bureau has determined that this Proposed Rule would not impose any new or revised information collection requirements (recordkeeping, reporting or disclosure requirements) on covered entities or members of the public that would constitute collections of information requiring OMB approval under the PRA. Although some entities subject to Regulation B but not Regulation C may choose to voluntarily begin collecting disaggregated race and ethnicity information, the Bureau believes the most likely reason for this to occur is through adoption of the 2016 URLA, which is not part of the proposed rule.

The Bureau welcomes comments on this determination, which may submitted to the Bureau at the Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, or by email to *CFPB_PRA@cfpb.gov.* All Comments are matters of Public Record.

List of Subjects in 12 CFR Part 1002

Aged, Banks, Banking, Civil rights, Consumer protection, Credit, Credit unions, Discrimination, Fair lending, Marital status discrimination, National banks, National origin discrimination, Penalties, Race discrimination, Religious discrimination, Reporting and

recordkeeping requirements, Savings associations, Sex discrimination.

Authority and Issuance

For the reasons set forth above, the Bureau proposes to amend Regulation B, 12 CFR part 1002, as set forth below:

PART 1002—EQUAL CREDIT OPPORTUNITY ACT (REGULATION B)

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1691b.

■ 2. Section 1002.5 is amended by adding paragraph (a)(4) to read as follows:

§ 1002.5 Rules concerning requests for information.

(a) * * *

(4) *Other permissible collection of information.* Notwithstanding paragraph (b) of this section, a creditor may collect information under the following circumstances provided that the creditor collects the information in compliance with appendix B to Regulation C, 12 CFR part 1003:

(i) A creditor that is a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for a closed-end mortgage loan that is an excluded transaction under 12 CFR 1003.3(c)(11) if it submits HMDA data concerning such closed-end mortgage loans and applications or if it submitted HMDA data concerning closed-end mortgage loans for any of the preceding five calendar years;

(ii) A creditor that is a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for an open-end line of credit that is an excluded transaction under 12 CFR 1003.3(c)(12) if it submits HMDA data concerning such open-end lines of credit and applications or if it submitted HMDA data concerning open-end lines of credit for any of the preceding five calendar years;

(iii) A creditor that submitted HMDA data for any of the preceding five calendar years but is not currently a financial institution under 12 CFR 1003.2(g) may collect information regarding the ethnicity, race, and sex of an applicant for a loan that would otherwise be a covered loan under 12 CFR 1003.2(e) if not excluded by 12 CFR 1003.3(c)(11) or (12); and

(iv) A creditor that exceeded an applicable loan volume threshold in the first year of the two-year threshold period provided in 12 CFR 1003.2(g), 1003.3(c)(11), or 1003.3(c)(12) may, in the subsequent year, collect information regarding the ethnicity, race, and sex of an applicant for a loan that would otherwise be a covered loan under 12 CFR 1003.2(e) if not excluded by 12 CFR 1003.3(c)(11) or (12).

* * * * *

■ 3. Section 1002.12 is amended by revising paragraph (b)(1)(i) to read as follows:

§ 1002.12 Record retention.

* * * * *

(b) * * *

(1) * * *

(i) Any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the Act and this part or other similar law, any information obtained pursuant to § 1002.5(a)(4), and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request.

■ 4. Section 1002.13 is amended by revising paragraphs (a)(1)(i) and (b) to read as follows:

§ 1002.13 Information for monitoring purposes.

(a) * * *

(1) * * *

(i) Ethnicity and race using either:

(A) For ethnicity, the aggregate categories Hispanic or Latino and not Hispanic or Latino; and, for race, the aggregate categories American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or Other Pacific Islander, and White; or

(B) The categories and subcategories for the collection of ethnicity and race set forth in appendix B to Regulation C, 12 CFR part 1003.

* * * * *

(b) *Obtaining information.* Questions regarding ethnicity, race, sex, marital status, and age may be listed, at the creditor's option, on the application form or on a separate form that refers to the application. The applicant(s) shall be asked but not required to supply the requested information. If the applicant(s) chooses not to provide the information or any part of it, that fact shall be noted on the form. The creditor shall then also note on the form, to the extent possible, the ethnicity, race, and sex of the applicant(s) on the basis of visual observation or surname. When a creditor collects ethnicity and race information pursuant to paragraph (a)(1)(i)(B), the creditor must comply with any restrictions on the collection of an applicant's ethnicity or race on the basis of visual observation or surname set forth in appendix B to Regulation C, 12 CFR part 1003.

* * * * *

■ 5. Appendix B to Part 1002—Model Application Forms is amended by revising paragraph (1) and adding a Data Collection Model Form to read as follows:

Appendix B to Part 1002—Model Application Forms

1. This appendix contains five model credit application forms, each designated for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form. The first sample form is intended for use in open-end, unsecured transactions; the second for closed-end, secured transactions; the third for closed-end transactions, whether unsecured or secured; the fourth in transactions involving community property or occurring in community property States; and the fifth in residential mortgage transactions which contains a model disclosure for use in complying with § 1002.13 for certain dwelling-related loans. This appendix also contains a data collection model form for collecting information concerning an applicant's ethnicity, race, and sex that complies with the requirements of § 1002.13(a)(1)(i)(A) and (ii). Appendix B to Regulation C, 12 CFR part 1003, provides a data collection model form for collecting information concerning an applicant's ethnicity, race and sex that complies with the requirements of § 1002.13(a)(1)(i)(B) and (ii). All forms contained in this appendix are models; their use by creditors is optional.

* * * * *

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DATA COLLECTION MODEL FORM
INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are *not* required to furnish this information, but are encouraged to do so. You may select one or more designation for "Race." The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. However, if you choose not to furnish the information and you have made this application in person, under federal regulations the lender is required to note ethnicity, race, and sex on the basis of visual observation or surname. If you do not wish to furnish the information, please check below.

APPLICANT:	CO-APPLICANT:
☐ I do not wish to furnish this information	☐ I do not wish to furnish this information
Ethnicity	Ethnicity
☐ Hispanic or Latino	☐ Hispanic or Latino
☐ Not Hispanic or Latino	☐ Not Hispanic or Latino
Race	Race
☐ American Indian or Alaska Native	☐ American Indian or Alaska Native
☐ Asian	☐ Asian
☐ Black or African American	☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander	☐ Native Hawaiian or Other Pacific Islander
☐ White	☐ White
Sex	Sex
☐ Female	☐ Female
☐ Male	☐ Male

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* * * * *

■ 6. Appendix B to Part 1002—Model Application Forms is amended by revising paragraph 1 and under paragraph 3 removing the form ''Uniform Residential Loan Application''.

The revision reads as follows:

Appendix B to Part 1002—Model Application Forms

1. This appendix contains four model credit application forms, each designated for use in a particular type of consumer credit transaction as indicated by the bracketed caption on each form. The first sample form is intended for use in open-end, unsecured transactions; the second for closed-end, secured transactions; the third for closed-end transactions, whether unsecured or secured; and the fourth in transactions involving community property or occurring in community property States. This appendix also contains a data collection model form for collecting information concerning an applicant's ethnicity, race, and sex that complies with the requirements of § 1002.13(a)(1)(i)(A) and (ii). Appendix B to Regulation C, 12 CFR part 1003, provides a data collection model form for collecting information concerning an applicant's ethnicity, race and sex that complies with the requirements of § 1002.13(a)(1)(i)(B) and (ii). All forms contained in this appendix are models; their use by creditors is optional.

* * * * *

■ 7. Supplement I to Part 1002—Official Interpretations:

■ a. Under *Section 1002.5—Rules concerning requests for information:*

■ i. Under *Paragraph 5(a)(2),* paragraph 2 is revised.

■ ii. New heading *Paragraph 5(a)(4)* is added, and under *Paragraph 5(a)(4)* new paragraph 1 is added.

■ b. Under *Section 1002.12—Record retention:*

■ i. Under *Paragraph 12(b),* paragraph 2 is revised.

■ c. Under *Section 1002.13—Information for monitoring purposes:*

■ i. Under *Paragraph 13(a)—Information to be requested,* paragraph 7 is revised and paragraph 8 is added.

■ ii. Under *Paragraph 13(b)—Obtaining of information,* paragraph 1 is revised.

■ iii. Under *Paragraph 13(c)—Disclosure to applicants,* paragraph 1 is revised.

■ d. The heading Appendix B—Model Application Forms and paragraphs 1 and 2 thereunder are removed.

The revisions and additions read as follows:

Supplement I to Part 1002—Official Interpretations

* * * * *

Section 1002.5—Rules Concerning Requests for Information

5(a) General Rules

* * * * *

Paragraph 5(a)(2)

* * * * *

2. *Information required by Regulation C.* Regulation C, 12 CFR part 1003, generally requires creditors covered by the Home Mortgage Disclosure Act (HMDA) to collect and report information about the race, ethnicity, and sex of applicants for certain dwelling-secured loans, including some types of loans not covered by § 1002.13.

* * * * *

Paragraph 5(a)(4).1. *Other permissible collection of information.* Information regarding ethnicity, race, and sex that is not required to be collected pursuant to Regulation C may nevertheless be collected under the circumstances set forth in § 1002.5(a)(4) without violating § 1002.5(b). The information must be retained pursuant to the requirements of § 1002.12.

* * * * *

Section 1002.12—Record Retention

* * * * *

12(b) Preservation of Records

* * * * *

2. *Computerized decisions.* A creditor that enters information items from a written application into a computerized or mechanized system and makes the credit decision mechanically, based only on the items of information entered into the system, may comply with § 1002.12(b) by retaining the information actually entered. It is not required to store the complete written application, nor is it required to enter the remaining items of information into the system. If the transaction is subject to § 1002.13 or the creditor is collecting information pursuant to § 1002.5(a)(4), however, the creditor is required to enter and retain the data on personal characteristics in order to comply with the requirements of that section.

* * * * *

Section 1002.13—Information for Monitoring Purposes

13(a) Information To Be Requested

* * * * *

7. *Data collection under Regulation C.* For applications subject to § 1002.13(a)(1), a creditor that collects information about the ethnicity, race, and sex of an applicant in compliance with the requirements of appendix B to Regulation C, 12 CFR part

1003, is acting in compliance with § 1002.13 concerning the collection of an applicant's ethnicity, race, and sex information. *See also* comment 5(a)(2)–2.8. *Application-by-application basis.* For applications subject to § 1002.13(a)(1), a creditor may choose on an application-by-application basis whether to collect aggregate information pursuant to § 1002.13(a)(1)(i)(A) or disaggregated information pursuant to § 1002.13(a)(1)(i)(B) about the ethnicity and race of the applicant.

13(b) Obtaining of information. 1. *Forms for collecting data.* A creditor may collect the information specified in § 1002.13(a) either on an application form or on a separate form referring to the application. Appendix B to this part provides for two alternative data collection model forms for use in complying with the requirements of § 1002.13(a)(1)(i) and (ii) to collect information concerning an applicant's ethnicity, race, and sex. When a creditor collects ethnicity and race information pursuant to § 1002.13(a)(1)(i)(A), the applicant must be offered the option to select more than one racial designation. When a creditor collects ethnicity and race information pursuant to § 1002.13(a)(1)(i)(B), the applicant must be offered the option to select more than one ethnicity designation and more than one racial designation.

* * * * *

13(c) Disclosure to applicants. 1. *Procedures for providing disclosures.* The disclosure to an applicant regarding the monitoring information may be provided in writing. Appendix B provides data collection model forms for use in complying with § 1002.13 and that comply with § 1002.13(c). A creditor may devise its own disclosure so long as it is substantially similar. The creditor need not orally request the monitoring information if it is requested in writing.

* * * * *

Dated: March 24, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–06195 Filed 4–3–17; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2017–C–1951]

Environmental Defense Fund, Earthjustice, Environmental Working Group, Center for Environmental Health, Healthy Homes Collaborative, Health Justice Project of Loyola University Chicago School of Law, Breast Cancer Fund, Improving Kids' Environment, Consumers Union, Natural Resources Defense Council, Consumer Federation of America, Learning Disabilities Association, Maricel Maffini, and Howard Mielke; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by the Environmental Defense Fund, Earthjustice, Environmental Working Group, Center for Environmental Health, Healthy Homes Collaborative, Health Justice Project of Loyola University Chicago School of Law, Breast Cancer Fund, Improving Kids' Environment, Consumers Union, Natural Resources Defense Council, Consumer Federation of America, Learning Disabilities Association, Maricel Maffini, and Howard Mielke, proposing that FDA repeal the color additive regulation providing for the use of lead acetate in cosmetics intended for coloring hair on the scalp.

DATES: The color additive petition was filed on February 24, 2017. Submit either electronic or written comments by June 5, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 5, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 5, 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.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2017–C–1951 for ''Environmental Defense Fund, Earthjustice, Environmental Working Group, Center for Environmental Health, Healthy Homes Collaborative, Health Justice Project of Loyola University Chicago School of Law, Breast Cancer Fund, Improving Kids' Environment, Consumers Union, Natural Resources Defense Council, Consumer Federation of America, Learning Disabilities Association, Maricel Maffini, and Howard Mielke; Filing of Color Additive Petition.'' Received comments, those filed in a timely manner (see DATES), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comment only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *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 Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Molly A. Harry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1075.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379e(d)(1)), we are giving notice that we have filed a color additive petition (CAP 7C0309), submitted by the Environmental Defense Fund, Earthjustice, Environmental Working Group, Center for Environmental Health, Healthy Homes Collaborative, Health Justice Project of Loyola University Chicago School of Law, Breast Cancer Fund, Improving Kids' Environment, Consumers Union, Natural Resources Defense Council, Consumer Federation of America, Learning Disabilities Association, Maricel Maffini, and Howard Mielke, c/o Thomas Neltner, 1875 Connecticut Ave. NW., Suite 600, Washington, DC 20009. The petition proposes that we repeal the color additive regulation for lead acetate in § 73.2396 (21 CFR 73.2396), which permits the use of lead acetate in cosmetics intended for coloring hair on the scalp only, subject to certain restrictions.

II. Repeal of § 73.2396

In accordance with the procedure in section 721(d) of the FD&C Act for issuance, amendment, or repeal of regulations, the petition asks us to repeal § 73.2396 to no longer provide for the use of lead acetate in cosmetics intended for coloring hair on the scalp. Specifically, the petitioners contend that new data, available since we issued § 73.2396 in 1980 (45 FR 72112, October 31, 1980), demonstrate that lead acetate: (1) Is readily absorbed through human skin; (2) once absorbed, is transported to various organs, including the brain, and into extracellular fluid compartments; (3) has been designated as ''reasonably anticipated to be a human carcinogen'' based on evidence of carcinogenicity in experimental animals; (4) has other adverse health effects including neurotoxicity; and (5) there is no safe level of exposure to lead. The petitioners cite, as evidence, conclusions by the National Toxicology Program, the Centers for Disease Control and Prevention, the Environmental Protection Agency, and decisions related to lead and lead compounds by other national regulatory agencies, including Health Canada. The petitioners claim that there is no longer a reasonable certainty of no harm from the use of lead acetate for coloring hair on the scalp.

We invite comments and additional scientific data and other information related to the issues raised by this petition. If we determine that the available data justify repealing § 73.2396 to no longer provide for the use of lead acetate, we will publish our decision in the **Federal Register** in accordance with 21 CFR 71.20.

We also are reviewing the potential environmental impact of the petitioners' requested action. The petitioners claim a categorical exclusion from preparing an environmental assessment or environmental impact statement under 21 CFR 23.32(m). In accordance with regulations issued under the National Environmental Policy Act (40 CFR 1506.6(b)), we are placing the environmental document submitted with the subject petition on public display at the Division of Dockets Management (see **ADDRESSES**) so that interested persons may review the document. If we determine that the petitioners' claim of categorical exclusion is warranted and that neither an environmental assessment nor environmental impact statement is required, we will announce our determination in the **Federal Register** if this petition results in the repeal of § 73.2396. If we determine that the claim of categorical exclusion is not warranted, we will place the environmental assessment on public display at the Division of Dockets Management and provide notice in the **Federal Register** announcing its availability for review and comment.

Dated: March 29, 2017.

Dennis M. Keefe,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 2017–06581 Filed 4–3–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 96

[Public Notice: 9940]

RIN 1400–AD91

Intercountry Adoptions

AGENCY: Department of State.

ACTION: Proposed rule; notice of withdrawal.

SUMMARY: The Department of State (Department) published a notice of proposed rulemaking (NPRM) on September 8, 2016, proposing to amend its regulations implementing the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and the Intercountry Adoption Act of 2000. 81 FR 62322. The Department hereby withdraws that action. The comments provided in response to the NPRM will be considered in drafting a new rule, which is expected to be published later this year.

DATES: September 8, 2016.

FOR FURTHER INFORMATION CONTACT: Trish Maskew, (202) 485–6024.

Theodore ''Ted'' R. Coley

Acting Deputy Assistant Secretary, Overseas Citizen Services, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 2017–06558 Filed 4–3–17; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2017–0001; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA20

Repeal of Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) proposes to repeal the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Rule that was published in the **Federal Register** on July 1, 2016 (''2017 Valuation Rule'').

Repeal of the 2017 Valuation Rule would maintain the current regulatory *status quo* by keeping the longstanding pre-existing regulations in effect.

DATES: You must submit comments on or before May 4, 2017.

ADDRESSES: You may submit comments to ONRR on this proposed rulemaking by any of the methods listed below. Please reference the Regulation Identifier Number (RIN) 1012–AA20 in your comments. See also Public Availability of Comments under Procedural Matters.

- *Electronically:* Go to *www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2017–0002,'' and then click ''Search.'' Follow the instructions to submit public comments. We will post all comments.
- Email comments to Armand Southall, Regulatory Specialist, at *armand.southall@onrr.gov.*
- Hand-carry or mail comments, using an overnight courier service, to the Office of Natural Resources Revenue, Building 53, Entrance E–20, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For comments or questions on procedural issues, contact Armand Southall, ONRR, at (303) 231–3221, or email to *armand.southall@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 2016, ONRR published in the **Federal Register** the Consolidated Federal Oil & Gas and Federal & Indian Coal Valuation Reform Rule, which was effective on January 1, 2017 (2017 Valuation Rule). 81 FR 43338. The 2017 Valuation Rule changes how Federal oil and gas and Federal and Indian coal lessees value production for royalty purposes. It also revises revenue-reporting requirements.

On December 29, 2016, three different sets of petitioners filed three separate petitions challenging the 2017 Valuation Rule in the United States District Court for the District of Wyoming. In those lawsuits the petitioners allege that certain provisions of the 2017 Valuation Rule are arbitrary, capricious, and contrary to the law. The petitioners raise serious questions concerning the validity or prudence of certain provisions of the 2017 Valuation Rule, such as the expansion of the ''default provision'' and the use of the sales price of electricity to value coal.

In addition to initiating litigation, on February 17, 2017, the petitioners sent a joint letter to the ONRR Director. In that letter the petitioners asserted that the 2017 Valuation Rule's new reporting and payment requirements would be difficult or impossible to comply with by the royalty reporting-deadline, a problem that would be exacerbated by the fact that non-compliant lessees may be exposed to significant civil penalties.

The petitioners' lawsuits and correspondence echoed the concerns voiced by many industry representatives in workshops during the public comment period that preceded the 2017 Valuation Rule's promulgation. Records of those workshops, industry comments, and other public comments may be viewed at *https://onrr.gov/Laws_R_D/FRNotices/AA13.htm.*

On February 27, 2017, in response to the petitioners' lawsuits and their request to ONRR to stay implementation of the 2017 Valuation Rule, ONRR postponed implementation of the 2017 Valuation Rule, pending judicial review, by notice published in the **Federal Register**. 82 FR 11823.

ONRR is now proposing to repeal the 2017 Valuation Rule in its entirety. Repeal would be consistent with the President's January 30, 2017, Executive Order on *Reducing Regulation and Controlling Regulatory Costs.* It would (a) preserve the regulatory status quo while ONRR reconsiders whether revisions are appropriate or needed to the pre-existing regulations governing royalty values; (b) avoid the costs to both government and industry of converting to controversial new royalty reporting and payment systems while the reconsideration takes place; (c) eliminate the need for continued and uncertain litigation over the validity of the 2017 Valuation Rule, and (d) enhance the lessees' ability to timely and accurately report and pay royalties, because they would continue to use a well-known system that has been in place for decades.

ONRR's original intent behind the 2017 Rule was to offer greater simplicity, certainty, clarity, and consistency in product valuation and reporting for mineral lessees. But ONRR has since identified several areas in the rule that warrant reconsideration to meet policy and implementation objectives, including but not limited to, how to value coal production in certain non-arm's length transactions, how to value coal when the first arm's-length sale of the coal is electricity, how to value gas in certain no-sale situations, and under what circumstances, and on whom, ONRR's valuation determinations are binding. The repeal would allow ONRR to reconsider whether the changes made by the 2017 Valuation Rule are needed, while providing certainty and clarity to the regulated community during that reconsideration by continuing to require compliance with lawful, longstanding, and well known procedures. Absent repeal, ONRR would also be required to continue litigation over the 2017 Valuation Rule, even though that Rule may not reflect ONRR's current conclusions on how best to value production for royalty purposes. Concurrently with this notice, ONRR is publishing an Advance Notice of Proposed Rulemaking seeking comments on whether revisions are appropriate or needed to the pre-existing regulations governing royalty values, including comments on whether the 2017 Valuation Rule should ultimately be retained or repromulgated, in whole or in part.

ONRR's pre-existing valuation rules are still authorized by, and consistent with, applicable law, including 5 U.S.C. 301 *et seq.,* 25 U.S.C. 396 *et seq.,* 396a *et seq.,* 2101 *et seq.;* 30 U.S.C. 181 *et seq.,* 351 *et seq.,* 1001 *et seq.,* 1701 *et seq.;* 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.,* 1331 *et seq.,* and 1801 *et seq.*

II. Explanation of Proposed Amendments

ONRR proposes to repeal the 2017 Valuation Rule in its entirety. If, following public comment, ONRR publishes a final rule repealing the 2017 Valuation Rule in its entirety, then 30 CFR parts 1202 and 1206 would revert to read as they did before ONRR promulgated the 2017 Valuation Rule. Part 1202 would read as published in the July 1, 2015, edition of title 30 of the *Code of Federal Regulations* (CFR), which is at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title30-vol3/pdf/CFR-*

2015-title30-vol3-part1202.pdf. Part 1206 would read as published in the July 1, 2015, edition of title 30 of the *Code of Federal Regulations,* which is at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title30-vol3/pdf/CFR-2015-title30-vol3-part1206.pdf.*

III. Section-by-Section Analysis

The proposed and final rules for the 2017 Valuation Rule, including their section-by-section analyses, are at *https://onrr.gov/Laws_R_D/FRNotices/AA13.htm.* A repeal of the 2017 Valuation Rule would return each section to its reading prior to the July 1, 2016, publication of the 2017 Valuation Rule. With repeal, the section-by-section analyses may be found in the preambles for ONRR's and its predecessors' prior rulemakings as published in the **Federal Register**. The **Federal Register** volume and page number citations for those prior rulemakings, including their preambles, may be found in the *Code of Federal Regulations,* 30 CFR parts 1202 and 1206, as they existed before the July 1, 2016, publication of the 2017 Valuation Rule. For part 1202 the **Federal Register** citations are at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title30-vol3/pdf/CFR-2015-title30-vol3-part1202.pdf.* For part 1206, the **Federal Register** citations are at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title30-vol3/pdf/CFR-2015-title30-vol3-part1206.pdf.*

IV. Procedural Matters

1. Summary Cost and Royalty Impact Data

Repeal would negate the cost and royalty impact of the 2017 Valuation Rule. That cost and royalty impact is described in the final 2017 Valuation Rule, under Procedural Matters, item 1, starting at 81 FR 43359.

2. Regulatory Planning and Review (Executive Orders 12866, 13563, and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs Dated January 30, 2017)

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

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

The President's January 30, 2017, Executive Order on *Reducing Regulation and Controlling Regulatory Costs,* as implemented under February 2, 2017, Interim Guidance issued by OIRA, imposes certain requirements for every rule considered significant under E.O. 12866. First, every new significant rule requires the repeal of two rules. Second, an agency must fully offset the total incremental cost of significant new regulations, including repealed regulations, finalized in fiscal year 2017. Since this proposed rule—which is itself a repeal of an existing rule—is not a significant rule under E.O. 12866, it does not require the repeal of two other existing rules, and the agency is not required to offset its cost against the cost of other fiscal year 2017 rules.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would 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.*). See the 2017 Valuation Rule, Procedural Matters, item 1, starting at 81 FR 43359, and item 3, starting at 81 FR 43367.

4. Small Business Regulatory Enforcement Fairness Act

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

a. Would not have an annual effect on the economy of $100 million or more. We estimate the maximum effect as a reverse of the impacts described in the 2017 Valuation Rule, under Procedural Matters, item 1, starting at 81 FR 43359, and item 4, 81 FR 43368.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. See the 2017 Valuation Rule, under Procedural Matters, item 1, starting at 81 FR 43359, and item 4, 81 FR 43368.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This proposed rule would benefit U.S.-based enterprises.

5. Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than $100 million per year. This proposed rule would not have a significant or unique effect on State, local, or Tribal governments, or the private sector. Therefore, we are not required to provide a statement containing the information set out in the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*). See the 2017 Valuation Rule, under Procedural Matters, item 1, starting at 81 FR 43359, and item 5 at 81 FR 43368.

6. Takings (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule would not have significant takings implications. This proposed rule would apply to Federal oil, Federal gas, Federal coal, and Indian coal leases only. This proposed rule would not be a governmental action capable of interference with constitutionally protected property rights. This proposed rule does not require a Takings Implication Assessment.

7. Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The management of Federal oil and gas leases and Federal and Indian coal leases is the responsibility of the Secretary of the Interior. This proposed rule would not impose administrative costs on States or local governments. This proposed rule also does not substantially and directly affect the relationship between the Federal and State governments. Because this rule, if promulgated as a final rule, would not alter that relationship, it does not require a Federalism summary impact statement.

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

This proposed rule would comply with the requirements of E.O. 12988, for the reasons we outline in the following paragraphs. Specifically, this proposed rule:

a. Would meet the criteria of § 3(a), which requires that we review all regulations to eliminate errors and

ambiguity and to write them to minimize litigation.

b. Would meet the criteria of § 3(b)(2), which requires that we write all regulations in clear language using clear legal standards.

9. Consultation With Indian Tribal Governments (E.O. 13175)

The Department strives to strengthen its government-to-government relationship with the Indian Tribes through a commitment to consultation with the Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. Under the Department's consultation policy and the criteria in E.O. 13175, we evaluated this proposed rule and determined that it would potentially affect Federally-recognized Indian Tribes. We determined that this rule would restore the historical valuation methodology for coal produced from Indian leases. Our previous and planned activities include:

(a) As described in the 2017 Valuation Rule under Procedural Matters, item 9, at 81 FR 43368, we consulted with the affected Tribes on a government-to-government basis in preparing the 2017 Valuation Rule. We also will consult with the affected Tribes about potential repeal of the 2017 Valuation Rule.

(b) We will fully consider Tribal views in the final rule.

10. Paperwork Reduction Act

This proposed rule:

(a) Does not contain any new information collection requirements.

(b) Does not require a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*). *See* 5 CFR 1320.4(a)(2).

This proposed rule, if promulgated as a final rule, will leave in tack the information collection requirements that OMB already approved under OMB Control Numbers 1012–0004, 1012–0005, and 1012–0010.

11. National Environmental Policy Act of 1969 (NEPA)

This proposed rule would not constitute a major Federal action, significantly affecting the quality of the human environment. We are not required to provide a detailed statement under NEPA because this rule qualifies for categorically exclusion under 43 CFR 46.210(i) in that this is ''. . . *of an administrative, financial, legal, technical, or procedural nature.* . . .'' This rule also qualifies for categorically exclusion under Departmental Manual, part 516, section 15.4.(C)(1) in that its impacts are limited to administrative, economic, or technological effects. We also have determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The procedural changes resulting from the repeal of the 2017 Valuation Rule would have no consequences on the physical environment. This proposed rule would not alter, in any material way, natural resources exploration, production, or transportation.

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

This proposed rule would not be a significant energy action under the definition in E.O. 13211, and, therefore, would not require a Statement of Energy Effects.

13. Clarity of This Regulation

Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and the Presidential Memorandum of June 1, 1998, would require us to write all rules in Plain Language. This means that each rule that we publish must: (a) Have logical organization; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) use short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send your comments to *armand.southall@onrr.gov.* To better help us revise this rule, make your comments as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you think we wrote unclearly, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

14. 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 view, we cannot guarantee that we will be able to do so.

List of Subjects in 30 CFR Parts 1202 and 1206

Coal, Continental shelf, Government contracts, Indian lands, Mineral royalties, Natural gas, Oil, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: March 30, 2017.

Amy Holley,

Acting Assistant Secretary for Policy, Management and Budget.

[FR Doc. 2017–06617 Filed 4–3–17; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Parts 1202 and 1206

[Docket No. ONRR–2017–0002; DS63644000 DR2000000.CH7000 178D0102R2]

RIN 1012–AA21

Federal Oil and Gas and Federal and Indian Coal Valuation

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: The Office of Natural Resources Revenue (ONRR) requests comments and suggestions from affected parties and the interested public on whether revisions to the regulations governing the valuation, for royalty purposes, of oil and gas produced from Federal onshore and offshore leases and coal produced from Federal and Indian leases, are needed and, if so, what specific revisions should be considered. On July 1, 2016, ONRR published a final rule, *Consolidated Federal Oil and Gas and Federal and Indian Coal Valuation Reform* (2017 Valuation Rule). ONRR subsequently stayed the effective date of that rule pending resolution of litigation. As a result of the stay, the regulations in effect prior to January 1, 2017 (''pre-existing regulations'') remain in effect. In a separate notice, ONRR is seeking comments on a proposed rule to repeal the 2017 Valuation Rule to maintain the *status quo* in which the pre-existing regulations remain in effect while ONRR reconsiders whether changes made by the 2017 Valuation Rule are needed or appropriate.

DATES: You must submit your comments by May 4, 2017.

ADDRESSES: You may submit comments to ONRR on this ANPRM by any of the following methods. Please reference the Regulation Identifier Number (RIN) 1012–AA21 in your comments.

- *Electronically:* Go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2017–0002,'' then click ''Search.'' Follow the instructions to submit public comments. We will post all comments.
- Email comments to Luis Aguilar, Regulatory Specialist, at *Luis.Aguilar@onrr.gov.*

• Hand-carry or mail comments, using an overnight courier service, to the Office of Natural Resources Revenue, Building 53, Entrance E–20, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For questions on procedural issues, contact Luis Aguilar, Regulatory Specialist, ONRR, at (303) 231–3418 or email to *Luis.Aguilar@onrr.gov.* For questions on technical issues, contact Michael DeBerard, Asset Valuation, ONRR, at (303) 231–3884 or email to *Michael.DeBerard@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior's authority to establish the value of Federal oil and gas production through regulations is contained in the mineral leasing statutes (43 U.S.C. 1334; 30 U.S.C. 189 and 359). Likewise, the Secretary of the Interior's authority to establish the value of Federal and Indian coal production through regulations is contained in the Indian Mineral Leasing Act of 1938, the Mineral Leasing Act, and the Mineral Leasing Act for Acquired Lands (25 U.S.C. 396d; 30 U.S.C. 189 and 359). In addition, virtually all Federal oil and gas and Federal and Indian coal leases expressly reserve to the Secretary the authority to establish the reasonable value of production or provide that the royalty value be set by regulation.

The 2017 Valuation Rule addressed Federal oil and gas and Federal and Indian coal valuation in one rulemaking. The 2017 Valuation Rule sought to (1) offer greater simplicity, certainty, clarity, and consistency in product valuation for mineral lessees and mineral revenue recipients; (2) ensure that Indian mineral lessors receive the maximum revenues from coal resources on their land, consistent with the Secretary's trust responsibility and lease terms; (3) decrease lessees' cost of compliance and ONRR's cost to ensure compliance; and (4) provide early certainty to ONRR and stakeholders. Whether the 2017 Valuation Rule is repealed or retained, ONRR seeks to accomplish the goals outlined in that rulemaking. For additional information, see 81 FR 43338, dated July 1, 2016.

This ANPRM is intended to solicit comments and suggestions for two possible scenarios. If the 2017 Valuation Rule is repealed, ONRR seeks comments regarding whether a new valuation rule is needed and, if so, what particular issues the new valuation rule should address. Alternatively, if the 2017 Valuation Rule is not repealed, ONRR is seeking comments as to what changes should be made to ONRR's valuation regulations in 30 CFR parts 1202 and 1206, as amended by the 2017 Valuation Rule. Please segregate comments to each of these two scenarios.

Soliciting comments and involving all affected stakeholders early in the rulemaking process are the hallmarks of good government and smart business practice. The purpose of this rulemaking process is to provide regulations that would (1) offer greater simplicity, certainty, clarity, and consistency in production valuation for mineral lessees and mineral revenue recipients; (2) be easy to understand; (3) decrease industry's cost of compliance; and (4) provide early certainty to industry, ONRR, and stakeholders.

II. Public Comment Procedures

ONRR is not obligated to consider comments that we receive after the close of the comment period for this ANPRM, or comments that are delivered to an address other than those listed in the **ADDRESSES** section of this notice. After the comment period for this ANPRM closes, ONRR will review all comment submissions. Upon consideration, ONRR may publish a notice of proposed rulemaking.

A. Written Comment Guidelines

We are particularly interested in receiving comments and suggestions about the topics identified in section III, Description of Information Requested. Your written comments should: (1) Be specific; (2) explain the reason for your comments and suggestions; (3) address the issues outlined in this notice; and (4) where possible, refer to the specific provision, section, or paragraph of statutory law, case law, lease term, or existing regulations that you are addressing.

The comments and recommendations that are most useful and have greater likelihood of influencing decisions on the content of a possible future proposed rule are: (1) Comments and recommendations supported by quantitative information or studies; and (2) comments that include citations to, and analyses of, the applicable laws, lease terms, and regulations.

B. 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.

III. Description of Information Requested

We are interested in submission of proposals that will lead to improved efficiencies for lessees, ONRR, and other stakeholders. In considering proposed changes to the existing Federal oil and gas royalty valuation regulations at 30 CFR parts 1202 and 1206, we have three goals in mind, as follows:

• Provide clear regulations that are understandable and consistent with fulfilling the Secretary's responsibility to ensure fair value for the public's resources.

• Provide valuation methods that are as efficient as practicable for lessees to use.

• Provide early certainty that correct payment has been made.

As discussed above, ONRR requests comments on two possible scenarios pending the outcome of the proposed rule to repeal the 2017 Valuation Rule. We recognize the outcome of the proposed rule to repeal the 2017 Valuation Rule may not be known by the closing date of this ANPRM. Therefore, we encourage commenters to consider both of the two possible outcomes of that rulemaking when preparing their submissions as follows.

1. If the 2017 Valuation Rule is repealed, ONRR requests comments regarding whether a new rulemaking would be beneficial or is necessary. If commenters believe that a new rulemaking would be beneficial, ONRR requests comments regarding specific changes to the Federal oil and gas and Federal and Indian coal valuation regulations.

2. If the 2017 Valuation Rule is not repealed, ONRR requests comments regarding whether potential changes to the 2017 Valuation Rule are needed. Possible topics include, but are not limited to:

• Whether ONRR should have one rule addressing Federal oil and gas and Federal and Indian coal valuation, or separate rulemakings.

• How best to value non-arm's-length coal sales and/or sales between affiliates.

• Whether ONRR should update the valuation regulations governing non-arm's-length dispositions of Federal gas, and if so, how.

• Whether ONRR should address marketable condition and/or unbundling, and if so, how.

• Whether ONRR should have a default provision clarifying how ONRR will exercise Secretarial authority to determine value for royalty purposes in cases where there is misconduct, breach of duty to market, or ONRR cannot otherwise verify value. Other potential valuation methods or necessary changes to ONRR valuation regulations.

ONRR appreciates your participation and looks forward to receiving your comments.

Dated: March 30, 2017.

Amy Holley,

Acting Assistant Secretary for Policy, Management and Budget.

[FR Doc. 2017–06600 Filed 4–3–17; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0983]

RIN 1625–AA00

Safety Zone; Fireworks Displays, Sector Key West, Florida

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish safety zones for certain waters within the Sector Key West Captain of the Port (COTP) Zone. This action would establish safety zones around firework platforms, structures, or barges during the storage, preparation, and launching of fireworks. The proposed rule is necessary to provide for the safety of the participants, participant vessels, and the general public on the navigable waters of the United States during the fireworks displays. This proposed rule would allow the Coast Guard to restrict persons and vessels, except those participating in the event, from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the COTP Key West or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before May 4, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2016–0983 using the Federal e-Rulemaking 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 on this proposed rulemaking, call or email Lieutenant Scott Ledee, Waterways Management Division Chief, Sector Key West, FL, U.S. Coast Guard; telephone (305) 292–8768, email *Scott.G.Ledee@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

This proposed rule would establish safety zones around firework platforms, structures or barges within the Sector Key West COTP Zone during the storage, preparation, and launching of fireworks. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The COTP Key West has determined that potential hazards associated with fireworks are a safety concern for anyone within a 500-yard radius of the firework platforms, structures, or barges.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 500-yard radius of all firework platforms, structures, or barges during the storage, preparation, and launching of fireworks. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish safety zones on navigable waters around firework platforms, structures, or barges within the COTP Zone Key West, Florida. The safety zones would include all waters within a 500-yard radius of all fireworks launching platforms, structures, or barges while engaged in the storage, preparation, and launching of fireworks.

The proposed rule seeks to enhance navigation safety and marine environmental protection, reduce the potential for the loss of lives and property, and ensure the safety of vessel and workers from hazards associated with fireworks operations in the regulated area.

No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP Key West or a designated representative. The proposed regulatory text appears at the end of this document.

Notice of enforcement and suspension of enforcement will be made by all appropriate means to affect the widest distribution among the affected segments of the public. Such means of notification may include, but are not limited to, Broadcast Notice to Mariners, Local Notice to Mariners, or notices on the U. S. Coast Guard Homeport Web site.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. 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.

Although this proposed rule may restrict access to small portions of the waterway within the Sector Key West COTP Zone, the effect of this regulation would not be significant for the following reasons: (1) The safety zones would only be enforced during limited time intervals while firework display operations present a hazard; (2) vessels may be authorized to enter the regulated areas with permission of the COTP Key West or a designated representative; and (3) advanced notification of closures will be made via Local Notice to Mariners, Broadcast to Mariners, and the U. S. Coast Guard Homeport Web site.

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 zones may be small entities, for the reasons stated in section IV.A above, this proposed rule would 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.lD, 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 the establishment of safety zones. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary environmental analysis checklist and Categorical Exclusion Determination are 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, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this 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 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 § 165.785 to read as follows:

§ 165.785 Safety Zone; Fireworks Displays, Sector Key West, Florida.

(a) *Regulated area.* The following area is established as a safety zone during the specified conditions: All waters within the Sector Key West COTP Zone within a 500-yard radius of all firework platforms, structures or barges during

the storage, preparation, and launching of fireworks. COTP Key West or a designated representative may reduce the 500-yard zone based on prevailing conditions and enforcement needs.

(1) The Coast Guard realizes that some large scale events, such as those with many participants or spectators, or those that could severely restrict navigation pose a significant hazard, may still require separate special local regulations or safety zones that address the specific peculiarities of the event. In those situations, the Coast Guard will create special local regulations or safety zones specifically for the event, and those regulations will supersede the proposed regulations in this rule.

(2) All firework platforms, structures, or barges will display a sign on both the port and starboard sides labeled, ''FIREWORKS—STAY AWAY''. This sign will consist of 10-inch high by 1.5-inch wide red lettering on a white background. Shore fireworks sites that affect navigable waterways will also display signs with the aforementioned specifications.

(b) *Definition.* Designated representative means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the COTP Key West in the enforcement of the regulated area.

(c) *Regulations.*

(1) In accordance with § 165.23, entering, transiting through, anchoring in, or remaining within the safety zone during periods of enforcement is prohibited unless authorized by the COTP Key West or a designated representative.

(2) During periods of enforcement, upon being hailed by a Coast Guard vessel by siren, radio, flashing light or other means, the operator must proceed as directed.

(3) Vessel operators desiring to enter, transit through, anchor in, or remain or operate within the regulated area during the enforcement period shall contact the COTP Key West or the designated on-scene representative via VHF channel 16 or call the Sector Key West Command Center at (305) 292–8727 to obtain permission.

(d) *Notice of enforcement or suspension of enforcement.* The safety zone established by this section will be enforced only upon notice of the Captain of the Port. The Captain of the Port will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners.

Dated: March 28, 2017.

J.A. Janszen,

Captain, U.S. Coast Guard, Captain of the Port Key West.

[FR Doc. 2017–06595 Filed 4–3–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–9961–11–OAR]

Review of the Clean Power Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of review.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces that it is reviewing and, if appropriate will initiate proceedings to suspend, revise or rescind the Clean Power Plan.

DATES: April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION: By this notice, EPA announces it is reviewing the Clean Power Plan, 80 FR 64662 (October 23, 2015) (CPP), including the accompanying Legal Memorandum, and, if appropriate, will as soon as practicable and consistent with law, initiate proceedings to suspend, revise or rescind this rule. The CPP established emission guidelines for state plans to limit carbon dioxide emissions from existing fossil fuel-fired power plants.

I. Background

The CPP was promulgated under Section 111 of the Clean Air Act. 42 U.S.C. 7411. Section 111 of the Clean Air Act authorizes the EPA to issue nationally applicable New Source Performance Standards (NSPS) limiting air pollution from ''new sources'' in source categories that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. Section 7411(b)(1). Under this authority, the EPA had long regulated new fossil fuel-fired power plants to limit air pollution other than carbon dioxide, including particulate matter (PM); nitrogen oxides (NO_X) and sulfur dioxide (SO_2). See 40 CFR part 60 subparts D, Da. In 2015, the EPA issued a rule that for the first time set carbon dioxide emission limits for new fossil fuel-fired power plants. Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units, 80 FR 64510 (October 23, 2015). Under certain circumstances, when the EPA issues standards for new sources under Section 111(b), the EPA has the authority under Section 111(d), to prescribe regulations under which each State is to submit a plan to establish standards for existing sources in the same category. The EPA relied on that authority to issue the CPP, which, for the first time, required States to submit plans specifically designed to limit carbon dioxide emissions from existing fossil fuel-fired power plants. As part of the promulgation of the CPP, EPA prepared a legal memorandum that supplemented the legal analysis provided by the Agency in the preamble to the final CPP.

Due to concerns about EPA's legal authority and record, 27 States and a number of other parties sought judicial review of the CPP in the D.C. Circuit. *State of West Virginia* v. *EPA,* No. 15–1363 (and consolidated cases) (D.C. Cir.). On February 9, 2016, the Supreme Court stayed implementation of the CPP pending judicial review. Following full merits briefing, oral argument was held before the D.C. Circuit, sitting *en banc,* on September 27, 2016. That case is currently pending in the D.C. Circuit.

II. Initiation of Review of CPP

On March 28, 2017, President Trump issued an Executive Order establishing a national policy in favor of energy independence, economic growth, and the rule of law. The purpose of that Executive Order is to facilitate the development of U.S. energy resources—including oil and gas—and to reduce unnecessary regulatory burdens associated with the development of those resources. The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources, and appropriately suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The Executive Order also directs agencies to take appropriate actions, to the extent permitted by law, to promote clean air and clean water while also respecting the proper roles of Congress and the States. This Executive Order specifically

directs EPA to review and, if appropriate, initiate reconsideration proceedings to suspend, revise or rescind this Rule, including the accompanying Legal Memorandum.

Pursuant to the Executive Order, EPA is initiating its review of the CPP, including the accompanying legal memorandum, and providing advanced notice of forthcoming rulemaking proceedings consistent with the President's policies. If EPA's review concludes that suspension, revision or rescission of this Rule may be appropriate, EPA's review will be followed by a rulemaking process that will be transparent, follow proper administrative procedures, include appropriate engagement with the public, employ sound science, and be firmly grounded in the law.

As part of the review of the CPP that EPA is initiating today, EPA will be reviewing the compliance dates that were set in the CPP. Under the Supreme Court's stay of the CPP, states and other interested parties have not been required nor expected to work towards meeting the compliance dates set in the CPP. Indeed, some compliance dates have passed or will likely pass while the CPP continues to be stayed. For these reasons, the compliance dates in the CPP will need to be re-evaluated. Once EPA completes its review and decides what further action to take on the CPP, EPA will ensure that any and all remaining compliance dates will be reasonable and appropriate in light of the Supreme Court stay of the CPP and other factors.

EPA's ability to revisit existing regulations is well-grounded in the law. Specifically, the agency has inherent authority to reconsider past decisions and to rescind or revise a decision to the extent permitted by law when supported by a reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009) (''*Fox*''); *Motor Vehicle Manufacturers Ass'n of the United States, Inc., et al.,* v. *State Farm Mutual Automobile Insurance Co., et al.,* 463 U.S. 29, 42 (1983) (''*State Farm*''). Moreover, the Clean Air Act itself authorizes EPA to reconsider its rulemakings. 42 U.S.C. 7607(b)(1), (d)(7)(B). The Clean Air Act complements the EPA's inherent authority to reconsider prior rulemakings by providing the agency with broad authority to prescribe regulations as necessary. 42 U.S.C. 7601(a). The authority to reconsider prior decisions exists in part because EPA's interpretations of statutes it administers ''are not carved in stone'' but must be evaluated ''on a continuing basis,'' *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 857–58 (1984). This is true when—as is the case here—review is undertaken ''in response to . . . a change in administrations.'' *National Cable & Telecommunications Ass'n* v. *Brand X Internet Services,* 545 U.S. 967, 981 (2005). Importantly, such a revised decision need not be based upon a change of facts or circumstances. Rather, a revised rulemaking based ''on a reevaluation of which policy would be better in light of the facts'' is ''well within an agency's discretion,'' and ''[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency's reappraisal of the costs and benefits of its programs and regulations.'' *National Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (citing *Fox,* 556 U.S. at 514–15; quoting *State Farm,* 463 U.S. at 59 (Rehnquist, J., concurring in part and dissenting in part)).

In conducting this review, EPA will follow each of the principles and policies set forth in the Executive Order, as consistent with EPA's statutory authority. The Agency will reevaluate whether this Rule and alternative approaches are appropriately grounded in EPA's statutory authority and consistent with the rule of law. EPA will assess whether this Rule or alternative approaches would appropriately promote cooperative federalism and respect the authority and powers that are reserved to the states. EPA will also examine whether this Rule and alternative approaches effect the Administration's dual goals of protecting public health and welfare while also supporting economic growth and job creation. EPA will review whether this Rule or alternative approaches appropriately maintain the diversity of reliable energy resources and encourage the production of domestic energy sources to achieve energy independence and security. Additionally, EPA will assess this Rule and alternative approaches to determine whether they will provide benefits that substantially exceed their costs. In taking any actions subsequent to this review, EPA will use its appropriated funds and agency resources wisely by firmly grounding in the statute its actions to protect public health and welfare.

Dated: March 28, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–06522 Filed 4–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–9961–10–OAR]

Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of review.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces that it is reviewing and, if appropriate, will initiate proceedings to suspend, revise or rescind the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units.

DATES: April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION: By this notice, EPA announces it is reviewing the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units (New Source Rule), 80 FR 64510 (October 23, 2015) and, if appropriate, will as soon as practicable and consistent with law, initiate reconsideration proceedings to suspend, revise or rescind this rule. The New Source Rule established national emission standards to limit carbon dioxide emissions from new fossil fuel-fired power plants.

I. Background

The New Source Rule was promulgated under the authority of Section 111 of the Clean Air Act. 42 U.S.C. 7411. That Section authorizes EPA to issue nationally applicable New Source Performance Standards (NSPS) limiting air pollution from ''new sources'' in source categories that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. Section 7411(b)(1). Under this authority, EPA had long regulated new fossil fuel-fired power plants to limit air pollution other than carbon dioxide, including particulate matter (PM); nitrogen oxides (NOx) and sulfur dioxide (SO_2). See 40 CFR part 60 subparts D, Da. In the New

Source Rule, EPA for the first time used Section 111(b) to limit carbon dioxide emissions from new power plants.

Due to concerns about EPA's legal authority and record, 24 States and a number of other parties sought judicial review of the New Source Rule in the U.S. Court of Appeals for the District of Columbia. *State of North Dakota* v. *EPA,* No. 15–1381 (and consolidated cases) (D.C. Cir.). The case has been fully briefed, and oral argument in the D.C. Circuit is currently scheduled for April 17, 2017.

II. Initiation of Review of New Source Rule

On March 28, 2017, President Trump issued an Executive Order establishing a national policy in favor of energy independence, economic growth, and the rule of law. The purpose of that Executive Order is to facilitate the development of U.S. energy resources and to reduce unnecessary regulatory burdens associated with the development of those resources. The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources, and appropriately suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The Executive Order also directs agencies to take appropriate actions, to the extent permitted by law, to promote clean air and clean water while also respecting the proper roles of Congress and the States. The Executive Order specifically directs EPA to review and, if appropriate, initiate reconsideration proceedings to suspend, revise or rescind the New Source Rule.

Pursuant to the Executive Order, EPA is initiating its review of the New Source Rule and providing advanced notice of forthcoming rulemaking proceedings consistent with the President's policies. If EPA's review concludes that suspension, revision or rescission of the New Source Rule may be appropriate, EPA's review will be followed by a rulemaking process that will be transparent, follow proper administrative procedures, include appropriate engagement with the public, employ sound science, and be firmly grounded in the law.

EPA's ability to revisit existing regulations is well-grounded in the law. Specifically, the agency has inherent authority to reconsider past decisions and to rescind or revise a decision to the extent permitted by law when supported by a reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009) (''*Fox*''); *Motor Vehicle Manufacturers Ass'n of the United States, Inc., et al,* v. *State Farm Mutual Automobile Insurance Co., et al,* 463 U.S. 29, 42 (1983) (''*State Farm*''). Moreover, the Clean Air Act itself authorizes EPA to reconsider its rulemakings. 42 U.S.C. 7607(b)(1), (d)(7)(B). The Clean Air Act complements the EPA's inherent authority to reconsider prior rulemakings by providing the agency with broad authority to prescribe regulations as necessary. 42 U.S.C. 7601(a). The authority to reconsider prior decisions exists in part because EPA's interpretations of statutes it administers ''are not carved in stone'' but must be evaluated ''on a continuing basis,'' *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 857–58 (1984). This is true when—as is the case here—review is undertaken ''in response to . . . a change in administrations.'' *National Cable & Telecommunications Ass'n* v. *Brand X Internet Services,* 545 U.S. 967, 981 (2005). Importantly, such a revised decision need not be based upon a change of facts or circumstances. Rather, a revised rulemaking based ''on a reevaluation of which policy would be better in light of the facts'' is ''well within an agency's discretion,'' and ''[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency's reappraisal of the costs and benefits of its programs and regulations.'' *National Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (citing *Fox,* 556 U.S. at 514–15; quoting *State Farm,* 463 U.S. at 59 (Rehnquist, J., concurring in part and dissenting in part)).

In conducting this review, EPA will follow each of the principles and policies set forth in the Executive Order, consistent with EPA's statutory authority. The Agency will reevaluate whether this Rule and alternative approaches are appropriately grounded in EPA's statutory authority and consistent with the rule of law. EPA will assess whether this Rule or alternative approaches would appropriately promote cooperative federalism and respect the authority and powers that are reserved to the States. EPA will also examine whether this Rule or alternative approaches effect the Administration's dual goals of protecting public health and welfare while also supporting economic growth and job creation. EPA will review whether this Rule or alternative approaches appropriately maintain the diversity of reliable energy resources and encourage the production of domestic energy sources to achieve energy independence and security. Additionally, EPA will assess this Rule and alternative approaches to determine whether they will provide benefits that substantially exceed their costs. In taking any actions subsequent to this review, EPA will use its appropriated funds and agency resources wisely by firmly grounding in the statute its actions to protect public health and welfare.

Dated: March 28, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–06519 Filed 4–3–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–9961–09–OAR]

Review of the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of review.

SUMMARY: The U.S. Environmental Protection Agency (EPA) announces it is reviewing the 2016 Oil and Gas New Source Performance Standards and, if appropriate, will initiate reconsideration proceedings to suspend, revise or rescind this rule.

DATES: April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Tsirigotis, Sector Policies and Programs Division (D205–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (888) 627–7764; email address: *airaction@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA announces it is reviewing the 2016 Oil and Gas New Source Performance Standards (Rule) 81 FR 35,824 (June 3, 2016), and, if appropriate, will initiate proceedings to suspend, revise, or rescind it.

I. Background

Section 111 of the Clean Air Act authorizes the EPA to issue nationally applicable New Source Performance Standards (NSPS) limiting air pollution from ''new sources'' in source categories that cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. 7411(b)(1). Under this authority,

the EPA had regulated sulfur dioxide emissions from natural gas processing and volatile organic chemicals (VOCs) from a number of equipment and operations at oil and gas facilities. 40 CFR part 60 subpart OOOO. In 2016, the EPA promulgated this Rule, which expanded the existing NSPS by requiring methane reductions from previously regulated sources and limiting methane and VOCs from other types of new oil and gas facilities never before regulated under Section 111.

Several state and industry petitioners challenged this Rule in the U.S. Court of Appeals for the District of Columbia alleging, *inter alia,* that EPA acted arbitrarily and capriciously, and in excess of statutory authority. *See, e.g., West Virginia* v. *EPA,* 16–1264, State Petitioners' Nonbinding Statement of the Issues to be Raised. These cases have been consolidated and are pending before the court. Many of these parties also submitted petitions for reconsideration of this Rule to EPA. The Agency has not yet acted on these petitions.

II. Initiation of Review of This Rule

On March 28, 2017, President Trump issued an Executive Order establishing a national policy in favor of energy independence, economic growth, and the rule of law. The purpose of that Executive Order is to facilitate the development of U.S. energy resources—including oil and gas—and to reduce unnecessary regulatory burdens associated with the development of those resources. The President has directed agencies to review existing regulations that potentially burden the development of domestic energy resources, and appropriately suspend, revise, or rescind regulations that unduly burden the development of U.S. energy resources beyond what is necessary to protect the public interest or otherwise comply with the law. The Executive Order also directs agencies to take appropriate actions, to the extent permitted by law, to promote clean air and clean water while also respecting the proper roles of Congress and the States. This Executive Order specifically directs EPA to review and, if appropriate, initiate proceedings to suspend, revise or rescind this Rule.

Pursuant to the Executive Order, EPA is initiating its review of this Rule and providing advanced notice of forthcoming rulemaking proceedings consistent with the President's policies. If EPA's review concludes that suspension, revision or rescission of this Rule may be appropriate, EPA's review will be followed by a rulemaking process that will be transparent, follow proper administrative procedures, include appropriate engagement with the public, employ sound science, and be firmly grounded in the law.

EPA's ability to revisit existing regulations is well-grounded in the law. Specifically, the agency has inherent authority to reconsider past decisions and to rescind or revise a decision to the extent permitted by law when supported by a reasoned explanation. *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009) (''*Fox*''); *Motor Vehicle Manufacturers Ass'n of the United States, Inc., et al.,* v. *State Farm Mutual Automobile Insurance Co., et al.,* 463 U.S. 29, 42 (1983) (''*State Farm*''). Moreover, the Clean Air Act itself authorizes EPA to reconsider its rulemakings. 42 U.S.C. 7607(b)(1), (d)(7)(B). The Clean Air Act complements the EPA's inherent authority to reconsider prior rulemakings by providing the agency with broad authority to prescribe regulations as necessary. 42 U.S.C. 7601(a). The authority to reconsider prior decisions exists in part because EPA's interpretations of statutes it administers ''are not carved in stone'' but must be evaluated ''on a continuing basis,'' *Chevron U.S.A. Inc.* v. *NRDC, Inc.,* 467 U.S. 837, 857–58 (1984). This is true when—as is the case here—review is undertaken ''in response to . . . a change in administrations.'' *National Cable & Telecommunications Ass'n* v. *Brand X Internet Services,* 545 U.S. 967, 981 (2005). Importantly, such a revised decision need not be based upon a change of facts or circumstances. Rather, a revised rulemaking based ''on a reevaluation of which policy would be better in light of the facts'' is ''well within an agency's discretion,'' and ''[a] change in administration brought about by the people casting their votes is a perfectly reasonable basis for an executive agency's reappraisal of the costs and benefits of its programs and regulations.'' *National Ass'n of Home Builders* v. *EPA,* 682 F.3d 1032, 1038 & 1043 (D.C. Cir. 2012) (citing *Fox,* 556 U.S. at 514–15; quoting *State Farm,* 463 U.S. at 59 (Rehnquist, J., concurring in part and dissenting in part)).

In conducting this review, EPA will follow each of the principles and policies set forth in the Executive Order, consistent with the EPA's statutory authority. The Agency will reevaluate whether this Rule or alternative approaches are appropriately grounded in EPA's statutory authority and consistent with the rule of law. The EPA will assess whether this Rule or alternative approaches would appropriately promote cooperative federalism and respect the authority and powers that are reserved to the States. EPA will also examine whether this Rule or alternative approaches effect the Administration's dual goals of protecting public health and welfare while also supporting economic growth and job creation. EPA will review whether this Rule or alternative approaches appropriately maintain the diversity of reliable energy resources and encourage the production of domestic energy sources to achieve energy independence and security.

Additionally, EPA will assess this Rule and alternative approaches to determine whether they will provide benefits that substantially exceed their costs. In taking any actions subsequent to this review, EPA will use its appropriated funds and agency resources wisely by firmly grounding in the statute its actions to protect public health and welfare.

Dated: March 28, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–06658 Filed 4–3–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 816, 828 and 852

RIN 2900–AP82

Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002—Parts 816, 828)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) is correcting a proposed rule regarding Federal Acquisition Regulation Principles. This correction addresses minor technical errors in the proposed rule.

DATES: April 4, 2017. The comments due date remains May 12, 2017.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov*; by mail or hand-delivery to the Director, Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP82–Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles.'' Copies of comments received will be

available for public inspection in the Office of Regulation Policy and Management, Room 1068, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Ricky Clark, Senior Procurement Analyst, Procurement Policy and Warrant Management Services (003A2A), 425 I Street NW., Washington DC 20001, (202) 632–5276. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: VA is correcting its proposed rule, ''Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002—parts 816, 828)'' that published March 13, 2017, in the **Federal Register** at 82 FR 13418.

Corrections

1. On page 13420, third column, *List of Subjects* revise all references to ''38 CFR'' to read ''48 CFR''.

816.504 [Corrected]

2. On page 13421, second column, amendatory instruction 4, remove ''Subpart'', and add, in its place, ''Section''.

816.505 [Corrected]

3. On page 13421, second column, amendatory instruction 5, remove ''803.505'', and add in its place, ''816.505''.

852.216–74 [Corrected]

4. On page 13425, in the third column, remove the heading ''Economic Price Adjustment—State Nursing Home Care for Veterans (Alt #1)'', and add in its place, ''Economic Price Adjustment—Medicaid Labor Rates (Alt #2)''.

852.228–73 [Corrected]

5. On page 13427, in the third column, immediately following paragraph (d)(2) add, ''(End of clause)''.

Janet J. Coleman

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

[FR Doc. 2017–06578 Filed 4–3–17; 8:45 am]

BILLING CODE 8320–01–P

Notices

Federal Register
Vol. 82, No. 63
Tuesday, April 4, 2017

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–ST–17–0021]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget (OMB), for an extension of and revision to the currently approved information collection ''Laboratory Approval Programs.''

DATES: Comments on this notice must be received by June 5, 2017 to be assured of consideration.

Additional Information or Comments: Interested persons are invited to submit comments on this proposal to Grace Vaillant, Laboratory Approval and Testing Division, Science and Technology, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 0272, Washington, DC 20250–0272; Phone 202–690–0621, Fax 202–720–4631. Comments should be submitted in triplicate. Comments may also be submitted electronically through *http://www.regulations.gov*. All comments should reference the docket number and page number of this issue of the **Federal Register**. All comments received will be made available for public inspection at the above address during regular business hours and may be viewed at *http://www.regulations.gov*.

SUPPLEMENTARY INFORMATION:

Title: Laboratory Approval Programs.

OMB Number: 0581–0251.

Expiration Date of Approval: September 30, 2017.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), AMS' Laboratory Approval Service (LAS) approves, or accredits, laboratories to perform testing services in support of domestic and international trades. At the request of industry, other Federal agencies, or foreign governments, AMS develops and administers laboratory approval programs (LAPs) to verify that the analysis of food and agricultural products meet country or customer-specified requirements. LAS ensures the testing of products marketed is conducted by qualified and approved laboratories. LAPs requirements include good laboratory, quality assurance and control practices; applicable domestic and international standards (such as ISO/IEC 17025:2005); established methods and accepted equipment; and on-site audits. Laboratories voluntarily participate in the program and pay program fees. Currently, LAS administers four overarching LAPs with over 70 laboratories.

The information collection includes submission of a letter of intent and analyses related documentation. These requirements are essential to examine laboratories for entrance into and continued participation in the following programs:

(1) Aflatoxin Program—laboratories perform aflatoxin testing in support of domestic and/or export trade of almonds, peanuts, and pistachio nuts. (a) Almond. At the request of the Almond Board of California (ABC), AMS administers the program for aflatoxin testing of almonds destined for export to the European Union (EU) through the Pre-Export Certification program of ABC. (b) Peanuts. AMS administers Minimum Quality and Handling Standards for Domestic and Imported Peanuts Marketed in the United States (7 CFR 996 Parts 996.1—996.75). The regulation requires domestically marketed peanuts for human consumption to be analyzed for aflatoxin by a USDA or USDA-approved laboratory. AMS consults with the Peanut Standards Board on program requirements. (c) Pistachio Nuts. AMS administers mandatory domestic and import aflatoxin requirements for pistachio nuts under Pistachios Grown in California, Arizona, and New Mexico (7 CFR part 983) and Specialty Crops, Import Regulations (7 CFR part 999, Section 999.600), respectively. All domestic and import shipments of pistachio nuts intended for human consumption must be tested for aflatoxin contamination. At the request of the Administrative Committee for Pistachios, laboratories may also participate in the program for pistachio nuts destined for EU.

(2) Export Program—this program ensures the testing of meat and poultry products offered for export certification by the Food Safety and Inspection Service (FSIS) is conducted by qualified and approved laboratories. LAS collaborates with FSIS, the Foreign Agricultural Service, and the meat and poultry industries to administer a flexible and comprehensive program to provide reliable analyses of pesticide residues, environmental contaminants, veterinary drug residues, antibiotic residues, microorganisms, and parasites.

(3) Microbiological Testing for the Federal Purchase Program (FPP)—testing is limited to the analysis of aerobic plate counts, coliform counts, coagulase positive Staphylococcus aureus, generic Escherichia coli, Salmonella species, and Listeria monocytogenes in frozen, cooked, and diced chicken procured for the FPP. This is a new program added to the LAPs since the last OMB information collection approval.

(4) Any additional programs which may be requested in the future to facilitate the marketing of U.S. agricultural products.

All LAPs will follow the similar general procedures. Applicants would submit a letter of intent, provide related documentation on analyses they intend to perform, participate in proficiency testing (PT) sample analyses, and be audited by AMS auditors. The time required for information collection will depend on the complexity of the methodology and the time necessary to perform the analysis. The burden hours incurred for these laboratories to submit the initial letter requesting entrance and completion of analyses documentation is a one-time occurrence. Once a laboratory is accepted into the program, the information collection burden will

decrease and will be based on the number of PT samples analyzed by the laboratory throughout the year in order to maintain its program status.

Form ST–212 (Alternate Payment Form) is an option applicant/approved laboratories may use to pay for participation in AMS LAPs. Interested parties can obtain a copy of the form (ST–212) by calling or writing to the point of contact listed above.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10.94 hours per response.

Respondents: Laboratories.

Estimated Number of Respondents: 56.

Estimated Total Annual Responses: 380.

Estimated Number of Responses per Respondent: 7.

Estimated Total Annual Burden on Respondents: 4,157.30.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including completion of analyses related documentation; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Grace Vaillant, Laboratory Approval and Testing Division, Science and Technology, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Stop 0272, Washington, DC 20250–0272; Phone 202–690–0621, Fax 202–720–4631. All comments received will be available for public inspection during regular business hours at the same address.

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

Dated: March 30, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–06641 Filed 4–3–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 30, 2017.

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

Comments regarding this information collection received by May 4, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Food Safety and Inspection Service

Title: Sanitation SOP's Pathogen Reduction/Hazard Analysis and Critical Control Point (HACCP).

OMB Control Number: 0583–0103.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451). These statutes mandate that FSIS protect the public by verifying that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS has established requirements applicable to meat and poultry establishments designed to reduce the occurrence and numbers of pathogenic microorganisms on meat and poultry products, reduce the incidence of foodborne illness associated with the consumption of those products, and provide a new framework for modernization of the current system of meat and poultry inspection.

Need and Use of the Information: FSIS will collect information to ensure that (1) establishments have developed and maintained an standard operating plan for sanitation that is used by inspection personnel in performing monitoring regulations; (2) establishments have developed written procedures outlining specimen collection and handling for *E.coli* process control verification testing; (3) establishments developed written HAACP plans; (4) establishments will keep records for measurements during slaughter and processing, corrective action, verification check results, and related activities that contain the identify of the product, the product code or slaughter production lot, and the date the record was made; (5) establishments may have prerequisite programs that are designed to provide the basic environmental and operating conditions necessary for the production of safe, wholesome food; and (6) establishment maintain and are able to supply upon request the following information concerning the suppliers of source materials; the name, point of contact, and phone number for the establishment supplying the source materials for the lot of ground beef sampled; and the supplier lot numbers, production dates, and other information that would be useful to know about suppliers.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,087.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Other (daily).

Total Burden Hours: 7,045,283.

Food Safety and Inspection Service

Title: Procedures for the Notification of New Technology.

OMB Control Number: 0583–0127.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise

the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS established flexible procedures to actively encourage the development and use of new technologies in meat and poultry establishments and egg products plants. These procedures facilitate notification to the Agency of any new technology that is intended for use in meat and poultry establishments and egg products plants so that the Agency can decide whether the new technology requires a pre-use review. A pre-use review often includes an in-plant trail.

Need and Use of the Information: FSIS will collect information to determine if a pre-use review is needed, FSIS will request that the firm submit a protocol for an in-plant trial of the new technology. The firm then must submit a protocol that is designed to collect relevant data to support the use of the new technology. To not collect this information would reduce the effectiveness of the meat, poultry, and egg products inspection program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 210.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 12,800.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–06582 Filed 4–3–17; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2017–0016]

Animal Disease Traceability System; Public Meetings

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meetings.

SUMMARY: This is to inform the public of upcoming meetings regarding the Animal Disease Traceability (ADT) system. These regional meetings will let the Animal and Plant Health Inspection Service hear from the public, particularly from the cattle and bison sectors, about the successes and challenges of the current ADT framework and provide a venue for the exchange of ideas about ways to overcome these challenges and fill gaps in the existing system.

DATES: The meetings will be held on April 11, 13, and 20 and May 2, 4, 11, and 24, 2017, from 8 a.m. to 3 p.m. (local time) each day. We will accept written statements regarding the ADT system until May 31, 2017.

ADDRESSES: The public meetings will be held in the following locations:

- April 11: Tower Hotel Oklahoma City, 3233 Northwest Expressway, Oklahoma City, OK.
- April 13: USDA Center at Riverside, 4700 River Road, Riverdale, MD.
- April 20: Renaissance Nashville Hotel, 611 Commerce Street, Nashville, TN.
- May 2: Embassy Suites Minneapolis Airport, 7901 34th Avenue South, Bloomington, MN.
- May 4: Doubletree by Hilton Denver, 3203 Quebec Street, Denver, CO.
- May 11: Sacramento Marriott Rancho Cordova, 11211 Point East Drive, Rancho Cordova, CA.
- May 24: Hilton Garden Inn Billings, 2465 Grant Road, Billings, MT.

You may also submit written statements using one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2017-0016.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2017–0016, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

FOR FURTHER INFORMATION CONTACT: Dr. Sunny Geiser-Novotny, Cattle Health Staff/ADT Veterinarian, Surveillance, Preparedness, and Response Services, VS, APHIS, 2150 Centre Avenue, Building B, Mailstop 3E13, Room 3E97, Fort Collins, CO 80526, (970) 494–7372.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) plans to hold public meetings to receive input, particularly from the cattle and bison sectors, on enhancing the current Animal Disease Traceability (ADT) system. The original ADT framework, as described in the January 6, 2013, final rule [1] establishing the program, provided specific performance requirements for an intentionally flexible ADT system. This let States and individual producers use personally efficient methods to meet requirements to move their livestock between States.

These meetings will let APHIS hear from the public about the successes and challenges of the current ADT framework and let attendees brainstorm ideas about overcoming these challenges and finding ways to fill gaps in the existing system. Although APHIS is especially interested during these sessions to hear from cattle and bison industry members, we welcome participation from all members of the public.

Each meeting will start with an overview of the basic principles of ADT and progress made to date given by APHIS employees and a panel of State and industry representatives. A comment/question and answer session will follow. After a break for lunch, attendees will split off into breakout sessions to discuss challenge areas and come up with solutions. The entire group will reconvene to receive the highlights of the breakout sessions, and the meeting will end after some discussion of next steps and closing remarks.

If you are planning to attend a meeting, we ask that you register in advance by visiting *http://www.aphis.usda.gov/animal-health/adt-meeting-registrations.* Same-day registration will also be available at each meeting site. If you require special accommodations, such as a sign language interpreter, please call or write the individual listed under **FOR FURTHER INFORMATION CONTACT**. Written statements about the current ADT system may be filed at the meetings or by using one of the methods described under **ADDRESSES** above.

For the April 13, 2017, meeting in Riverdale, MD, picture identification will be required to gain access to the USDA Center at Riverside. Free parking is available next to the building. The nearest Metro station is the College Park station on the Green Line, which is within walking distance (about ⅔ of a mile). For the May 4, 2017, meeting in Denver, CO, there will be a free hotel shuttle to and from Denver International Airport.

Done in Washington, DC, this 30th day of March 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–06639 Filed 4–3–17; 8:45 am]

BILLING CODE 3410–34–P

[1] See *https://www.regulations.gov/docket?D=APHIS-2009-0091.*

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2016–0115]

Determination of Regulatory Review Period for Purposes of Patent Extension; Lawsonia Intracellularis Bacterin Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has determined the regulatory review period for Lawsonia Intracellularis Bacterin Vaccine and is publishing this notice of that determination as required by law. We have made this determination in response to the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent that claims that veterinary biologic.

DATES: We will consider all requests for revision of the regulatory review period determination that we receive on or before May 4, 2017. We will consider all due diligence petitions that we receive on or before October 2, 2017.

ADDRESSES: You may submit revision requests and due diligence petitions by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0115.*
- *Postal Mail/Commercial Delivery:* Please send your request or petition to Docket No. APHIS–2016–0115, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

A copy of the regulatory review period determination and any revision requests or due diligence petitions that we receive on this determination may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0115* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Donna Malloy, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 851–3426.

For information concerning the regulatory review period determination contact Dr. Patricia L. Foley, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 1920 Dayton Avenue, P.O. Box 844, Ames, IA 50010; (515) 337–6100.

SUPPLEMENTARY INFORMATION: The provisions of 35 U.S.C. 156, '' Extension of patent term,'' provide, generally, that a patent for a product may be extended for a period of up to 5 years as long as the patent claims a product that, among other things, was subject to a regulatory review period before its commercial marketing or use. (The term ''product'' is defined in that section as ''a drug product'' [which includes veterinary biological products] or ''any medical device, food additive, or color additive subject to regulation under the Federal Food, Drug, and Cosmetic Act.'') A product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

The regulations in 9 CFR part 124, ''Patent Term Restoration'' (referred to below as the regulations), set forth procedures and requirements for the Animal and Plant Health Inspection Service's (APHIS') review of applications for the extension of the term of certain patents for veterinary biological products pursuant to 35 U.S.C. 156. As identified in the regulations, the responsibilities of APHIS include:

- Assisting Patent and Trademark Office of the U.S. Department of Commerce in determining eligibility for patent term restoration;
- Determining the length of a product's regulatory review period;
- If petitioned, reviewing and ruling on due diligence challenges to APHIS' regulatory review period determinations; and
- Conducting hearings to review initial APHIS findings on due diligence challenges.

The regulations are designed to be used in conjunction with regulations issued by the Patent and Trademark Office concerning patent term extension, which may be found at 37 CFR 1.710 through 1.791.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For veterinary biologics, the testing phase begins on the date the authorization to prepare an experimental veterinary biologic became effective and runs until the approval phase begins. The approval phase begins on the date an application for a license was initially submitted for approval and ends on the date such license was issued. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award, APHIS' determination of the length of a regulatory review period for a veterinary biologic will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(5)(B).

APHIS recently licensed for production and marketing the veterinary biologic Lawsonia Intracellularis Bacterin Vaccine. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Lawsonia Intracellularis Bacterin Vaccine (U.S. Patent No. 5,610,059) from Intervet Inc., a subsidiary of Merck Animal Health, and the Patent and Trademark Office requested APHIS' assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 19, 2016, APHIS advised the Patent and Trademark Office that this veterinary biologic had undergone a regulatory review period and that the approval of Lawsonia Intracellularis Bacterin Vaccine represented the first permitted commercial licensing or use of the product. Subsequently, the Patent and Trademark Office requested that APHIS determine the product's regulatory review period.

APHIS has determined that the applicable regulatory review period for Lawsonia Intracellularis Bacterin Vaccine is 1,544 days. Of this time, 186 days occurred during the testing phase of the regulatory review period, and 1,358 days occurred during the approval phase. These periods were derived from the following dates:

1. *The date that APHIS started confirmatory testing on the master seed for use in products containing Lawsonia intracellularis:* June 20, 2011. APHIS has verified the applicant's claim that the master seed to be used in the Lawsonia Intracellularis Bacterin Vaccine was first put on test by APHIS on June 20, 2011.

2. *The date the application for a license was initially submitted for approval under the Virus-Serum-Toxin Act:* December 23, 2011. APHIS has verified the applicant's claim that the application was initially submitted on December 23, 2011.

3. *The date the license was issued:* September 11, 2015. APHIS has verified the applicant's claim that the license for the commercial marketing of the vaccine was issued on September 11, 2015.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark

Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,544 days of patent term extension.

Section 124.22 of the regulations provides that any interested person may request a revision of the regulatory review period determination within 30 days of the date of this notice (see **DATES** above). The request must specify the following:

- The identity of the product;
- The identity of the applicant for patent term restoration;
- The docket number of this notice; and
- The basis for the request for revision, including any documentary evidence.

Further, under § 124.30 of the regulations, any interested person may file a petition with APHIS, no later than 180 days after the date of this notice (see **DATES** above), alleging that a license applicant did not act with due diligence in seeking APHIS approval of the product during the regulatory review period. The filing, format, and content of a petition must be as described in the regulations in ''Subpart D–Due Diligence Petitions'' (§§ 124.30 through 124.33).

Authority: 35 U.S.C. 156; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 30th day of March 2017.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–06640 Filed 4–3–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection Request; Generic Clearance for the Collection of Qualitative Customer Feedback on the Farm Service Agency Service Delivery

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is requesting comments from all interested individuals and organizations on an extension with a revision of a currently approved information collection associated with the Generic Clearance for the Collection of Qualitative Customer Feedback on FSA Service Delivery. This option is a fast track for approval to streamline the timing to implement certain types of surveys and related collection of information. FSA uses the approval to cover the instruments of collection (such as a survey, a window pop-up survey, a focus group, or a comment card), which are designed to get customer feedback on FSA service delivery for various programs. This request for approval broadly addresses FSA's need for information about what our customers think of our services so that we can improve service delivery; specific information collection activities will be incorporated into the approval as the need for the information is identified. For example, when we implement a new program and provide information about the services for the program on our Web site, we may provide a voluntary customer service questionnaire about how well the program is working for our customers, specifically within the area of customer service. FSA is requesting to increase the number of respondents in the fast track approval due to an anticipated increase in the number of customer respondents responding to customer service surveys that will be sent to a broader scope and greater number of FSA customers.

DATES: We will consider comments that we receive by June 5, 2017.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Mary Ann Ball, USDA, Farm Service Agency, Room 3754–S, 1400 Independence Ave SW., Washington, DC 20250–0572.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Copies of the information collection instruments may be requested by contacting Mary Ann Ball at the above address.

FOR FURTHER INFORMATION CONTACT: Mary Ann Ball, (202) 720–4283.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Customer Feedback on Farm Service Agency Service Delivery.

OMB Control Number: 0560–0286.

Type of Request: Extension with a revision.

Abstract: FSA program staff have created several feedback instruments (customer surveys) and submitted them to the FSA information collection coordinator for approval under the current approved information collection of 0560–0286, Generic Clearance for the Collection of Qualitative Customer Feedback on Farm Service Agency Service Delivery. FSA program staff continue to use the fast track approval to submit a new customer instruments to the FSA information collection coordinator for approval, which takes less time rather than going through a regular Paperwork Reduction Act process. As a result, program staff are able to quickly implement certain types of surveys and related collection of information using OMB control number of 0560–0286. For example, when we implement a new program and provide information about the programs on our Web site, FSA may provide a voluntary customer service questionnaire about how well the program is working for our customers, specifically within the area of customer service. The information collection provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner that is consistent with FSA's commitment to improving service delivery. By qualitative feedback, we mean information, generally from customers, that provides useful insights on perceptions and opinions based on experiences with FSA service delivery. Such information does not include statistical surveys that yield quantitative results that can be generalized to the population. The qualitative feedback will:

- Provide insights into customer or stakeholder perceptions, experiences, and expectations,
- Provide an early warning of issues with service, and
- Focus attention on areas where communication, training, or changes in operations might improve delivery of products or services.

The collection will allow for ongoing, collaborative, and actionable communication between FSA 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 FSA's services will be unavailable.

FSA 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;
- The collections are 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 FSA;
- 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.

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 religious beliefs, sexual behavior and attitudes, and other matters that are commonly considered private.

The estimated total annual burden hours are being amended due to an increase in the number of FSA customers that will respond to the customer survey, which therefore increased the information collection requirements. Annual responses have increased by 590,000, with a resulting increase of 295,000 burden hours in the request.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual number of responses.

Estimate of Average Time to Respond: Public reporting burden for collecting information under this notice is estimated to average 30 minutes (0.50 hours) per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Individuals and Households; Businesses; Organizations; and State, Local, or Tribal government.

Estimated Number of Respondents: 600,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 600,000.

Estimated Average Time per Response: 30 minutes (0.50 hours).

Estimated Total Annual Burden Hours on Respondents: 300,000 hours.

We are requesting comments on all aspects of this information collection to help us to:

(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 collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Chris P. Beyerhelm,

Acting Administrator, Farm Service Agency.

[FR Doc. 2017–06594 Filed 4–3–17; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 *et. seq.*), the National Forest Management Act of 1976 (16 U.S.C. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). Additional information concerning the Board, including the meeting summary/minutes, can be found by visiting the Board's Web site at: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, April 19, 2017, at 1:00 p.m.

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

ADDRESSES: The meeting will be held at the Forest Service Center, 8221 Mount Rushmore Road, Rapid City, South Dakota.

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

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–440–1409 or by email at *sjjacobson@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide:

(1) Annual Ethics Training;

(2) Black Hills Resilient Landscapes (BHRL) Project update;

(3) 2016 Forest Health Report;

(4) Black Hills Invasive Plant Partnership presentation;

(5) Non-motorized Trails—Working Group update;

(6) Recreation Site Analysis (RSA)—Working Group update;

(7) Fire Season Outlook—2017;

(8) Orientation Topic—Road Maintenance; and

(9) Election update—Chairman/Vice Chairman.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes

or less. Individuals wishing to make an oral statement should submit a request in writing by April 10, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

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

Dated: March 13, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06654 Filed 4–3–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lynn Canal-Icy Strait Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lynn Canal-Icy Strait Resource Advisory Committee (RAC) will meet in Juneau, Alaska. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwQAAS.*

DATES: The meeting will be held at 8:00 a.m. to Noon and 1:00 p.m. to 5:00 p.m., on the following dates:

- April 25, 2017, and
- April 26, 2017.

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

ADDRESSES: The meeting will be held at the Forest Service Regional Office building, Conference room 541A, 709 West 9th Street, Juneau, Alaska. Participants who would like to attend by teleconference please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

FOR FURTHER INFORMATION CONTACT: Lydia Mills, RAC Coordinator, by phone at 907–789–6216 or via email at *lydiaemills@fs.fed.us.*

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

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review proposed projects, and
2. Allocate funds to approved projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by April 19, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lydia Mills, RAC Coordinator, Admiralty National Monument, 8510 Mendenhall Loop Road, Juneau, Alaska 99801; by email *to lydiaemills@fs.fed.us,* or via facsimile to 907–586–8808.

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

Dated: March 13, 2017.

Jeanne M. Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–06655 Filed 4–3–17; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of monthly planning meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Delaware State Advisory Committee to the Commission will convene by conference call, on Monday, April 17 at 4:00 p.m. (EDT). The purpose of the meeting is to make preparations for a briefing meeting on Policing and Implicit Bias in Delaware.

DATES: Monday, April 17, 2017, at 4:00 p.m. (EDT).

Public Call-In Information: Conference call number: 1–888–737–3705 and conference call ID: 5272563#.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *ero@usccr.gov* or by phone at 202–376–7533

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–888–737–3705 and conference call ID: 5272563#. Please be advised that before placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–888–364–3109 and providing the operator with the toll-free conference call number: 1–888–737–3705 and conference call ID: 5272563#.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days

after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *http://facadatabase.gov/committee/meetings.aspx?cid=240;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

I. Welcome and Introductions
  Rollcall
  Planning Meeting
  Discuss project planning.
II. Other Business
  Adjournment

Dated: March 30, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–06624 Filed 4–3–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Tennessee Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Tennessee (State) Advisory Committee will hold a meeting on Wednesday, April 19, 2017 for discussing hearing dates for a committee project on municipal fees and fines.

DATES: The meeting will be held on Wednesday, April 19, 2017 at 12:30 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 888–523–1191, conference ID: 8007351.

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

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–523–1191, conference ID: 8007351. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by May 14, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

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

Agenda

Welcome and Call to Order
  Diane DiIanni, Tennessee SAC Chairman
  Jeff Hinton, Regional Director
Regional Update—Jeff Hinton
New Business: Discussion of Project Proposal/Hearing Dates/Locations:
  Diane DiIanni, Tennessee SAC Chairman/Staff/Advisory Committee
Public Participation
Adjournment

Dated: March 29, 2017.

David Mussatt

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–06554 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–888]

Certain Carbon and Alloy Steel Cut-To-Length Plate From the Republic of Korea: Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers/exporters of certain carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of Korea (Korea). In addition, we continue to find that critical circumstances do not exist with respect to POSCO, POSCO-Daewoo Corporation, and all-other producers/exporters from Korea. The period of investigation is January 1, 2015, through December 31, 2015. For information on the estimated subsidy rates, *see* the ''*Final Determination and Suspension of Liquidation*'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Yasmin Bordas or John Corrigan, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3813 and (202) 482–7438, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on September 14, 2016.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Preliminary Negative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination,* 81 FR 63168 (September 14, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum (Preliminary Decision Memorandum).

found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The merchandise covered by this investigation is CTL plate from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by the parties, are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Use of Adverse Facts Available

In making this final determination, the Department relied in part on facts available. Because POSCO Chemtech and POSCO M-Tech, which are cross-owned affiliates of POSCO, and Hyundai Corporation, a trading company unaffiliated with POSCO, did not act to the best of their ability in responding to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[3] For further information, *see* the section ''Use of Facts Otherwise Available and Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties and the minor corrections presented, as well as additional items discovered at verification, we made certain changes to the respondent's subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum and POSCO's Final Calculation Memorandum.[4]

Final Negative Determination of Critical Circumstances

On July 26, 2016, Petitioners[5] timely filed a critical circumstances allegation, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of CTL plate from Korea.[6] The Department preliminarily determined that critical circumstances did not exist with respect to POSCO, POSCO-Daewoo Corporation, and all-other producers/exporters from Korea.[7] Our analysis and conclusion concerning critical circumstances remain unchanged for our final determination.[8]

All-Others Rate

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for POSCO, the exporter/producer of subject merchandise selected for individual examination in this investigation.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an ''all-others'' rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents with those companies' export sales of the subject merchandise to the United States. Section 705(c)(5)(A)(i) of the Act states that the all-others rate shall be an amount equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any rates that are zero or *de minimis* or any rates determined entirely on facts available. However, section 705(c)(5)(A)(ii) of the Act states that if the countervailable subsidy rates for all exporters and producers individually investigated are zero or *de minimis* rates, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated, including averaging the weighted-average countervailable subsidy rates determined for the exporters and producers individually investigated.

POSCO is the only mandatory respondent in the instant investigation. We, therefore, are applying the countervailable subsidy rate calculated for POSCO to all-other producers/exporters not individually investigated. The Department has taken this approach to calculating the all-others rate in other countervailing duty (CVD) investigations.[9] In accordance with the scope of this investigation, this application of POSCO's subsidy rate to all-other producers/exporters applies only to subject CTL plate not within the physical description of cut-to-length carbon quality steel plate in the 1999 Korea CVD Order.[10]

Final Determination

The final subsidy rates are as follows:

Producer/exporter	Subsidy rate (percent)
POSCO	4.31
All-Others	4.31

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In the *Preliminary Determination,* the total net countervailable subsidy rates for the individually examined

[2] *See* Memorandum to Ronald K. Lorentzen, from Gary Taverman, ''Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] *See* Sections 776(a) and (b) of the Act; *see also* 19 CFR 351.525(b)(6)(iv) and 19 CFR 351.525(c).

[4] *See* Issues and Decision Memorandum; *see also* Memorandum from John Corrigan to Brian C. Davis, ''Countervailing Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: POSCO Final Determination Calculation Memorandum,'' dated March 29, 2017 (POSCO's Final Calculation Memorandum).

[5] Petitioners are ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC.

[6] *See* Letter from Petitioners, ''Re: Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Critical Circumstances Allegations,'' dated July 26, 2016.

[7] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey; Antidumping and Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances,* 81 FR 61666 (September 7, 2016).

[8] *See* Issues and Decision Memorandum at Section III, ''Final Determination of Critical Circumstances.''

[9] *See, e.g., Grain-Oriented Electrical Steel from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 79 FR 59221 (October 1, 2014) and accompanying Issues and Decision Memorandum at 12.

[10] *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from the Republic of Korea,* 64 FR 6587 (December 29, 1999), as amended, 65 FR 6587 (February 10, 2000) (1999 Korea CVD Order).

respondents were *de minimis* and, therefore, we did not suspend liquidation of entries of CTL plate from Korea. However, as the estimated subsidy rates for the examined company is above *de minimis* in this final determination, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of CTL plate from Korea that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit for such entries of merchandise in the amounts indicated above, pursuant to section 705(c)(1)(B)(ii) of the Act. The suspension of liquidation will remain in effect until further notice.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and instruct CBP to continue to require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Acting Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to 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 sanctionable violation.

This determination is issued and published pursuant to sections 705(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1,250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the product is already covered by an order existing on that specific country (*i.e., Certain Hot-Rolled Steel Flat Products from Brazil and the Republic of Korea: Amended Final Affirmative Countervailing Duty Orders,* 81 FR 67960 (October 3, 2016)); and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined and vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,
(ii) 290–320 HBW, or
(iii) 320–350HBW;
(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and
(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;
(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:
(a) Made from Electric Arc Furnace melted, Ladle refined and vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):
- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;
(c) Having the following mechanical properties:
(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95 ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or
(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);
(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and
(e) Conforming to magnetic particle inspection in accordance with AMS 2301;
(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:
(a) Made from Electric Arc Furnace melted, ladle refined and vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):
- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);
(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145 ksi or more and UTS 160 ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);
(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and
(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

At the time of the filing of the petition, there was an existing countervailing duty order on certain cut-to-length carbon-quality steel plate from Korea. *See Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From the Republic of Korea,* 64 FR 73176 (Dep't Commerce Dec. 29, 1999), as amended, 65 FR 6587 (Dep't Commerce Feb. 10, 2000) (1999 Korea CVD Order). The scope of the countervailing duty investigation with regard to cut-to-length plate from Korea covers only (1) subject cut-to-length plate not within the physical description of cut-to-length carbon quality steel plate in the 1999 Korea CVD Order regardless of producer or exporter, and (2) cut-to-length plate produced and/or exported by those companies that were excluded or revoked from the 1999 Korea CVD Order as of April 8, 2016. The only revoked or excluded company is Pohang Iron and Steel Company, also known as POSCO.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06632 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–834]

Certain Carbon and Alloy Steel Cut-to-Length Plate From Italy: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Italy is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise. The period of investigation (POI) is April 1, 2015, through March 31, 2016. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado or Blaine Wiltse, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4682 and (202) 482–6345, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Italy.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers CTL plate from Italy. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended, (the Act) in November 2016, we conducted verification of the sales and cost information submitted by Officine Tecnosider s.r.l. (OTS) 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 OTS.[3]

In addition, as provided in section 782(i) of the Act, in November 2016 and January 2017, we also attempted to verify the sales and cost information submitted by NLMK Verona SpA (NVR), using standard verification procedures. However, as explained in the Issues and Decision Memorandum, the Department was unable to validate the accuracy of NVR's reporting.[4] As a consequence, we find that NVR's reported data are unverifiable, and, thus, cannot serve as a reliable basis for reaching a determination in this investigation. Specifically, because we encountered so many errors within NVR's reported data at verification, and the submitted sales and cost information is integral to the proper evaluation of its margin calculation, we find that all of the information submitted by NVR is unverifiable. For further discussion, *see* the Issues and Decision Memorandum at Comments 1–4.

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 OTS. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination,* the Department found that critical circumstances exist with respect to imports of CTL plate from Marcegaglia, NVR, and OTS, and do not exist with respect to companies covered by the ''all others'' rate.[5] We modified our critical circumstances findings for the final determination and now determine that critical circumstances exist for ''all others.'' For further discussion, *see* the Issues and Decision Memorandum at ''Critical Circumstances.'' Thus, pursuant to section 735(a)(3)(B) of the Act, and 19 CFR 351.206(h)(1)–(2), we find that critical circumstances exist with respect to subject merchandise produced or exported by Marcegaglia, NVR, OTS, and ''all others.''

Adverse Facts Available

In the *Preliminary Determination,* because mandatory respondent Marcegaglia SpA (Marcegaglia) failed to respond to the Department's questionnaire and informed the Department that it would not participate in this investigation,[6] we applied

[1] *See Certain Carbon and Alloy Steel Cut-To-Length Plate From Italy: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Determination of Critical Circumstances, and Postponement of Final Determination,* 81 FR 79423 (November 14, 2016) (*Preliminary Determination).*

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Italy,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of Officine Tecnosider S.R.L. in the Antidumping Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Italy,'' dated January 17, 2017; and Memorandum, ''Verification of the Cost Response of Officine Tecnosider S.r.l. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy,'' dated January 23, 2017.

[4] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of NLMK Verona SpA in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length (CTL) Plate from Italy,'' dated January 11, 2017; Memorandum, ''Verification of the Sales Response of NLMK North America Plate in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length (CTL) Plate from Italy,'' dated January 25, 2017; and Memorandum, ''Verification of the Cost Response of NLMK Verona SpA in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Italy,'' dated January 18, 2017.

[5] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum, at 5–8.

[6] *See* Letter to the Secretary of Commerce from Marcegaglia ''Carbon and Alloy Steel Cut-To-Length Plate from Italy, Antidumping Investigation, Case

Continued

adverse facts available (AFA) to these respondents, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. We were able to corroborate the petition dumping margin of 130.63 percent to the extent practicable within the meaning of section 776(c) of the Act using the highest transaction-specific dumping margins calculated for NVR [7] and, thus, we assigned this dumping margin to Marcegaglia as AFA.

The Department received no comments regarding its preliminary application of the AFA dumping margin to Marcegaglia. For the final determination, the Department has not altered its analysis or its decision to apply the AFA to Marcegaglia, but for the reasons explained below, the petition margin can no longer be corroborated and, thus, we assigned to Marcegaglia a different dumping margin.

Additionally, due to its failures at verification, we determine that NVR's data cannot serve as a reliable basis for reaching a determination in this investigation and that NVR did not act to the best of its ability to comply with our requests for information. Therefore, we also find it appropriate to apply the AFA dumping margin to NVR. For further discussion, *see* the Issues and Decision Memorandum at Comments 1–4.

Finally, for the final determination, because NVR's information is no longer available for use in corroborating the petition rate, as AFA, we assigned to Marcegaglia and NVR the highest transaction-specific dumping margin calculated for OTS. For further discussion, *see* the Issues and Decision Memorandum at Comment 4.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. OTS is the only respondent for which the Department calculated a company-specific margin that is not zero, *de minimis,* or based entirely on facts otherwise available. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for OTS, as referenced in the ''Final Determination'' section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
NLMK Verona SpA	22.19
Officine Tecnosider s.r.l.	6.08
Marcegaglia SpA	22.19
All Others	6.08

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Italy, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**. For entries made by Marcegaglia, NVR, and OTS, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of CTL plate from Italy which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the **Federal Register**. Additionally, for entries made by the companies covered by the ''all others'' rate, in accordance with section 735(c)(4)(B) of the Act, because we find that critical circumstances exist, we will instruct CBP to suspend liquidation of all appropriate entries of CTL plate from Italy which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to 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 (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the 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 of CTL plate from Italy 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250

No. A–475–834: Letter Regarding Respondent Selection and Initial Antidumping Questionnaire'' (June 15, 2016).

[7] *Id.,* at 25.

mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350 HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06630 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–912]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Notice of Partial Rescission of the Antidumping Duty Administrative Review; 2015–2016

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

SUMMARY: On November 9, 2016, the Department of Commerce (''Department'') initiated an administrative review of the antidumping duty order on certain new pneumatic off-the-road tires (''OTR Tires'') from the People's Republic of China (''PRC'') for ten companies. Based on timely withdrawal of requests for review, we are now rescinding this administrative review with respect to three of these companies: Weifang Jintongda Tyre Co., Ltd. (''Jintongda''); Trelleborg Wheel Systems (Xingtai) Co., Ltd. (''TWS China''); and Zhongce Rubber Group Company Limited (''Zhongce'').

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Alex Rosen, 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) 482–7814.

SUPPLEMENTARY INFORMATION:

Background

On September 8, 2016, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on OTR Tires from the PRC.[1] In September 2016, the Department received multiple timely requests to conduct an administrative review of the antidumping duty order on OTR Tires from the PRC. Based on these requests, on November 9, 2016, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the ''Act''), the Department published in the **Federal Register** a notice of initiation of an administrative review covering the period September 1, 2015, through August 31, 2016, with respect to ten companies: Cheng Shin Rubber Industry Ltd.; Guizhou Tyre Co., Ltd.; Guizhou Tyre Import and Export Co., Ltd.; Qingdao Milestone Tyres Co. Ltd.; Qingdao Qihang Tyre Co. Ltd.; Shandong Zhentai Group Co., Ltd.; Weihai Zhongwei Rubber Co., Ltd.; TWS China; Jintongda; and Zhongce.[2] On November 24, 2016, December 13, 2016, and February 7, 2017, Jingtongda,[3] Zhongce,[4] and TWS China,[5] timely withdrew their respective requests for an administrative review.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Jingtongda, Zhongce, and TWS China timely withdrew their requests for an administrative review; no other party requested a review of these companies. Accordingly, we are rescinding this review, in part, with respect to these companies, pursuant to 19 CFR 351.213(d)(1).

Assessment

The Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. For Jingtongda, Zhongce, and TWS China, the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 81 FR 62096 (September 8, 2016).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 78778 (November 9, 2016).

[3] *See* Letter from Jingtongda, ''Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Withdrawal of Request for Administrative Review,'' dated November 24, 2016.

[4] *See* Letter from Zhongce, ''New Pneumatic Off-the-Road Tires From the People's Republic of China: Withdrawal of Request for Administrative Review—2015–16 Review Period,'' dated December 13, 2016.

[5] *See* Letter from TWS China, ''Antidumping Duty Administrative Review of New Pneumatic Off-The-Road Tires from the People's Republic of China: Withdrawal of Request for Administrative Review of Trelleborg Wheel Systems (Xingtai) Co., Ltd.,'' dated February 7, 2017.

period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping and/or countervailing duties.

Notification Regarding Administrative Protective Order

This notice serves as a final reminder to parties subject to an administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under an 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 notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Date: March 29, 2017.

Gary Taverman,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–06619 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–875]

Certain Carbon and Alloy Steel Cut-to-Length Plate From Japan: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Japan 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. The final weighted-average dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta or Ryan Mullen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2593 and (202) 482–5260, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Japan.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers CTL plate from Japan. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2016, we verified the sales and cost information submitted by Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel) 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 Tokyo Steel.[3]

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 Tokyo Steel. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Adverse Facts Available

In the *Preliminary Determination,* because mandatory respondents JFE Steel Corporation (JFE) and Shimabun Corporation (Shimabun) failed to respond to the Department's questionnaire and informed the Department that they would not participate in this investigation,[4] we applied adverse facts available (AFA) to these respondents, in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. Because we could not corroborate the petition dumping margin of 179.2 percent, we assigned to JFE and Shimabun, as AFA, a dumping margin based on the highest transaction-specific dumping margin calculated for Tokyo Steel.[5]

The Department received no comments regarding its preliminary application of the AFA dumping margin to JFE and Shimabun. For the final

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 79427 (November 14, 2016) (*Preliminary Determination*).

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Japan,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum to the File through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta, Senior International Trade Analyst, and Ryan Mullen, International Trade Analyst, entitled ''Verification of Tokyo Steel Manufacturing Co., Ltd., in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Japan,'' dated January 17, 2017; Memorandum to the File through Neal M. Halper, Director, Office of Accounting and Michael P. Martin, Lead Accountant, Office of Accounting from Kristin L. Case, Senior Accountant, entitled ''Verification of the Cost Response of Tokyo Steel Manufacturing Co., Ltd. in the Less-Than-Fair Value Investigation of Certain Alloy and Carbon Steel Cut-to-Length Plate from Japan,'' dated January 9, 2017.

[4] *See* Letter to the Secretary of Commerce from JFE ''Advisement of Non-Participation in Investigation'' (June 20, 2016); Letter to the Secretary of Commerce from Shimabun ''Shimabun's Notification of Non-Participation'' (July 29, 2016).

[5] *See Preliminary Determination.*

determination, the Department has not altered its analysis or its decision to apply the AFA dumping margin to JFE and Shimabun.

In making this final determination, the Department relied, in part, on facts available for Tokyo Steel. Furthermore, because Tokyo Steel did not act to the best of its ability in responding to certain of the Department's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[6] For further information, *see* the accompanying Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. Tokyo Steel is the only respondent for which the Department calculated a company-specific margin. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Tokyo Steel, as referenced in the ''Final Determination'' section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
Tokyo Steel Manufacturing Co., Ltd.	14.79
JFE Steel Corporation	48.67
Shimabun Corporation	48.67
All Others	14.79

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Japan, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, 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 Comission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the 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 of CTL plate from Japan 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the product is already covered by an order existing on that specific country (*i.e., Certain Hot-Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determinations for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016).); and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this

[6] *See* sections 776(a) and (b) of the Act.

investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350 HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06629 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–602–810, A–351–850, A–403–805]

Silicon Metal From Australia, Brazil and Norway: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Effective March 28, 2017.

FOR FURTHER INFORMATION CONTACT: Brian Smith at (202) 482–1766 (Australia); Robert James at (202) 482–0649 (Brazil); and Andrew Medley at (202) 482–4987 (Norway), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 8, 2017, the Department of Commerce (the Department) received antidumping duty (AD) petitions (the Petitions) concerning imports of silicon metal from Australia, Brazil, and Norway, filed in proper form on behalf of Globe Specialty Metals, Inc. (the petitioner).[1] The Petitions also included countervailing duty (CVD) petitions on silicon metal from Australia, Brazil, and Kazakhstan.[2] The petitioner is a domestic producer of silicon metal.[3]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of silicon metal from Australia, Brazil, and Norway are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

The Department finds that the petitioner filed these Petitions on behalf of the domestic industry, because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioner is requesting.[4]

Period of Investigations

Because the petitions were filed on March 8, 2017, the period of investigation (POI) for each investigation is, pursuant to 19 CFR 351.204(b)(1), January 1, 2016, through December 31, 2016.

Scope of the Investigations

The product covered by these investigations is silicon metal from Australia, Brazil, and Norway. For a full description of the scope of these investigations, *see* the ''Scope of the Investigations,'' at Appendix I of this notice.

Comments on Scope of the Investigations

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. In order to facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on April 17, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (also limited to public information), must be filed by 5:00 p.m. ET on April 27, 2017, which is 10 calendar days after the initial comments. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

The Department requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently believes that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[5] An electronically filed document must be received successfully in its entirety by the time and date when it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

The Department will provide interested parties an opportunity to comment on the appropriate physical characteristics of silicon metal to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics; and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe silicon metal, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in

[1] *See* Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition, dated March 8, 2017 (the Petitions).

[2] *Id.*

[3] *See* Volume I of the Petitions, at 1 and Exhibit I–1.

[4] *See* the ''Determination of Industry Support for the Petitions'' section below.

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on April 17, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, must be filed by 5:00 p.m. ET on April 27, 2017. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Australia, Brazil, and Norway less-than-fair-value investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,[6] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[7]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that silicon metal, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[8]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. The petitioner provided its own production of the domestic like product in 2016, as well as estimated 2016 production data of the domestic like product by the entire U.S. industry.[9] The petitioner also provided a letter from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), stating that the USW represents the workers at the petitioner's Alloy, WV and Niagara Falls, NY silicon metal plants and it supports the Petitions.[10] In addition, the petitioner provided a letter of support for the Petitions from the Industrial Division of the Communications Workers of America (IEU–CWA), stating that the IEU–CWA represents the workers at the petitioner's Selma, AL plant and it supports the Petitions.[11] To establish industry support, the petitioner compared its production to the total 2016 production of the domestic like product for the entire domestic industry.[12] We relied on the data the petitioner provided for purposes of measuring industry support.[13]

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support.[14] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[15] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[16] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry

[6] *See* section 771(10) of the Act.

[7] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[8] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Australia (Australia AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment II); Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Brazil (Brazil AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Silicon Metal from Norway (Norway AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with, and hereby adopted by, this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[9] *See* Volume I of the Petitions, at 1, 3–4 and Exhibits I–1 and I–2.

[10] *See* Volume I of the Petitions, at 4 and Exhibit I–5.

[11] *Id.,* at 4 and Exhibit I–6.

[12] *Id.,* at 3–4 and Exhibit I–2.

[13] *Id.* For further discussion, *see* Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

[14] *See* Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

[15] *See* section 732(c)(4)(D) of the Act; *see also* Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

[16] *See* Australia AD Initiation Checklist, at Attachment II; Brazil AD Initiation Checklist, at Attachment II; and Norway AD Initiation Checklist, at Attachment II.

expressing support for, or opposition to, the Petitions.[17] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting that the Department initiate.[18]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[19]

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declines in production, production capacity, capacity utilization, and U.S. shipments; increase in inventories; declines in average number of workers, hours worked, and wages paid; and declines in financial performance.[20] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[21]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of silicon metal from Australia, Brazil, and Norway. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For Brazil, the petitioner based export price (EP) on transaction-specific average unit values (AUVs) for shipments of silicon metal from Brazil entered under the relevant Harmonized Tariff Schedule of the United States (HTSUS) subheading for three entries during one month of the POI into three specific ports.[22] The petitioner linked port arrival data from an independent source to U.S. port-specific import statistics obtained from the ITC's Dataweb.[23] The petitioner linked imports of silicon metal entered under the relevant HTSUS subheading to shipments from producers in Brazil to ensure the Dataweb statistics were specific to subject merchandise.[24] Because the AUVs are based on the reported customs values, which reflect FOB foreign port prices, the petitioner made an adjustment for foreign inland freight from the production facility to the port of export.[25] The petitioner made no other adjustments to EP.

Constructed Export Price

For Australia and Norway, the petitioner had reason to believe that sales are made through U.S. affiliates. Therefore, the petitioner based constructed export price (CEP) on actual sales prices for silicon metal produced in, and exported from, those countries.[26] The petitioner made deductions from U.S. price for movement expenses consistent with the delivery terms.[27] The petitioner also deducted from U.S. price operating expenses incurred by the U.S. affiliate.[28]

Normal Value Based on Home Market Prices

For Australia, Brazil, and Norway, the petitioner provided home market price information based on sales, or offers for sale, of merchandise identical or similar to the product being imported into the United States during the POI.[29] As the prices obtained for Brazil were on an ex-factory basis, the petitioner made no adjustment for movement expenses.[30] For Australia and Norway, the petitioner made certain adjustments to the prices, including deductions for inland freight charges (where applicable).[31] The petitioner made no other adjustments to home market prices.

For Australia and Brazil, the petitioner provided information indicating that sales of silicon metal in the home market were made at prices below the cost of production (COP) and, as a result, also calculated NV based on constructed value (CV).[32] For further discussion of COP and NV based on CV, see below.[33]

Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); selling, general and administrative (SG&A) expenses; financial expenses; and packing expenses.

For Australia, the petitioner relied on the 2015 financial statements of Australian producer Simcoa Operations Pty Ltd. (Simcoa) to calculate the COP.[34] The petitioner adjusted Simcoa's 2015 COP data to the POI using Australian producer price index information obtained from *International Financial Statistics.*[35]

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[17] *Id.*

[18] *Id.*

[19] *See* Volume I of the Petitions, at 38–39 and Exhibit I–45.

[20] *See* Volume I of the Petitions, at 25–53 and Exhibits I–1, I–2, I–11—I–16, I–20, I–21, and I–30—I–60; *see also* Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition: Revised Exhibit I–46, dated March 14, 2017.

[21] *See* Australia AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment III); *see also* Brazil AD Initiation Checklist, at Attachment III; and Norway AD Initiation Checklist, at Attachment III.

[22] *See* Brazil AD Initiation Checklist.

[23] *Id.; see also* Volume IV of the Petitions at BR–AD 2C.

[24] *See* Brazil AD Initiation Checklist.

[25] *Id.; see also* Volume IV of the Petitions at 4–5, and Exhibit BR–AD 2A.

[26] *See* Australia AD Initiation Checklist and Norway AD Initiation Checklist.

[27] *Id.*

[28] See Volume II of the Petitions at 1–3 and Exhibit AU–AD 2A and Volume VII of the Petitions at 1–4 and Exhibit NO–AD 2A; and Australia AD Initiation Checklist and Norway AD Initiation Checklist.

[29] *See* Volume II of the Petitions, at 3–5 and Exhibit AU–AD 3A; Volume IV of the Petitions at 5 and Exhibit BR–AD 3A; Volume VII of the Petitions at 4–5 and Exhibit NO–AD 3A; *see also* Australia AD Initiation Checklist, Brazil AD Initiation Checklist, and Norway AD Initiation Checklist.

[30] *See* Brazil AD Initiation Checklist.

[31] *See* Australia AD Initiation Checklist and Norway AD Initiation Checklist.

[32] Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD law were made. *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015). *See also Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*Applicability Notice*). The amendments to sections 771(15), 773, 776, and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these AD investigations. *See Applicability Notice,* 80 FR at 46794–95.

[33] In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for these investigations, the Department will request information necessary to calculate the CV and COP to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. The Department no longer requires a COP allegation to conduct this analysis.

[34] *See* Australia AD Initiation Checklist.

[35] *Id.*

For Brazil, the petitioner calculated COM based on its own experience during the POI, adjusted for known differences based on information available to the petitioner.[36] The petitioner valued material inputs using publicly available data for the prices of these inputs, where possible. The petitioner used its own cost for one material input, as it was unable to find a publicly-available price for this input. The petitioner valued labor and energy inputs for silicon metal using publicly available data multiplied by the product-specific usage rates.[37] The petitioner relied on the 2015 financial statements of Brazilian silicon metal producer Rima Industrial, S.A. (Rima) to calculate SG&A and depreciation.[38] Because Rima's financial statements do not contain any data on other fixed overhead costs or variable overhead costs, the petitioner valued these overhead items using its own fixed and variable manufacturing overhead costs to produce silicon metal during the POI.[39]

For Australia and Brazil, because certain home market prices fell below COP in the petitioner's allegation, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioner also calculated NVs based on CV.[40] Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioner calculated CV using the same COP described above, adding an amount for profit.[41] For Australia, the petitioner based profit on Simcoa's above-cost home market sales during the POI. For Brazil, the petitioner calculated the profit rate based on Rima's financial statements. These rates were applied to the corresponding total COM, SG&A, and financial expenses calculated above to derive CV.[42]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of silicon metal from Australia, Brazil, and Norway are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP or CEP to NV, in accordance with sections 772 and 773(a) of the Act, the estimated dumping margins for silicon metal are as follows: 28.58 to 52.81 percent for Australia;[43] 15.41 to 28.24 percent for Brazil;[44] and 32.25 and 45.66 percent for Norway.[45] Based on comparisons of EP or CEP to CV in accordance with sections 772 and 773(e) of the Act, the estimated dumping margins are as follows: 42.33 and 45.77 percent for Australia,[46] and 121.79 to 134.92 percent for Brazil.[47]

Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the AD Petitions, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of silicon metal from Australia, Brazil, and Norway are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Based on information from independent sources, the petitioner identified one company in Australia, five companies in Brazil, and two companies in Norway, as producers/exporters of silicon metal.[48] With respect to Brazil, following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large, the Department intends to review U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate HTSUS numbers listed with the ''Scope of the Investigations,'' in Appendix I, below; and if it determines that it cannot individually examine each company based upon the Department's resources, then the Department will select respondents based on that data. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of the investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from CBP to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner identified only one company as a producer/exporter of silicon metal in Australia: Simcoa, and two companies in Norway: Elkem AS and Wacker Chemicals Norway AS.[49] We currently know of no additional producers/exporters of merchandise under consideration from these countries and the petitioner provided information from independent sources as support.[50] Accordingly, the Department intends to examine all known producers/exporters in the investigations for Australia and Norway (*i.e.,* the companies cited above for each respective investigation). Parties wishing to comment on respondent selection for Australia and Norway must do so within five days of the publication of this notice in the **Federal Register**.

Comments for the above-referenced investigations must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by 5:00 p.m. ET by the dates noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Governments of Australia, Brazil, and Norway via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of silicon metal from Australia, Brazil,

[36] *See* Brazil AD Initiation Checklist.

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] *See* Australia AD Initiation Checklist and Brazil AD Initiation Checklist.

[41] *Id.*

[42] *Id.*

[43] *See* Volume II of the Petitions, at 7 and Exhibit AU–AD1, and Australia AD Initiation Checklist.

[44] *See* Volume IV of the Petitions, at 8–9 and Exhibit BR–AD1, and Brazil AD Initiation Checklist.

[45] *See* Volume VII of the Petitions, at 5 and Exhibit NO–AD1, and Norway AD Initiation Checklist.

[46] *See* Volume II of the Petitions, at 7 and Exhibit AU–AD1, and Australia AD Initiation Checklist.

[47] *See* Volume IV of the Petitions, at 8–9 and Exhibit BR–AD1, and Brazil AD Initiation Checklist.

[48] *See* Volume I of the Petitions, at 15–21.

[49] *Id.*

[50] *See* Volume I of the Petitions at Exhibits I–17 and I–20.

and/or Norway are materially injuring or threatening material injury to a U.S. industry.[51] A negative ITC determination for any country will result in the investigation being terminated with respect to that country;[52] otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under Part 351, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[53] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.[54] The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed in 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.203(c).

Dated: March 28, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigations

The scope of these investigations covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2017–06621 Filed 4–3–17; 8:45 a.m.]

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[51] *See* section 733(a) of the Act.

[52] *Id.*

[53] *See* section 782(b) of the Act.

[54] *See Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–851; C–602–811; C–834–808]

Silicon Metal From Australia, Brazil, and Kazakhstan: Initiation of Countervailing Duty Investigations

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

DATES: Effective March 28, 2017.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson at (202) 482–4929 (Australia); Bob Palmer at (202) 482–9068 (Brazil); and Terre Keaton Stefanova at (202) 482–1280 (Kazakhstan), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On March 8, 2017, the Department of Commerce (the Department) received countervailing duty (CVD) petitions concerning imports of silicon metal from Australia, Brazil, and Kazakhstan, filed in proper form on behalf of Globe Specialty Metals, Inc. (the petitioner). With the exception of Kazakhstan, the remaining CVD petitions were accompanied by antidumping duty (AD) petitions concerning imports of silicon metal from the above countries and Norway.[1] The petitioner is a domestic producer of silicon metal.[2]

On March 9, 2017, and March 13, 2017, the Department requested supplemental information pertaining to certain areas of the Petitions with

[1] *See* ''Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition,'' dated March 8, 2017 (Petitions).

[2] *Id.,* Volume I at 1.

respect to Australia [3] and Brazil. [4] The petitioner filed responses to these requests on March 14, 2017, and March 15, 2017.[5] [6]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of silicon metal from Australia, Brazil, and Kazakhstan received countervailable subsidies from the Governments of Australia, Brazil, and Kazakhstan, respectively, within the meaning of sections 701 and 771(5) of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we are initiating CVD investigations, the Petitions are accompanied by information reasonably available to the petitioner supporting their allegations.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the CVD investigations that the petitioner is requesting.[7]

Period of Investigations

Because the petitions were filed on March 8, 2017, the period of investigation (POI) for each investigation is January 1, 2016, through December 31, 2016.[8]

Scope of the Investigations

The product covered by these investigations is silicon metal from Australia, Brazil, and Kazakhstan. For a full description of the scope of these investigations, *see* Appendix I of this notice.

Comments on Scope of the Investigations

As discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope). The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determinations. If scope comments include factual information (*see* 19 CFR 351.102(b)(21)), all such factual information should be limited to public information. To facilitate preparation of its questionnaires, the Department requests all interested parties to submit such comments by 5:00 p.m. Eastern Time (ET) on April 17, 2017, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information (also limited to public information), must be filed by 5:00 p.m. ET (Eastern Time) on April 27, 2017, which is 10 calendar days after the initial comments. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

The Department requests that any factual information the parties consider relevant to the scope of these investigations be submitted during this time period. However, if a party subsequently believes that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact the Department and request permission to submit the additional information. As stated above, all such comments must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[9] An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to section 702(b)(4)(A)(i) of the Act, the Department notified representatives of the Governments of Australia, Brazil and Kazakhstan of the receipt of the Petitions. Also, following invitations extended in accordance with section 702(b)(4)(A)(ii) of the Act, on March 16, 20 and 24, 2017, respectively, consultations with the Governments of Australia, Brazil and Kazakhstan at the Department's main building. Memoranda regarding these consultations are available electronically *via* ACCESS.

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both

[3] *See* Letter from the Department, ''Petition for the Imposition of Countervailing Duties on Imports of Silicon Metal from Australia: Supplemental Questions,'' March 13, 2017.

[4] *See* Letter from the Department ''Petition for the Imposition of Countervailing Duties on Imports of Silicon Metal from Brazil: Supplemental Questions,'' March 9, 2017; *see also* Memorandum to the File from Bob Palmer, ''Countervailing Duty Investigation on Silicon Metal from Brazil: Phone Call with Petitioner,'' March 15, 2017.

[5] *See* Letter from the petitioner, re: ''Silicon Metal from Brazil; Countervailing Duty Investigation; Response to Deficiency Questionnaire,'' dated March 14, 2017, and Letter from the petitioners, re: ''Silicon Metal from Australia; Countervailing Duty Investigation; Response to Deficiency Questionnaire,'' dated March 15, 2017.

[6] The petitioner also submitted information regarding the average useful life of assets used to produced silicon metal on the record of the Kazakhstan proceeding. *See* Letter from the petitioner, re: ''Silicon Metal from Kazakhstan; Countervailing Duty Investigation; Information on Useful Lives of Assets,'' dated March 15, 2017.

[7] *See* ''Determination of Industry Support for the Petitions'' section, below.

[8] *See* 19 CFR 351.204(b)(2).

[9] *See* 19 CFR 351.303 (for general filing requirements); *see also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011), for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

the Department and the ITC must apply the same statutory definition regarding the domestic like product,[10] they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[11]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

Regarding the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of these investigations. Based on our analysis of the information submitted on the record, we have determined that silicon metal, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[12]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the ''Scope of the Investigations,'' in Appendix I of this notice. The petitioner provided its own production of the domestic like product in 2016, as well as estimated 2016 production data of the domestic like product by the entire U.S. industry.[13] The petitioner also provided a letter from the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), stating that the USW represents the workers at the petitioner's Alloy, WV and Niagara Falls, NY silicon metal plants and it supports the Petitions.[14] In addition, the petitioner provided a letter of support for the Petitions from the Industrial Division of the Communications Workers of America (IEU–CWA), stating that the IEU–CWA represents the workers at the petitioner's Selma, AL plant and it supports the Petitions.[15] To establish industry support, the petitioner compared its production to the total 2016 production of the domestic like product for the entire domestic industry.[16] We relied on the data the petitioner provided for purposes of measuring industry support.[17]

Our review of the data provided in the Petitions and other information readily available to the Department indicates that the petitioner has established industry support.[18] First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[19] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.[20] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.[21] Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

The Department finds that the petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the CVD investigations that it is requesting the Department initiate.[22]

Injury Test

Because Australia, Brazil, and Kazakhstan are ''Subsidies Agreement Countries'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from these countries materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility thresholds provided for under section 771(24)(A) of the Act.[23] The petitioner also demonstrates that subject imports from Brazil, which has been designated as a developing country under section 771(36)(A) of the Act, exceed the negligibility threshold of four percent provided for under section 771(24)(B) of the Act.[24]

The petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; lost sales and revenues; declines in production, production capacity, capacity utilization, and U.S. shipments; increase in inventories; declines in average number of workers, hours worked, and wages paid; and

[10] *See* section 771(10) of the Act.

[11] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[12] For a discussion of the domestic like product analysis in this case, *see* Countervailing Duty Investigation Initiation Checklist: Silicon Metal from Australia (Australia CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment II); Countervailing Duty Investigation Initiation Checklist: Silicon Metal from Brazil (Brazil CVD Initiation Checklist), at Attachment II; and Countervailing Duty Investigation Initiation Checklist: Silicon Metal from Kazakhstan (Kazakhstan CVD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[13] *See* Petitions, Volume I at 1, 3–4 and Exhibits I–1 and I–2.

[14] *See* Petitions, Volume I at 4 and Exhibit I–5.

[15] *Id.,* at 4 and Exhibit I–6.

[16] *Id.,* at 3–4 and Exhibit I–2.

[17] *Id.* For further discussion, *see* Australia CVD Initiation Checklist, at Attachment II; Brazil CVD Initiation Checklist, at Attachment II; and Kazakhstan CVD Initiation Checklist, at Attachment II.

[18] *See* Australia CVD Initiation Checklist, at Attachment II; Brazil CVD Initiation Checklist, at Attachment II; and Kazakhstan CVD Initiation Checklist, at Attachment II.

[19] *See* section 702(c)(4)(D) of the Act; *see also* Australia CVD Initiation Checklist, at Attachment II; Brazil CVD Initiation Checklist, at Attachment II; and Kazakhstan CVD Initiation Checklist, at Attachment II.

[20] *See* Australia CVD Initiation Checklist, at Attachment II; Brazil CVD Initiation Checklist, at Attachment II; and Kazakhstan CVD Initiation Checklist, at Attachment II.

[21] *Id.*

[22] *Id.*

[23] *See* Petitions, Volume I at 38–39 and Exhibit I–45.

[24] *Id.*

declines in financial performance.[25] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[26]

Initiation of CVD Investigations

Section 702(b)(1) of the Act requires the Department to initiate a CVD investigation whenever an interested party files a CVD petition on behalf of an industry that (1) alleges the elements necessary for an imposition of a duty under section 701(a) of the Act and (2) is accompanied by information reasonably available to the petitioner supporting the allegations.

The petitioner alleges that producers/exporters of silicon metal in Australia, Brazil, and Kazakhstan benefit from countervailable subsidies bestowed by the governments of these countries, respectively. The Department examined the Petitions and finds that they comply with the requirements of section 702(b)(1) of the Act. Therefore, in accordance with section 702(b)(1) of the Act, we are initiating these CVD investigations to determine whether manufacturers, producers, and/or exporters of silicon metal from Australia, Brazil, and Kazakhstan receive countervailable subsidies from the governments of these countries, respectively.

Under the Trade Preferences Extension Act of 2015, numerous amendments to the AD and CVD laws were made.[27] The amendments to sections 776 and 782 of the Act are applicable to all determinations made on or after August 6, 2015, and, therefore, apply to these CVD investigations.[28]

[25] *See* Petitions, Volume I at 25–53 and Exhibits I–1, I–2, I–11—I–16, I–20, I–21, and I–30—I–60; *see also* Silicon Metal from Australia, Brazil, Kazakhstan, and Norway; Antidumping and Countervailing Duty Petition: Revised Exhibit I–46, dated March 14, 2017.

[26] *See* Australia CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Silicon Metal from Australia, Brazil, Kazakhstan, and Norway (Attachment III); *see also* Brazil CVD Initiation Checklist, at Attachment III; and Kazakhstan CVD Initiation Checklist, at Attachment III.

[27] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015). *See also, Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015,* 80 FR 46793 (August 6, 2015) (*Applicability Notice*).

[28] *See Applicability Notice,* 80 FR at 46794–95.

Australia

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all three alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Australia CVD Initiation Checklist.

Brazil

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on all six alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the Brazil CVD Initiation Checklist.

Kazakhstan

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on five of the six alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, *see* the Kazakhstan CVD Initiation Checklist.

A public version of the initiation checklist for each investigation is available on *ACCESS.*

In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of this initiation.

Respondent Selection

Based on information from independent sources, the petitioner identified one company in Australia,[29] five companies in Brazil,[30] and two companies in Kazakhstan as producers/exporters of silicon metal.[31] With respect to Brazil, following standard practice in CVD investigations, in the event the Department determines that the number of companies is large, the Department intends to review U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate HTSUS numbers listed with the ''Scope of the Investigations,'' in Appendix I, below; and if it determines that it cannot individually examine each company based upon the Department's resources, then the Department will select respondents based on those data. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO. Comments regarding the CBP data and respondent selection should be submitted seven calendar days after the placement of the CBP data on the record of the investigation. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

Although the Department normally relies on the number of producers/exporters identified in the petition and/or import data from CBP to determine whether to select a limited number of producers/exporters for individual examination in CVD investigations, the petitioner identified only one company as a producer/exporter of silicon metal in Australia: Simcoa Operations Pty Ltd., and two companies in Kazakhstan: (1) LLP Tau-Ken Temir, and; (2) LLP Metallurgical Combine Kaz Silicon. We currently know of no additional producers/exporters of merchandise under consideration from Australia and Kazakhstan and the petitioner provided information from independent sources as support.[32] Accordingly, the Department intends to examine all known producers/exporters in the investigations for Australia and Kazakhstan (*i.e.,* the companies cited above for each respective investigation). Parties wishing to comment on respondent selection for Australia and Kazakhstan must do so within five days of the publication of this notice in the **Federal Register**.

Comments must be filed electronically using ACCESS. An electronically-filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petitions have been provided to the Governments of Australia, Brazil and Kazakhstan *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each known exporter (as named in the Petitions), consistent with 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

[29] *See* Petitions, Volume I at 15–16 and Exhibit I–19 and 20.

[30] *See* Petitions, Volume I at 16–19 and Exhibit I–20 and 21.

[31] *See* Petitions, Volume I at 19 and Exhibit I–20.

[32] *See* Petitions, Volume I at Exhibits I–17 and I–20.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of silicon metal from Australia, Brazil, and/or Kazakhstan are materially injuring, or threatening material injury to, a U.S. industry.[33] A negative ITC determination will result in the investigation being terminated with respect to that country.[34] Otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). Any party, when submitting factual information, must specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Parties should review the regulations prior to submitting factual information in these investigations.

Extension of Time Limits Regulation

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[35] Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[36] The Department intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act.

Dated: March 28, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigations

The scope of these investigation covers all forms and sizes of silicon metal, including silicon metal powder. Silicon metal contains at least 85.00 percent but less than 99.99 percent silicon, and less than 4.00 percent iron, by actual weight. Semiconductor grade silicon (merchandise containing at least 99.99 percent silicon by actual weight and classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2804.61.0000) is excluded from the scope of these investigations.

Silicon metal is currently classifiable under subheadings 2804.69.1000 and 2804.69.5000 of the HTSUS. While HTSUS numbers are provided for convenience and customs purposes, the written description of the scope remains dispositive.

[FR Doc. 2017–06622 Filed 4–3–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–844]

Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from the Federal Republic of Germany (Germany) 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. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Ross Belliveau or David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4952 and (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

[33] *See* section 703(a)(2) of the Act.

[34] *See* section 703(a)(1) of the Act.

[35] *See* section 782(b) of the Act.

[36] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Germany.[1] On November 29, 2016, we amended our *Preliminary Determination*.[2] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[3]

Scope of the Investigation

The scope of the investigation covers CTL plate from Germany. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2016, we conducted verification of the sales and cost information submitted by AG der Dillinger Hüttenwerke (Dillinger) and Ilsenburger Grobblech GmbH, Salzgitter Mannesmann Grobblech GmbH, Salzgitter Flachstahl GmbH, and Salzgitter Mannesmann International GmbH (collectively, Salzgitter) 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 Dillinger and Salzgitter.[4]

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 Dillinger and Salzgitter. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act.

For the final determination, the Department calculated the all-others rate based on a weighted average of Dillinger's and Salzgitter's margins using publicly-ranged quantities of their sales of subject merchandise.[5]

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
AG der Dillinger Hüttenwerke	5.38
Ilsenburger Grobblech GmbH, Salzgitter Mannesmann Grobblech GmbH, Salzgitter Flachstahl GmbH, and Salzgitter Mannesmann International GmbH	22.90
All Others	21.03

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Germany, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, 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.

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 79446 (November 14, 2016) (*Preliminary Determination*).

[2] *See Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany: Amended Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 85930 (November 29, 2016) (Amended Preliminary Determination).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Germany,'' dated concurrently with this notice (Issues and Decision Memorandum).

[4] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of AG der Dillinger Hüttenwerke in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Germany,'' dated December 20, 2016; Memorandum, ''Verification of Berg Steel Pipe Corp. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Germany,'' dated January 4, 2017; Memorandum, ''Verification of the Cost Response of Salzgitter AG in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Federal Republic of Germany,'' dated January 4, 2017; Memorandum, ''Verification of the Sales Response of Berg Steel Pipe Corp. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from the Federal Republic of Germany,'' dated January 25, 2017; Memorandum, ''Verification of the Home Market Sales Response of Salzgitter Mannesmann Grobblech GmbH in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany,'' dated January 31, 2017; Memorandum, ''Verification of the Sales Response of Salzgitter Mannesmann International GmbH in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany,'' dated February 1, 2017; Memorandum, ''Verification of the Sales Response of Salzgitter Mannesmann Stahlhandel GmbH International GmbH in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From the Federal Republic of Germany,'' dated February 1, 2017.

[5] *See* Memorandum, ''Certain Carbon and Alloy Steel Cut-to-Length Plate From Germany: Calculation of the Final Margin for All Other Companies,'' dated March 29, 2017. With two respondents, we normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the 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 of CTL plate from Germany 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:
(i) 270–300 HBW,
(ii) 290–320 HBW, or
(iii) 320–350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06628 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–828]

Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from France 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. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Brandon Custard or Terre Keaton Stefanova, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1823 and (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary*

Determination of sales at LTFV of CTL plate from France.[1] On December 2, 2016, we amended our *Preliminary Determination*.[2] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[3]

Scope of the Investigation

The scope of the investigation covers CTL plate from France. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*, and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2016, we conducted verification of the sales and cost information submitted by Dillinger France S.A. (Dillinger France) and Industeel France S.A. (Industeel) 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 Dillinger France and Industeel.[4]

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 calculation for Dillinger France. For a discussion of these changes, *see* the ''Margin Calculation'' section of the Issues and Decision Memorandum.

Adverse Facts Available

Due to its failures at verification, we determine that Industeel's data cannot serve as a reliable basis for reaching a determination in this investigation and that Industeel did not act to the best of its ability to comply with our requests for information. Therefore, we find it appropriate to apply adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308. For further discussion, *see* the Issues and Decision Memorandum at Comment 2.

We are able to corroborate the highest petition dumping margin of 148.02 percent to the extent practicable within the meaning of section 776(c) of the Act using the highest transaction-specific dumping margin calculated for Dillinger France and, thus, we assigned this dumping margin to Industeel as AFA. For further discussion, *see* the Issues and Decision Memorandum at Comment 2.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. Dillinger France is the only respondent for which the Department calculated a company-specific margin. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Dillinger France, as referenced in the ''Final Determination'' section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
Dillinger France S.A.	8.62
Industeel France S.A.	148.02
All Others	8.62

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from France, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, 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 (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 79437 (November 14, 2016) (*Preliminary Determination*).

[2] *See Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Amended Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 87019 (December 2, 2016) (*Amended Preliminary Determination*). *See also Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Correction to the Amended Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 90780 (December 15, 2016).

[3] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated concurrently with this notice (Issues and Decision Memorandum).

[4] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of Dillinger France S.A. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated December 22, 2016; Memorandum, ''Verification of Berg Steel Pipe Corp. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated December 30, 2017; Memorandum, ''Verification of Dillinger France S.A. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated January 12, 2017; Memorandum, ''Verification of the Cost Response of Industeel France S.A. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated January 17, 2017; Memorandum, ''Verification of the Sales Response of Industeel France S.A. (Industeel France) in the Antidumping Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated January 19, 2017; and Memorandum, ''Verification of the Sales Response of Berg Steel Pipe Corp. in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated January 25, 2017.

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 of CTL plate from France 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi

or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06627 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–812]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Austria is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to voestalpine, but not for all-other Austrian producers, imports, or exports of the subject merchandise. The period of investigation (POI) is April 1, 2015, through March 31, 2016. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Madeline Heeren, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3931 and (202) 482–9179, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Austria.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria: Preliminary Determination of Sales at Less Than Fair Value and Postponement of the Final Determination,* 81 FR 79416 (November 14, 2016) (*Preliminary Determination*).

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy

Scope of the Investigation

The scope of the investigation covers CTL plate from Austria. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November 2016 through January 2017 we verified the sales and cost information submitted by voestalpine [3] 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 voestalpine.[4]

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 voestalpine. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination,* the Department found that critical circumstances exist with respect to imports of CTL plate from voestalpine and do not exist with respect to imports of CTL plate from the companies that are covered by the ''all others'' rate.[5] Our analysis and conclusion concerning critical circumstances remain unchanged for our final determination. For further discussion, *see* the Issues and Decision Memorandum and Final Critical Circumstances Data Memo.[6]

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. voestalpine is the only respondent for which the Department calculated a specific margin. Therefore, for purposes of calculating the ''all-others'' rate, and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for voestalpine as the all-others rate, as referenced in the ''Final Determination'' section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margin (percent)
Bohler Bleche GmbH & Co KG ..	53.72
Bohler Edelstahl GmbH & Co KG	
Bohler International GmbH	
voestalpine Grobblech GmbH	
voestalpine Steel Service Center GmbH	
All Others	53.72

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Austria, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**. For entries made by voestalpine, in accordance with section 735(c)(4)(A) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of CTL plate from Austria which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to 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 Comission (ITC) Notification

In accordance with section 735(c)(1)(A) and (d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this

Steel Cut-to-Length Plate from Austria,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] In a Memorandum to Scot Fullerton, Director, Office VI, on the subject of the ''Less Than Fair Value Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria: Preliminary Affiliation and Collapsing Memorandum for voestalpine,'' dated November 4, 2016, we preliminarily determined that the following companies were affiliated and should be treated as a single entity for purposes of the investigation, pursuant to section 771(33)(F) of the Act: voestalpine Grobblech and voestalpine Steel Service Center GmbH, which are producers of carbon plate; Bohler Edelstahl GmbH & Co KG and Bohler Bleche GmbH & Co KG, producers of alloy plate; and Bohler International GmbH, a home-market sales affiliate (collectively voestalpine). The finding has not changed for the final determination and we refer to the collapsed entity as ''voestalpine'' throughout this notice.

[4] For discussion of our verification findings, *see* the following memoranda: Memorandum to the File from Madeline Heeren and Chelsey Simonovich, Analysts, AD/CVD Operations, Office VI, entitled ''Verification of the Sales Response of voestalpine Steel and Service Center GmbH (SSC) and Bohler Bleche GmbH & Co. KG (BBG) in the Antidumping Duty Investigation from Austria,'' dated February 9, 2017; Memorandum to the File from Edythe Artman, Madeline Heeren, and Chelsey Simonovich, Analysts, AD/CVD Operations, Office VI, entitled ''Verification of Bohler-Uddeholm Corporation in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria,'' dated February 9, 2017; Memorandum to the File from Milton Koch, Accountant, and Taija A. Slaughter, Supervisory Accountant, Office of Accounting, entitled ''Verification of the Cost Response of voestalpine AG in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria,'' dated January 30, 2017; and Memorandum to the File from Milton Koch, Accountant, and Taija A. Slaughter, Supervisory Accountant, entitled ''Verification of the Cost Response of voestalpine AG in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria,'' dated February 1, 2017.

[5] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum at 23.

[6] *See* Memorandum to the File, ''Calculations for Final Determination of Critical Circumstances in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria,'' dated March 29, 2017 (Final Critical Circumstances Data Memo).

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 of CTL plate from Austria 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350 HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the

product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06634 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–887]

Certain Carbon and Alloy Steel Cut-To-Length Plate From the Republic of Korea: Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances Determination

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from the Republic of 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. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Erin Kearney, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4475 and (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from the Republic of Korea.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 79441 (November 14, 2016) (*Preliminary Determination).*

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Issues and Decision Memorandum for the Final Affirmative Determination and Final Negative Critical Circumstances Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea,'' dated concurrently with this notice (Issues and Decision Memorandum).

Scope of the Investigation

The scope of the investigation covers CTL plate from the Republic of Korea. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in December 2016 and February 2017, we verified the sales and cost information submitted by POSCO and POSCO Daewoo (collectively POSCO) 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 POSCO.[3]

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 POSCO. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Final Negative Determination of Critical Circumstances

On July 26, 2016, the petitioners[4] 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 CTL plate from Korea.[5] The Department preliminarily determined that critical circumstances did not exist with respect to POSCO and all-other producers/exporters from Korea.[6] We received no comments concerning our *Preliminary Critical Circumstances Determination.* Accordingly, our analysis and conclusion concerning critical circumstances remain unchanged for our final determination.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. POSCO is the only respondent for which the Department calculated a company-specific margin. Therefore, for purposes of determining the ''all-others'' rate and in accordance with section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for POSCO, as referenced in the ''Final Determination'' section below.[7]

Also, as indicated by the scope of the investigation, at the time of the filing of the petition, there was an existing antidumping duty order on certain cut-to-length carbon-quality steel plate from Korea.[8] The scope of the instant investigation covers only: (1) Subject CTL plate not within the physical description of cut-to-length carbon quality steel plate in the *1999 Korea AD Order* regardless of producer or exporter; and (2) CTL plate produced and/or exported by those companies that were excluded or revoked from the *1999 Korea AD Order* as of April 8, 2016. The only revoked or excluded company is POSCO.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
POSCO	7.39
All Others	7.39

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from the Republic of Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, 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 Comission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum to the File from Kalsang Dorjee, Staff Accountant, Through Ernest Z. Gziryan, Lead Accountant to Neal Halper Director, Office of Accounting, Office II, entitled ''Verification of the Cost Response of POSCO and Daewoo International Corporation in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Korea,'' dated January 12, 2016; Memorandum to the File from Michael J. Heaney, and Moses Song, Analysts, AD/CVD Operations, Office VI, entitled ''Verification of the Sales Response of POSCO/Daewoo International Corporation in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate (CTL Plate) from the Republic of Korea,'' dated February 14, 2017; Memorandum from Michael J. Heaney to the File entitled ''Verification of the Sales Response of Daewoo Corporation America (DWA) in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate (CTL Plate) from the Republic of Korea,'' dated February 14, 2017.

[4] The petitioners are ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC.

[5] *See* Letter from the petitioners, ''Re: Certain Carbon and Alloy Steel Cut-To-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Critical Circumstances Allegations,'' dated July 26, 2016.

[6] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey; Antidumping and Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances,* 81 FR 61666 (September 7, 2016) (*Preliminary Critical Circumstances Determination*).

[7] In accordance with the scope of this investigation, the application of POSCO's antidumping rate to all-other producers/exporters applies only to subject CTL plate not within the physical description of cut-to-length carbon quality steel plate in the *Notice of Amendment of Final Determination of Sales at Less Than Fair Value and Antidumping Duty Orders: Certain Cut-to-Length Carbon-Quality Steel Plate Products from France, India, Indonesia, Italy, Japan, and the Republic of Korea* 65 FR 6585 (February 10, 2000) (*1999 Korea AD Order*).

[8] *See 1999 Korea AD Order.*

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 of CTL plate from the Republic of 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above unless the product is already covered by an order existing on that specific country (*i.e., Certain Hot Rolled Steel Flat Products from Australia, Brazil, Japan, the Republic of Korea, the Netherlands, the Republic of Turkey, and the United Kingdom: Amended Final Affirmative Antidumping Determination for Australia, the Republic of Korea, and the Republic of Turkey and Antidumping Duty Orders,* 81 FR 67962 (October 3, 2016), and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80,
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115.

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,

- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at -40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

At the time of the filing of the petition, there was an existing antidumping duty order on certain cut-to-length carbon-quality steel plate products from Korea. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-To-Length Carbon-Quality Steel Plate Products from Korea,* 64 FR 73,196 (Dep't Commerce Dec. 29, 1999), as amended, 65 FR 6,585 (Dep't Commerce Feb 10, 2000) (1999 Korea AD Order). The scope of the antidumping duty investigation with regard to cut-to-length plate from Korea covers only (1) subject cut-to-length plate not within the physical description of cut-to-length carbon quality steel plate in the 1999 Korea AD Order, regardless of producer or exporter; and (2) cut-to-length plate produced and/or exported by those companies that were excluded or revoked from the 1999 Korea AD Order as of April 8, 2016. The only revoked or excluded company is Pohang Iron and Steel Company, also known as POSCO.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06631 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–858]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Taiwan: 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 certain carbon and alloy steel cut-to-length plate (CTL plate) from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances do not exist with respect to imports of the subject merchandise. The period of investigation (POI) is April 1, 2015, through March 31, 2016. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Davina Friedmann or Tyler Weinhold, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0698 and (202) 482–1121, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Taiwan.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision

[1] *See Certain Carbon and Alloy Steel Cut-to-Length Plate From France: Preliminary Determination of Sales at Less Than Fair Value,* 81 FR 79420 (November 14, 2016) (*Preliminary Determination*).

Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers CTL plate from Taiwan. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, Room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2016, and in January 2017, we verified the sales and cost information submitted by China Steel Corporation (China Steel) and Shang Chen Steel Co., Ltd. (Shang Chen) 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 China Steel and Shang Chen.[3]

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 China Steel and Shang Chen. For a discussion of these changes, *see* the ''Margin Calculations'' section of the Issues and Decision Memorandum.

Final Determination of Negative Critical Circumstances

For the *Preliminary Determination,* the Department found that critical circumstances existed with respect to imports of CTL plate from China Steel and the companies that are covered by the ''all others'' rate, but did not exist for imports from Shang Chen.[4] We modified our critical circumstances findings for China Steel and the companies that are covered by the ''all others'' rate for the final determination. For further discussion, *see* the Issues and Decision Memorandum at Comment 11. Thus, pursuant to section 735(a)(3) of the Act and 19 CFR 351.206, we find that critical circumstances do not exist with respect to subject merchandise produced or exported by China Steel, Shang Chen, or the companies that are covered by the ''all others'' rate.

Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available for China Steel and Shang Chen. Furthermore, because China Steel and Shang Chen did not act to the best of their ability in responding to certain of the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.[5] For further information, *see* the accompanying Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. For the final determination, the Department calculated the ''all others'' rate based on a simple average of China Steel's and Shang Chen's margins.[6]

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margin (percent)
China Steel Corporation	6.95
Shang Chen Steel Co., Ltd	3.62
All Others	5.29

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Taiwan, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**. 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.

Further, because our final critical circumstances determination is negative, in accordance with section 735(c)(3) of the Act, we will instruct CBP to terminate the retroactive suspension of liquidation ordered at the *Preliminary Determination* for China

[2] *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate From Taiwan,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings, *see* the following memoranda: For China Steel, *see* Memorandum to the File from Tyler Weinhold, Davina Friedmann, and Tom Bellhouse, Case Analysts, AD/CVD Operations, Office VI, entitled ''Verification of the Sales Responses of China Steel corp. in the Investigation on Certain Carbon and Alloy Steel Cut-to-Length Plate From France,'' dated February 15, 2017 (China Steel Sales Verification Report); and Memorandum to Neal Halper from Gary Urso, Senior Accountant, Office of Accounting, entitled ''Verification of the Cost Response of China Steel Corporation in the Antidumping Duty Investigation of Carbon and Alloy Steel Cut-to-Length Plate from Taiwan,'' dated February 9, 2017 (China Steel Cost Verification Report). For Shang Chen, *see* Memorandum to the File from Davina Friedmann, Tyler Weinhold, and Tom Bellhouse, Case Analysts, AD/CVD Operations, Office VI, entitled ''Verification of the Sales Responses of Shang Chen Steel Co., Ltd. in the Investigation on Certain Carbon and Alloy Steel Cut-to-Length Plate from Taiwan,'' dated February 9, 2017 (Shang Chen Sales Verification Report); Memorandum to Neal Halper File, Director of Accounting, from Lakshmi Jones Accountant, Office of Accounting, entitled ''Verification of the Cost of Production (COP) and Constructed Value (CV) Response of Shang Chen Steel Co. Ltd. (SCS) in the antidumping duty investigation of Cut-to-Length Plate from Taiwan,'' dated January 26, 2017 (Shang Chen Cost Verification Report).

[4] *See Preliminary Determination,* and accompanying Preliminary Decision Memorandum at 4 to 5.

[5] *See* sections 776(a) and (b) of the Act.

[6] Because we did not have useable publicly-ranged data on the record, we based the all others rate on the simple average of the mandatory respondents' margins.

Steel and ''all other'' companies and to release any bond or security and refund any cash deposits required with respect to entries covered by the retroactive suspension of liquidation.

International Trade Comission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the 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 of CTL plate from France 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:
(i) 270–300 HBW,
(ii) 290–320 HBW, or
(iii) 320–350HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,

- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06703 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No.: 170301219–7219–01]

RIN 0625–XC029

Amendment to the Privacy Shield Cost Recovery Fees

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of amendment to the Privacy Shield cost recovery program fees, with request for comments.

SUMMARY: Consistent with the guidelines in OMB Circular A–25, the U.S. Department of Commerce's International Trade Administration (ITA) is revising the fee schedule implemented on August 1, 2016. On January 12, 2017, the Swiss Government announced the approval of the Swiss-U.S. Privacy Shield Framework as a valid legal mechanism to comply with Swiss requirements when transferring personal data from Switzerland to the United States. For more detailed information on the Swiss-U.S. Privacy Shield Framework and the announcement, please see *https://www.privacyshield.gov/Program-Overview.*

This notice revises the Privacy Shield fee structure to incorporate the Swiss-U.S. Privacy Shield Framework in addition to the existing EU–U.S. Privacy Shield Framework. This is to support the operation of both the EU–U.S. and Swiss-U.S. Privacy Shield Frameworks (Privacy Shield).

DATES: These fees are effective April 12, 2017. Comments must be received by May 4, 2017.

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

- *Federal eRulemaking Portal: www.Regulations.gov.* The identification number is ITA–2017–0001.
- Postal Mail/Commercial Delivery to Joshua Blume, Department of Commerce, International Trade

Administration, Room 11022, 1401 Constitution Avenue NW., Washington, DC and reference ''Privacy Shield Fee Structure, ITA–2017–0001'' in the subject line.

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 *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. 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 *http://www.regulations.gov/* ITA–2017–0001.

More information regarding the Privacy Shield can be found at *https://www.privacyshield.gov/Program-Overview.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information regarding the EU–U.S. and Swiss-U.S. Privacy Shield Frameworks should be directed to Joshua Blume, Department of Commerce, International Trade Administration, Room 11022, 1401 Constitution Avenue NW., Washington, DC, tel. 202–482–0988 or 202–482–1512 or via email at *privacyshield@trade.gov.* Additional information on ITA fees is available at *trade.gov/fees.*

SUPPLEMENTARY INFORMATION:

Background:

In the revised fee structure, there will be one annual fee applied to U.S. organizations to participate in either the Swiss–U.S. or EU–U.S. Privacy Shield Frameworks. Should a U.S. organization opt to self-certify for both programs, they will be provided a reduced rate for the second Framework and be required to synchronize their recertifications to both Frameworks to maximize efficiency. Additionally, a fee will be applied annually to organizations that withdraw from the Privacy Shield and continue to maintain data received while they participated in the Privacy Shield. The cost recovery program will support the administration and supervision of the Privacy Shield and support Privacy Shield services including education and outreach. The revised Privacy Shield fee structure will become effective on April 12, 2017, when ITA will begin accepting certifications to the Swiss–U.S. Privacy Shield.

While the revised fees will be effective April 12, 2017, ITA is providing the public with the opportunity to comment on these revised fees. ITA will then review all comments and reassess the Privacy Shield fees after August 1, 2017, a full year from initial implementation of Privacy Shield, as originally discussed in the Cost Recovery Fee Schedule for the EU–U.S. Privacy Shield Framework, published September 30, 2016. The review will recur at least every two years thereafter, in accordance with OMB Circular A–25.

Consistent with the guidelines in OMB Circular A–25, federal agencies are responsible for implementing cost recovery program fees. The role of ITA is to strengthen the competitiveness of U.S. industry, promote trade and investment, and ensure fair trade through the rigorous enforcement of our trade laws and agreements. ITA works to promote privacy policy frameworks to facilitate the flow of data across borders and support international trade.

The United States, the European Union (EU), and Switzerland share the goal of enhancing privacy protection but take different approaches to protecting personal data. Given those differences, the Department of Commerce (DOC) developed the Privacy Shield Frameworks in consultation with the European Commission, the Swiss Government, and with industry and other stakeholders, to provide organizations in the United States with a reliable mechanism for personal data transfers to the United States from the European Union and Switzerland while ensuring the data is protected in a manner consistent with EU and Swiss law.

As referenced in the Cost Recovery Fee Schedule for the EU–U.S. Privacy Shield Framework, published September 30, 2016 (81 FR 67293), the European Commission approved the EU–U.S. Privacy Shield Framework on July 12, 2016. More recently, on January 12, 2017, the Swiss government approved the Swiss–U.S. Privacy Shield Framework, which is based on the EU–U.S. Privacy Shield. The published Privacy Shield is available at *https://www.privacyshield.gov/.* The DOC has issued the Privacy Shield Framework Principles under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. 1512).

ITA administers and supervises the EU–U.S. Privacy Shield Framework, including by maintaining and making publicly available an authoritative list of U.S. organizations that have self-certified to the DOC. U.S. organizations submit information to ITA to self-certify their compliance with Privacy Shield. ITA similarly will administer and supervise the Swiss-U.S. Privacy Shield Framework. ITA will accept self-certification submissions for the Swiss-U.S. Privacy Shield beginning on April 12, 2017. Consistent with the Paperwork Reduction Act, ITA published proposed information collections as described in the EU–U.S. and Swiss–U.S. Privacy Shield Frameworks for public notice and comment (81 FR 78775 and 82 FR 7796; and 82 FR 6492, respectively).

U.S. organizations considering self-certifying to the Privacy Shield should review the Privacy Shield Frameworks. In summary, to enter either the EU or Swiss–U.S. Privacy Shield Framework, an organization must (a) be subject to the investigatory and enforcement powers of the Federal Trade Commission (FTC) or the Department of Transportation; (b) publicly declare its commitment to comply with the Privacy Shield Framework Principles through self-certification to the DOC; (c) publicly disclose its privacy policies in line with the Privacy Shield Framework Principles; and (d) fully implement them.

Self-certification to the DOC is voluntary. However, an organization's failure to comply with the Privacy Shield Framework Principles after its self-certification is enforceable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts in or affecting commerce (15 U.S.C. 45(a)) or other laws or regulations prohibiting such acts.

ITA implemented a cost recovery program to support the operation of the EU–U.S. Privacy Shield and is revising that fee schedule to additionally support the operation of the Swiss–U.S. Privacy Shield. The fee a given organization will be charged will be based on the organization's annual revenue. A separate fee will be applied annually to organizations that withdraw from the Privacy Shield and continue to maintain data received while they participated in the Privacy Shield. The cost recovery program will support the administration and supervision of the Privacy Shield program and support the provision of Privacy Shield-related services, including education and outreach.

The Cost Recovery Fee Schedule for the EU–U.S. Privacy Shield Framework,

published September 30, 2016 (81 FR 67293), describes the fees implemented by ITA to cover the administration and supervision of the EU–U.S. Privacy Shield Framework. Under this revision to the fee structure, organizations that join only one Privacy Shield Framework, whether EU or Swiss, will pay the same single fee when initially self-certifying or re-certifying. Organizations that join both Frameworks will pay an additional 50 percent of that single fee when self-certifying or re-certifying for the second Framework, reflecting the efficiency savings in administering the Program for organizations that participate in both Frameworks.

These efficiency savings are maximized if organizations self-certify to both Frameworks simultaneously, reducing the required staff time and resources for reviewing materials. Accordingly, organizations that join both Frameworks will be required to synchronize recertification between the EU–U.S. and Swiss–U.S. Privacy Shield Frameworks by renewing their certifications to both Frameworks simultaneously.

In addition, in order to allow organizations to set their own annual schedules, organizations that participate in one or both Frameworks may adjust their annual recertification date by re-certifying early to one or both Frameworks.

For example, organizations that already have joined the EU Framework and wish to join the Swiss Framework as well will have three options for timing the synchronized recertification. Such organizations may (a) self-certify to the Swiss Framework before the EU renewal comes due and re-certify early to the EU Framework at the same time; (b) wait until their certification to the EU Framework is up for renewal and self-certify to the Swiss Framework at the same time as they renew their certification to the EU Framework; or (c) self-certify to the Swiss Framework separately (without waiting for their recertification to the EU Framework to come due), and then re-certify to both Frameworks when their recertification to the EU Framework comes due.

Finally, a fixed annual fee of $200 will be charged for organizations that withdraw from the Privacy Shield and maintain data received under Privacy Shield. This fee has been set to cover staff costs for reviewing the questionnaires of organizations withdrawing from the program, as well as the necessary Web site infrastructure to facilitate submission of the proper documents. Additionally, this fee is set to be less than any organization would be required to pay for recertification. These fees are set forth below:

REVISED ANNUAL FEE SCHEDULE FOR THE EU–U.S. AND SWISS–U.S. PRIVACY SHIELD FRAMEWORKS

Organization's annual revenue	Single framework	Both frameworks
$0 to $5 million	$250	$375
Over $5 million to $25 million	650	975
Over $25 million to $500 million	1,000	1,500
Over $500 million to $5 billion	2,500	3,750
Over $5 billion	3,250	4,875

Annual Fee for Retaining Data after Withdrawal: $200.

Organizations will have additional direct costs associated with participating in the Privacy Shield. For example, Privacy Shield organizations must provide a readily available independent recourse mechanism to hear individual complaints at no cost to the individual. Furthermore, organizations will be required to pay contributions in connection with the arbitral model, as described in Annex I to the Principles.

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. The Privacy Shield was developed to provide organizations in the United States with a reliable mechanism for personal data transfers that underpin the trade and investment relationships between the United States and (1) the EU, and (2) Switzerland. As one of only several valid data transfer mechanisms, Privacy Shield operates in a way that provides strong consumer protection as well as a more effective and efficient service to corporations at a lower cost than other options, including standard contractual clauses or binding corporate rules.

Fees are set taking into account the operational costs borne by ITA to administer and supervise the Privacy Shield program. As described in the Cost Recovery Fee Schedule for the EU–U.S. Privacy Shield Framework, published September 30, 2016 (81 FR 267293), the Privacy Shield program requires a significant commitment of resources and staff. These costs include broad programmatic costs to run the Privacy Shield as well as costs specific to each of the Privacy Shield Frameworks and to the program that allows Participants to retain data after withdrawal from Privacy Shield. The Privacy Shield includes commitments from ITA to:

- Maintain, upgrade, and update a Privacy Shield Web site;
- verify self-certification requirements submitted by organizations to participate in the Privacy Shield;
- expand efforts to follow up with organizations that have been removed from the Privacy Shield List and ensure, where applicable, that questionnaires are correctly filed and processed;
- search for and address false claims of participation;
- conduct periodic compliance reviews and assessments of the program;
- provide information regarding the program to targeted audiences;
- increase cooperation with EU and Swiss data protection authorities;
- facilitate resolution of complaints about non-compliance;
- hold annual meetings with the European Commission, Swiss government, and other authorities to review the program; and
- provide an update of laws relevant to Privacy Shield.

In setting these revised Privacy Shield fees, ITA determined that the services provided offer special benefits to an identifiable recipient beyond those that accrue to the general public. ITA calculated the actual cost of providing its services in order to provide a basis for setting each fee. This actual cost incorporates direct and indirect costs, including operations and maintenance, overhead, and charges for the use of capital facilities. ITA also took into account additional factors, including adequacy of cost recovery, affordability, and costs associated with alternative options available to U.S. organizations for the receipt of personal data from the EU and Switzerland. Furthermore, ITA considered the cost-savings and efficiencies gained in staff hours through simultaneous review of self-certifications for both the Swiss–U.S. and EU–U.S. Privacy Shield Frameworks. This analysis balanced these cost savings with projected expenses, including, but not limited to, Web site development, further negotiations with the EU and Switzerland, an annual review, certification review, and facilitating complaint resolutions.

ITA will continue to use the established five-tiered fee schedule (81 FR 267293) that has promoted participation of small organizations in Privacy Shield, while implementing a reduced rate for organizations self-certifying to both the Swiss–U.S. and EU–U.S. Privacy Shield Frameworks. A

multiple-tiered fee schedule allows ITA to offer organizations with lower revenue a lower fee. In setting the five tiers, ITA considered, in conjunction with the factors mentioned above: (1) The Small Business Administration's guidance on identifying small and medium enterprises (SMEs) in various industries most likely to participate in the Privacy Shield, such as computer services, software and information services; (2) the likelihood that small companies would be expected to receive less personal data and thereby use fewer government resources; and (3) the likelihood that companies with higher revenue would have more customers whose data they process, which would use more government resources dedicated to administering and overseeing Privacy Shield. For example, if a company holds more data it could reasonably produce more questions and complaints from consumers and EU and Swiss Data Protection Authorities (DPAs). ITA has committed to facilitating the resolution of individual complaints and to communicating with the FTC and the DPAs regarding consumer complaints. Lastly, the fee increases between the tiers are based in part on projected program costs and estimated participation levels among companies within each tier.

As noted above, the revised fee schedule recoups the costs to ITA for operating and maintaining Privacy Shield. Organizations seeking to join the Swiss–U.S. Privacy Shield Framework may do so beginning on April 12, 2017, through Privacyshield.gov. ITA has taken into account efficiencies and economies of scale experienced when organizations participate in both Frameworks by providing a 50 percent discount off the second Framework and requiring organizations to synchronize their recertifications. The added cost of joining a second Framework reflects the additional expenses incurred, including, but not limited to, for communications with DPAs and Web site infrastructure and development, as well as the additional costs of cooperating and communicating separately with the EU and Swiss representatives and governments.

The fee applied to organizations that withdraw from Privacy Shield but maintain data is meant to cover the programmatic costs associated with ITA's processing of such organizations' annual affirmation of commitment to continue to apply the Privacy Shield Framework Principles to the personal information they received while participating in the Privacy Shield. The flat fee is based on the expectation that government resources required to process this annual affirmation will be similar for all companies, regardless of size.

Conclusion

Based on the information provided above, ITA believes that the revised Privacy Shield cost recovery 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). ITA is providing the public with the opportunity to comment on the fee schedule, and it will consider these comments when it next reassesses the fee schedule. As noted in the Cost Recovery Fee Schedule for the EU–U.S. Privacy Shield Framework, published September 30, 2016 (81 FR 267293), ITA will conduct its next fee reassessment after August 1, 2017, at the conclusion of the first year of implementation of the Privacy Shield. ITA will continue to conduct reassessments thereafter at least every two years, in accordance with OMB Circular A–25.

Dated: March 28, 2017.

Alysha Taylor,

Acting Deputy Assistant Secretary for Services, Industry & Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2017–06437 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–812]

Certain Carbon and Alloy Steel Cut-To-Length Plate From Belgium: Final Determination of Sales at Less Than Fair Value and Final Determination of Critical Circumstances, in Part

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

SUMMARY: The Department of Commerce (the Department) determines that certain carbon and alloy steel cut-to-length plate (CTL plate) from Belgium is being, or is likely to be, sold in the United States at less than fair value (LTFV). In addition, we determine that critical circumstances exist with respect to imports of the subject merchandise. The period of investigation (POI) is April 1, 2015, through March 31, 2016. The final dumping margins of sales at LTFV are listed below in the ''Final Determination'' section of this notice.

DATES: Effective April 4, 2017.

FOR FURTHER INFORMATION CONTACT: Andrew Medley or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4987 and (202) 482–3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2016, the Department published the *Preliminary Determination* of sales at LTFV of CTL plate from Belgium.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers CTL plate from Belgium. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

[1] *See Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 81 FR 79431 (November 14, 2016) (*Preliminary Determination).*

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), in November and December 2016, we verified the sales and cost information submitted by Industeel Belgium S.A. (Industeel), 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 Industeel.[3]

In addition, as provided in section 782(i) of the Act, in December 2016 and January 2017, we also attempted to verify the sales and cost information submitted by NLMK Belgium,[4] using standard verification procedures. However, as explained in the Issues and Decision Memorandum, the Department was unable to validate the accuracy of NLMK Belgium's reporting.[5] As a consequence, we find that NLMK Belgium's reported data are unverifiable, and, thus, cannot serve as a reliable basis for reaching a determination in this investigation. Specifically, because we encountered so many errors within NLMK Belgium's reported data at verification, and the submitted sales and cost information is integral to the proper evaluation of its margin calculation, we find that all of the information submitted by NLMK Belgium is unverifiable. For further discussion, *see* the Issues and Decision Memorandum at Comments 8–12.

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 Industeel. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Final Affirmative Determination of Critical Circumstances

For the *Preliminary Determination,* the Department found that critical circumstances exist with respect to imports of CTL plate from Industeel and NLMK Belgium, and do not exist with respect to companies covered by the ''all others'' rate.[6] We modified our critical circumstances findings for the final determination. For further discussion, *see* the Issues and Decision Memorandum at ''Critical Circumstances.'' Thus, pursuant to section 735(a)(3)(B) of the Act, and 19 CFR 351.206(h)(1)–(2), we find that critical circumstances exist with respect to subject merchandise produced or exported by NLMK Belgium and for ''all others,'' but not for Industeel.

Adverse Facts Available

Due to its failures at verification, we determine that NLMK Belgium's data cannot serve as a reliable basis for reaching a determination in this investigation and that NLMK Belgium did not act to the best of its ability to comply with our requests for information. Therefore, we find it appropriate to apply adverse facts available (AFA), in accordance with sections 776(a) and (b) of the Act and 19 CFR 351.308, to NLMK Belgium. For further discussion, *see* the Issues and Decision Memorandum at Comment 11.

We are able to corroborate the highest petition dumping margin of 51.78 percent to the extent practicable within the meaning of section 776(c) of the Act using the highest transaction-specific dumping margins calculated for Industeel and, thus, we assigned this dumping margin to NLMK Belgium as AFA. For further discussion, *see* the Issues and Decision Memorandum at ''Use of Adverse Facts Available.''

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. Industeel is the only respondent for which the Department calculated a company-specific margin. Therefore, for purposes of determining the ''all-others'' rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Industeel, as referenced in the ''Final Determination'' section below.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average dumping margins (percent)
Industeel Belgium S.A	5.40
NLMK Clabecq S.A., NLMK Plate Sales S.A., NLMK Sales Europe S.A., NLMK Manage Steel Center S.A., and/or NLMK La Louviere S.A	51.78
All Others	5.40

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department

[3] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Less Than Fair Value Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Verification of the Sales Responses of Industeel Belgium S.A.,'' dated January 18, 2017 and Memorandum, ''Verification of the Cost Response of Industeel Belgium S.A. (Industeel) in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium,'' dated January 23, 2017.

[4] In the preliminary determination, the Department determined to collapse, and treat as a single entity, NLMK Clabecq S.A., NLMK Plate Sales S.A., NLMK Sales Europe S.A., NLMK Manage Steel Center S.A., and NLMK La Louviere S.A. (collectively, NLMK Belgium). No party has challenged this determination. Thus, we continue to find, for the final determination, that the five NLMK companies should be collapsed and treated as a single entity, NLMK Belgium.

[5] For discussion of our verification findings, *see* the following memoranda: Memorandum, ''Verification of the Sales Response of NLMK Belgium in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium,'' dated January 30, 2017; Memorandum, ''Verification of the Sales Response of North America Plate LLC in the Antidumping Investigation of Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium,'' dated January 30, 2017; and Memorandum, ''Verification of the Cost Response of NLMK Clabecq SA in the Antidumping Duty Investigation of Certain Carbon and Alloy Steel Cut-to-Length Plate from Belgium,'' dated January 11, 2017.

[6] *See Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey; Antidumping and Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances,* 81 FR 61666 (September 7, 2016).

will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of CTL plate from Belgium, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 14, 2016, the date of publication of the *Preliminary Determination* of this investigation in the **Federal Register**. For entries made by NLMK Belgium, in accordance with section 735(c)(4)(B) of the Act, because we continue to find that critical circumstances exist, we will instruct CBP to continue to suspend liquidation of all appropriate entries of CTL plate from Belgium which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the **Federal Register**. Additionally, for entries made by the companies covered by the ''all others'' rate, in accordance with section 735(c)(4)(B) of the Act, because we find that critical circumstances exist, we will instruct CBP to suspend liquidation of all appropriate entries of CTL plate from Belgium which were entered, or withdrawn from warehouse, for consumption on or after August 16, 2016, which is 90 days prior to the date of publication of the preliminary determination of this investigation in the **Federal Register**. Because the Department did not find critical circumstances to exist for Industeel, we will instruct CBP to liquidate all entries, without regard to duties, which entered prior to November 14, 2016, the date of publication of the *Preliminary Determination.*

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 (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the 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 of CTL plate from Belgium 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 a reminder to parties subject to 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 sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 29, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain carbon and alloy steel hot-rolled or forged flat plate products not in coils, whether or not painted, varnished, or coated with plastics or other non-metallic substances (cut-to-length plate). Subject merchandise includes plate that is produced by being cut-to-length from coils or from other discrete length plate and plate that is rolled or forged into a discrete length. The products covered include (1) Universal mill plates (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a thickness of not less than 4 mm, which are not in coils and without patterns in relief), and (2) hot-rolled or forged flat steel products of a thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are not in coils, whether or not with patterns in relief. The covered products described above may be rectangular, square, circular or other shapes and include products of either rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process, *i.e.,* products which have been ''worked after rolling'' (*e.g.,* products which have been beveled or rounded at the edges).

For purposes of the width and thickness requirements referenced above, the following rules apply:

(1) Except where otherwise stated where the nominal and actual thickness or width measurements vary, a product from a given subject country is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above; and

(2) where the width and thickness vary for a specific product (*e.g.,* the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, *etc.*), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) Iron predominates, by weight, over each of the other contained elements; and (2) the carbon content is 2 percent or less by weight.

Subject merchandise includes cut-to-length plate that has been further processed in the subject country or a third country, including but not limited to pickling, oiling, levelling, annealing, tempering, temper rolling, skin passing, painting, varnishing, trimming, cutting, punching, beveling, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cut-to-length plate.

All products that meet the written physical description, are within the scope of this investigation unless specifically excluded or covered by the scope of an existing order. The following products are outside of, and/or specifically excluded from, the scope of this investigation:

(1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances;

(2) military grade armor plate certified to one of the following specifications or to a specification that references and incorporates one of the following specifications:

- MIL–A–12560,
- MIL–DTL–12560H,
- MIL–DTL–12560J,
- MIL–DTL–12560K,
- MIL–DTL–32332,
- MIL–A–46100D,
- MIL–DTL–46100–E,
- MIL–46177C,
- MIL–S–16216K Grade HY80,
- MIL–S–16216K Grade HY100,
- MIL–S–24645A HSLA–80;
- MIL–S–24645A HSLA–100,
- T9074–BD–GIB–010/0300 Grade HY80,
- T9074–BD–GIB–010/0300 Grade HY100,
- T9074–BD–GIB–010/0300 Grade HSLA80,
- T9074–BD–GIB–010/0300 Grade HSLA100, and
- T9074–BD–GIB–010/0300 Mod. Grade HSLA115,

except that any cut-to-length plate certified to one of the above specifications, or to a military grade armor specification that references and incorporates one of the above specifications, will not be excluded from the scope if it is also dual- or multiple-certified to any other non-armor specification that otherwise would fall within the scope of this investigation;

(3) stainless steel plate, containing 10.5 percent or more of chromium by weight and not more than 1.2 percent of carbon by weight;

(4) CTL plate meeting the requirements of ASTM A–829, Grade E 4340 that are over 305 mm in actual thickness;

(5) Alloy forged and rolled CTL plate greater than or equal to 152.4 mm in actual thickness meeting each of the following requirements:

(a) Electric furnace melted, ladle refined & vacuum degassed and having a chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.20,
- Manganese 1.20–1.60,
- Nickel not greater than 1.0,
- Sulfur not greater than 0.007,
- Phosphorus not greater than 0.020,
- Chromium 1.0–2.5,
- Molybdenum 0.35–0.80,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) With a Brinell hardness measured in all parts of the product including mid thickness falling within one of the following ranges:

(i) 270–300 HBW,

(ii) 290–320 HBW, or

(iii) 320–350 HBW;

(c) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.0, C not exceeding 0.5, D not exceeding 1.5; and

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 2 mm flat bottom hole;

(6) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, Ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.23–0.28,
- Silicon 0.05–0.15,
- Manganese 1.20–1.50,
- Nickel not greater than 0.4,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.20–1.50,
- Molybdenum 0.35–0.55,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm;

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.5, B not exceeding 1.5, C not exceeding 1.0, D not exceeding 1.5;

(c) Having the following mechanical properties:

(i) With a Brinell hardness not more than 237 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 75ksi min and UTS 95ksi or more, Elongation of 18% or more and Reduction of area 35% or more; having charpy V at −75 degrees F in the longitudinal direction equal or greater than 15 ft. lbs (single value) and equal or greater than 20 ft. lbs (average of 3 specimens) and conforming to the requirements of NACE MR01–75; or

(ii) With a Brinell hardness not less than 240 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 90 ksi min and UTS 110 ksi or more, Elongation of 15% or more and Reduction of area 30% or more; having charpy V at −40 degrees F in the longitudinal direction equal or greater than 21 ft. lbs (single value) and equal or greater than 31 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301;

(7) Alloy forged and rolled steel CTL plate over 407 mm in actual thickness and meeting the following requirements:

(a) Made from Electric Arc Furnace melted, ladle refined & vacuum degassed, alloy steel with the following chemical composition (expressed in weight percentages):

- Carbon 0.25–0.30,
- Silicon not greater than 0.25,
- Manganese not greater than 0.50,
- Nickel 3.0–3.5,
- Sulfur not greater than 0.010,
- Phosphorus not greater than 0.020,
- Chromium 1.0–1.5,
- Molybdenum 0.6–0.9,
- Vanadium 0.08 to 0.12,
- Boron 0.002–0.004,
- Oxygen not greater than 20 ppm,
- Hydrogen not greater than 2 ppm, and
- Nitrogen not greater than 60 ppm.

(b) Having cleanliness in accordance with ASTM E45 method A (Thin and Heavy): A not exceeding 1.0(t) and 0.5(h), B not exceeding 1.5(t) and 1.0(h), C not exceeding 1.0(t) and 0.5(h), and D not exceeding 1.5(t) and 1.0(h);

(c) Having the following mechanical properties: A Brinell hardness not less than 350 HBW measured in all parts of the product including mid thickness; and having a Yield Strength of 145ksi or more and UTS 160ksi or more, Elongation of 15% or more and Reduction of area 35% or more; having charpy V at −40 degrees F in the transverse direction equal or greater than 20 ft. lbs (single value) and equal or greater than 25 ft. lbs (average of 3 specimens);

(d) Conforming to ASTM A578–S9 ultrasonic testing requirements with acceptance criteria 3.2 mm flat bottom hole; and

(e) Conforming to magnetic particle inspection in accordance with AMS 2301.

The products subject to the investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

The products subject to the investigation may also enter under the following HTSUS item numbers: 7208.40.6060, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.19.1500, 7211.19.2000, 7211.19.4500, 7211.19.6000, 7211.19.7590, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7214.10.0000, 7214.30.0010, 7214.30.0080, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7225.11.0000, 7225.19.0000, 7225.40.5110, 7225.40.5130, 7225.40.5160, 7225.40.7000, 7225.99.0010, 7225.99.0090, 7226.11.1000, 7226.11.9060, 7226.19.1000, 7226.19.9000, 7226.91.0500, 7226.91.1530, 7226.91.1560, 7226.91.2530, 7226.91.2560, 7226.91.7000, 7226.91.8000, and 7226.99.0180.

The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2017–06626 Filed 4–3–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Business Board; Notice of Federal Advisory Committee Meeting

AGENCY: Deputy Chief Management Officer, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Business Board will take place.

DATES: Open to the public Thursday, April 20, 2017 from 10:30 a.m. to 11:15 a.m.

ADDRESSES: The address for the open meeting is Room 3E863 in the Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roma Laster, (703) 695–7563 (Voice),

(703) 614–4365 (Facsimile), *roma.k.laster.civ@mail.mil* (Email). Mailing address is Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, Web site: *http://dbb.defense.gov/.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. For meeting information please contact Mr. Steven Cruddas, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *steven.m.cruddas.civ@mail.mil,* (703) 697–2168. For submitting written comments or questions to the Board, send via email to mailbox address: *osd.pentagon.odam.mbx.defense-business-board@mail.mil.* A copy of the public agenda and the terms of reference for the Task Group study may be obtained from the Board's Web site at *http://dbb.defense.gov/meetings.*

Purpose of the Meeting: The mission of the Board is to examine and advise the Secretary of Defense on overall DoD management and governance. The Board provides independent advice which reflects an outside private sector perspective on proven and effective best business practices that can be applied to DoD. The Board will hear an update from its Task Group on ''Implications of Technology on the Future Workforce.''

Agenda:

10:30 a.m.–10:35 a.m.—DFO Comments to Public Attendees.

10:35 a.m.–11:05 a.m.—DBB Study Update on ''Implications of Technology on the Future Workforce.''

11:05 a.m.–11:15 a.m.—Public Comments (if time permits).

Meeting Accessibility: Pursuant to FACA and 41 CFR 102–3.140, this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public meeting must contact Mr. Steven Cruddas at the number listed in the **SUPPLEMENTARY INFORMATION** section no later than 12:00 p.m. on Friday, April 14, 2017 to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 10:00 a.m. on April 20. To complete security screening, please come prepared to present two forms of identification of which one must be a pictured identification card.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Cruddas at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Written Statements: Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via email to the email address for public comments given in the **SUPPLEMENTARY INFORMATION** section in either Adobe Acrobat or Microsoft Word format. Please note that since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Dated: March 30, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–06638 Filed 4–3–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2017–OS–0015]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Rescindment of a System of Records notice.

SUMMARY: The Office of the Secretary of Defense is rescinding a system of records, Private Relief Legislation File, DGC 02. These files were used by the attorneys in the Office of the General Counsel, Office of the Secretary of Defense and personnel in the Department of Defense to produce working papers in development of a department position.

DATES: Comments will be accepted on or before May 4, 2017. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination. The specific date for when this system ceased to be a Privacy Act System of Records is unknown; however, no actions involving private relief legislation have been processed by the DoD Office of General Counsel since 2010.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To submit general questions about the rescinded system, please contact Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: Based on a recent review, it was determined that the Department of Defense Office of General Counsel no longer maintains a Privacy Act system of records for private relief legislation. Legislative bills are tracked by bill number, rather than personal identifier.

The Office of the Secretary systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties and Transparency Division Web site at *http://dpcld.defense.gov/.*

The proposed changes to the record system being amended are set forth in this notice. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

DGC 02

SYSTEM NAME AND NUMBER:

Private Relief Legislation File, DGC 02.

HISTORY:

February 22, 1993, 58 FR 10227.

Dated: March 30, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–06659 Filed 4–3–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: information collection extension; notice and request for comments.

SUMMARY: The EIA, pursuant to the Paperwork Reduction Act of 1995, intends to recertify the information collection request for Form EIA–914 ''Monthly Crude Oil, Lease Condensate, and Natural Gas Production Report'' with the Office of Management and Budget (OMB). EIA is requesting a three year extension to this form with changes and to solicit comments from the public.

DATES: Comments regarding this proposed information collection must be received on or before June 5, 2017. If you anticipate difficulty in submitting comments within that period, contact the person listed in ADDRESSES as soon as possible.

ADDRESSES: Send comments to Jessica Biercevicz. The mailing address is U.S. Department of Energy, U.S. Energy Information Administration, Attn: Jessica Biercevicz, EI–24, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. To ensure receipt of the comments by the due date, submission by email (*jessica.biercevicz@eia.gov*) is recommended. Alternatively, Jessica Biercevicz may be contacted by telephone at 202–586–4299.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jessica Biercevicz at the contact information given above. Form EIA–914 and its instructions are also available on the internet.

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

This information collection request contains: (1) OMB No. 1905–0205.

(2) *Information Collection Request Title:* Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report.

(3) *Type of Request:* Extension, with changes, of a currently approved collection.

(4) *Purpose:* Form EIA–914, ''Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report,'' collects monthly data on natural gas production, crude oil and lease condensate production, and crude oil and lease condensate sales by API gravity category in 21 state/areas (Alabama, Arkansas, California (including State Offshore), Colorado, Federal Offshore Gulf of Mexico, Federal Offshore Pacific, Kansas, Louisiana (including State Offshore), Michigan, Mississippi (including State Offshore), Montana, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Texas (including State Offshore), Utah, Virginia, West Virginia, Wyoming, and Other States (defined as all remaining states, except Alaska)). The data appears in the ''Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report,'' on EIA's Web site and in the EIA publications, *Monthly Energy Review, Petroleum Supply Annual volume 1, Petroleum Supply Annual volume 2, Petroleum Supply Monthly, Natural Gas Annual,* and *Natural Gas Monthly*.

(4a) The proposed changes include changing the title from ''Monthly Crude Oil, Lease Condensate, and Natural Gas Production Report,'' to ''Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report.''

EIA is proposing to add Part 5 to Form EIA–914 regarding stabilizer activity. Part 5 will collect state-level volumes of crude oil and lease condensate going into stabilizer units. A stabilizer processes lighter gravity crude oil and condensate and removes the gaseous portion from the crude oil. The requested data will be reported as three new data elements: volume of oil and condensate as inputs to a stabilizer; outlet volume of stabilized oil; and outlet volume of natural gas liquids (NGL). Respondents only need to report the total volume of NGLs as a single category and do not need to provide separate estimates for each separate NGL. The reporting unit of measurement is in barrels per day (bpd).

The increase in the production of light crude oils and condensate in the crude oil production industry is the main reason that EIA is proposing changes to Form EIA–914 to include the collection of state-level volumes of crude oil and lease condensate going into stabilizer units. Stabilizers lower the Reed Vapor Pressure (RVP) of the crude oil and make it safe to transport and store. EIA is also proposing minor changes to Parts 2, 3, and 4. Currently, a respondent is limited to selecting only one pre-existing comment in the comments box drop down menu. EIA is proposing to allow respondents to select multiple frequently-used default comments, as well as the option to record specific comments in the text box. This facilitates a respondent's ability to provide a more complete and accurate explanation for the data reported on the form.

For Parts 2, 3, 4, and 5, EIA also proposes to increase the number of states/areas for which production will be separately collected and reported from 17 to 22 states/areas. EIA proposes to add the following states/areas: Alabama, federal offshore Pacific, Michigan, Mississippi, and Virginia will be reported separately and no longer included in the ''Other States'' group. Separately reporting for these five states/areas reduces the number of states that are included in the ''Other States'' reporting category from 19 (including federal Pacific) to 14. Removing these five states/areas from the ''Other States'' category reduces the ''Other States'' category's oil production by approximately 75% and gas production by 80%. EIA believes these proposed changes will reduce reporting burden for respondents, reduce reporting errors in the ''Other States'' category, and make it easier for respondents to answer any follow up questions for ''Other States.'' Production for these 5 states/areas will be estimated more accurately using the weighted least squares method rather than using the calendar year average ratio applied to the ''Other States'' group. The 14 states remaining in the ''Other States'' group account for approximately 1% or less of the Lower 48 oil and gas production. EIA is proposing these changes to Form EIA–914 to increase the precision of its collection of information on crude oil and natural gas production activities in the United States.

The burden hours per response will increase from 4.0 hours to 4.5 hours due to the addition of Part 5 regarding the reporting of information on stabilizer activity. The proposal to add five states in Parts 2, 3, 4, and 5 will not affect total burden because it only involves adding approximately nine more respondents to the sampling frame and the total budgeted sample is being reduced from 600 to 500 respondents.

EIA proposes a permanent change in the confidentiality pledge to respondents to Form EIA–914. EIA revised its confidentiality pledge to EIA–914 survey respondents under the Confidential Information Protection and Statistical Efficiency Act (44 U.S.C. 3501 (note)) (CIPSEA) in an emergency **Federal Register** notice released on January 12, 2017 in 82 FR 3764. These revisions are required by provisions of the Federal Cybersecurity Enhancement Act of 2015 (Pub. L. 114–11, Division N, Title II, Subtitle B, Sec. 223). This law permits and requires the Secretary of the Department of Homeland Security (DHS) to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, energy, employment, health, investments, taxes, and a host of other significant topics. Strong and trusted confidentiality and exclusive statistical use pledges under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA) and similar statistical confidentiality pledges are effective and necessary in honoring the trust that businesses, individuals, and institutions place in statistical agencies. In this notice EIA proposes to permanently revise the confidentiality pledge to EIA–914 respondents as follows:

The information you provide on Form EIA–914 will be used for statistical purposes only and is confidential by law. In accordance with the Confidential Information Protection and Statistical Efficiency Act of 2002 and other applicable Federal laws, your responses will not be disclosed in identifiable form without your consent. Per the Federal Cybersecurity Enhancement Act of 2015, Federal information systems are protected from malicious activities through cybersecurity screening of transmitted data. Every EIA employee, as well as every agent, is subject to a jail term, a fine, or both if he or she makes public ANY identifiable information you reported.

(5) *Annual Estimated Number of Respondents:* 500 respondents with 12 responses each.

(6) *Annual Estimated Number of Total Responses:* The annual number of total responses is 6,000.

(7) *Annual Estimated Number of Burden Hours:* The annual estimated burden is 27,000 hours.

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* Additional costs to respondents are not anticipated beyond costs associated with response burden hours. The information is maintained in the normal course of business. The cost of the burden hours is estimated to be $1,988,820 (27,000 burden hours times $73.66 per hour). Other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining and providing the information.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, on February 27, 2017.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U. S. Energy Information Administration.

[FR Doc. 2017–06501 Filed 4–3–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1315–000]

Meadow Lake Wind Farm V 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 Meadow Lake Wind Farm V 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 April 18, 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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06607 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1318–000]

Redbed Plains Wind Farm 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 Redbed Plains Wind Farm 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 April 18, 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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06609 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1320–000]

Odyssey Solar, 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 Odyssey Solar, 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 April 18, 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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06610 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1314–000]

Arkwright Summit Wind Farm 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 Arkwright Summit Wind Farm 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 April 18, 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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06606 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR17–36–000.

Applicants: Columbia Gas of Ohio, Inc.

Description: Tariff filing per 284.123(b),(e)/: COH SOC effective 3–1–2017; Filing Type: 980.

Filed Date: 3/17/17.

Accession Number: 20170317–5036.

Comments/Protests Due: 5 p.m. ET 4/7/17.

Docket Numbers: RP17–547–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Negotiated Rates—Sundance—Duke Energy Progress to be effective 5/1/2017.

Filed Date: 03/22/2017.

Accession Number: 20170322–5049.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 03, 2017.

Docket Numbers: RP17–548–000.

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 Apr–Jun 2017) to be effective 4/1/2017.

Filed Date: 03/22/2017.

Accession Number: 20170322–5053.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 03, 2017.

Docket Numbers: RP17–549–000.

Applicants: Trailblazer Pipeline Company LLC.

Description: Trailblazer Pipeline Company LLC submits tariff filing per 154.204: Fuel Tracker—2017 to be effective 5/1/2017.

Filed Date: 03/22/2017.

Accession Number: 20170322–5203.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 03, 2017.

Docket Numbers: RP16–1173–002.

Applicants: First ECA Midstream LLC.

Description: First ECA Midstream LLC submits tariff filing per 154.203: Compliance to 104 to be effective 3/23/2017.

Filed Date: 03/24/2017.

Accession Number: 20170324–5303.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 2017.

Docket Numbers: RP17–550–000.

Applicants: Enable Gas Transmission, LLC.

Description: Annual Revenue Crediting Filing of Enable Gas Transmission, LLC.

Filed Date: 03/24/2017.

Accession Number: 20170324–5169.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 2017.

Docket Numbers: RP17–551–000.

Applicants: Rockies Express Pipeline LLC.

Description: Rockies Express Pipeline LLC submits tariff filing per 154.204: Neg Rate 2017–03–23 Encana to be effective 3/23/2017.

Filed Date: 03/24/2017.

Accession Number: 20170324–5294.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 2017.

Docket Numbers: RP17–552–000.

Applicants: Tallgrass Interstate Gas Transmission, L.

Description: Tallgrass Interstate Gas Transmission, LLC submits tariff filing per 154.204: Update Fuel for 6th Revised Tariff to be effective 4/1/2017.

Filed Date: 03/24/2017.

Accession Number: 20170324–5315.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 2017.

Docket Numbers: RP17–553–000.

Applicants: Transcontinental Gas Pipe Line Company.

Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: GT&C Section 46—Failure of Electronic Equipment to be effective 4/23/2017.

Filed Date: 03/24/2017.

Accession Number: 20170324–5319.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 2017.

Docket Numbers: RP17–554–000.

Applicants: KO Transmission Company.

Description: KO Transmission Company submits tariff filing per 154.204: Motion to Place Interim Rates into Effect April 1 to be effective 4/1/2017.

Filed Date: 03/24/2017.

Accession Number: 20170324–5320.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, April 05, 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.

Dated: March 27, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06611 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1324–000]

Playa Solar 2, 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 Playa Solar 2, 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 April 18, 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 *FERC OnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06613 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1316–000]

Quilt Block Wind Farm 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 Quilt Block Wind Farm 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 April 18, 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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06608 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–10–000]

GEL Texas Pipeline, LLC; Notice of Petition for Declaratory Order

Take notice that on March 28, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2016), GEL Texas Pipeline, LLC, a subsidiary of Genesis Energy, L.P. (Petitioner), filed a petition for declaratory order (petition) seeking approval of the overall rate structure and terms of service for 23-mile crude oil pipeline consisting of a combination of new and existing facilities that will connect origins in the deepwater Gulf of Mexico to markets in Webster and Texas City, TX, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 18, 2017.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06615 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–470–001.
Applicants: KO Transmission Company.
Description: KO Transmission Company submits tariff filing per 154.205(b): Amended 2017 Transportation Retainage Adjustment to be effective 4/1/2017.
Filed Date: 03/01/2017.
Accession Number: 20170301–5289.
Comment Date: 5:00 p.m. Eastern Time on Thursday, March 30, 2017.

Docket Numbers: RP17–560–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/28/17 Negotiated Rates—ENI Trading & Shipping (RTS) 7825–02 to be effective 4/1/2017.
Filed Date: 03/28/2017.
Accession Number: 20170328–5071.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–561–000.
Applicants: Kern River Gas Transmission Company.
Description: Kern River Gas Transmission Company submits tariff filing per 154.204: 2017 Period Two Election Deadline to be effective 4/27/2017.
Filed Date: 03/28/2017.
Accession Number: 20170328–5153.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–562–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Annual Incidental Purchases and Sales Report of Trailblazer Pipeline Company LLC.
Filed Date: 03/28/2017.
Accession Number: 20170328–5162.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–563–000.
Applicants: Rockies Express Pipeline LLC.
Description: Annual Incidental Purchases and Sales Report of Rockies Express Pipeline LLC.
Filed Date: 03/28/2017.
Accession Number: 20170328–5163.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–564–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Transcontinental Gas Pipe Line Company, LLC submits tariff filing per 154.204: Negotiated Rates—Cherokee AGL—Replacement Shippers—Apr 2017 to be effective 4/1/2017.
Filed Date: 03/28/2017.
Accession Number: 20170328–5230.
Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 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.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06612 Filed 4–3–17; 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: ER10–2181–033.
Applicants: Nine Mile Point Nuclear Station, LLC.
Description: Notice of Change in Status of Nine Mile Point Nuclear Station, LLC.
Filed Date: 3/29/17.
Accession Number: 20170329–5155.
Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER11–3861–013; ER10–3079–012; ER10–3078–003; ER11–2539–005; ER11–2540–005; ER11–2542–005.
Applicants: Empire Generating Co, LLC, Tyr Energy, LLC, Plains End II, LLC, Rathdrum Power, LLC, Commonwealth Chesapeake Company, LLC, Plains End LLC.
Description: Notice of change in status of Empire Generating Co, LLC, et. al.
Filed Date: 3/28/17.
Accession Number: 20170328–5309.
Comments Due: 5 p.m. ET 4/18/17.

Docket Numbers: ER17–253–002.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Amended Filing in ER17–253–Omaha Public Power District Formula Rate Revisions to be effective 1/1/2017.
Filed Date: 3/28/17.
Accession Number: 20170328–5295.
Comments Due: 5 p.m. ET 4/18/17.

Docket Numbers: ER17–772–002.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Deficiency Response in ER17–772–Order No. 825 Compliance Filing to be effective N/A.
Filed Date: 3/29/17.
Accession Number: 20170329–5131.
Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–927–001.
Applicants: Wisconsin Public Service Corporation.
Description: Tariff Amendment: Amendment to Assignment—Ancillary Services & Wholesale Distribution Agmt. to be effective 2/4/2017.
Filed Date: 3/28/17.
Accession Number: 20170328–5264.
Comments Due: 5 p.m. ET 4/18/17.

Docket Numbers: ER17–1325–000.
Applicants: PPL Electric Utilities Corporation, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: PPL Electric Utilities Corporation submits revised IA SA No. 941 to be effective 3/29/2017.
Filed Date: 3/28/17.
Accession Number: 20170328–5273.
Comments Due: 5 p.m. ET 4/18/17.

Docket Numbers: ER17–1326–000.
Applicants: Orange and Rockland Utilities, Inc.
Description: § 205(d) Rate Filing: Attachment J—Municipal Underground Surcharge Revision to be effective 4/1/2017.
Filed Date: 3/29/17.
Accession Number: 20170329–5000.
Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1327–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 607R30 Westar Energy, Inc. NITSA and NOA to be effective 3/1/2017.
Filed Date: 3/29/17.
Accession Number: 20170329–5132.
Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1328–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: SCE Amendments to WDAT to be effective 5/29/2017.
Filed Date: 3/29/17.
Accession Number: 20170329–5133.
Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1329–000.

Applicants: J.P. Morgan Ventures Energy Corporation.

Description: § 205(d) Rate Filing: Change in Seller Category to be effective 3/30/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5136.

Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1330–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: DSA Caliente #2 Project SA No. 957 to be effective 3/30/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5137.

Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1331–000.

Applicants: Utility Contract Funding, L.L.C.

Description: § 205(d) Rate Filing: Change in Seller Category to be effective 3/30/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5138.

Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1332–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–03–29_Revisions to MISO–SPP JOA to implement EARs to be effective 6/1/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5140.

Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1333–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: SPP–MISO JOA Congestion Management Process Revisions to be effective 6/1/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5159.

Comments Due: 5 p.m. ET 4/19/17.

Docket Numbers: ER17–1334–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: Waynesville-DEP NITSA Amendment SA No. 303 to be effective 3/1/2017.

Filed Date: 3/29/17.

Accession Number: 20170329–5174.

Comments Due: 5 p.m. ET 4/19/17.

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: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06602 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Electric Quarterly Report Users Group Meeting

	Docket Nos.
Filing Requirements for Electric Utility Service Agreements	RM01–8–000
Electricity Market Transparency Provisions of Section 220 of the Federal Power Act	RM10–12–000
Revisions to Electric Quarterly Report Filing Process	RM12–3–000
Electric Quarterly Reports	ER02–2001–000

Take notice that on May 16, 2017, staff of the Federal Energy Regulatory Commission (Commission) will hold an Electric Quarterly Report (EQR) Users Group meeting. The meeting will take place from 1:00 p.m. to 5:00 p.m. (EST), in the Commission Meeting Room at 888 First Street NE., Washington, DC 20426. All interested persons are invited to attend. For those unable to attend in person, access to the meeting will be available via webcast.

This meeting will provide a forum for dialogue between Commission staff and EQR users to discuss potential improvements to the EQR program and the EQR filing process. Please note that matters pending before the Commission and subject to ex parte limitations cannot be discussed at this meeting. An agenda of the meeting will be provided in a subsequent notice.

Due to the nature of the discussion, those interested in actively participating in the discussion are encouraged to attend in person. All interested persons (whether attending in person or via webcast) are asked to register online at *https://www.ferc.gov/whats-new/registration/05-16-17-form.asp.* There is no registration fee. Anyone with Internet access who wants to listen to the meeting can do so by navigating to *www.ferc.gov's* Calendar of Events, locating the EQR Users Group Meeting on the Calendar, and clicking on the link to the webcast. The webcast will allow persons to listen to the technical conference and they can email questions during the meeting to *EQRUsersGroup@ferc.gov.*

Those who would like to participate in the discussion by telephone during the meeting should send a request for a telephone line to *EQRUsersGroup@ferc.gov* by 5:00 p.m. (EST) on May 9, 2017 with the subject line: EQR Users Group Meeting Teleconference Request.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about the EQR Users Group meeting, please contact Don Callow of the Commission's Office of Enforcement at (202) 502–8838, or send an email to *EQRUsersGroup@ferc.gov.*

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06616 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–9–000]

Whiting Oil and Gas Corporation; Notice of Request for Temporary Waiver

Take notice that on March 14, 2017, Whiting Oil and Gas Corporation (Whiting or Requestor) filed a request for temporary waiver of the Interstate Commerce Act (ICA), section 6 and section 20, and FERC oil pipeline tariff and reporting requirements thereunder at 18 CFR parts 341 and 357, with respect to Whiting's Redtail crude petroleum gathering system in Weld County, Colorado, as more fully explained in the request.

Any person desiring to intervene or to protest this filing must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on Requestor.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible online at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 14, 2017.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06614 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17–555–000.

Applicants: Texas Eastern Transmission, LP.

Description: Texas Eastern Transmission, LP submits tariff filing per 154.204: Negotiated Rates—NJR Energy—contract 911403 to be effective 4/1/2017.

Filed Date: 03/27/2017.

Accession Number: 20170327–5073.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–556–000.

Applicants: Kern River Gas Transmission Company.

Description: Kern River Gas Transmission Company submits tariff filing per 154.204: 2017 Adjusted P2 and Alt P2 Rates to be effective 5/1/2017.

Filed Date: 03/27/2017.

Accession Number: 20170327–5142.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–557–000.

Applicants: Equitrans, L.P.

Description: Equitrans, L.P. submits tariff filing per 154.204: Reservation Charge Credit Update to be effective 4/27/2017.

Filed Date: 03/27/2017.

Accession Number: 20170327–5201.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–558–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: Iroquois Gas Transmission System, L.P. submits tariff filing per 154.204: 03/27/17 Negotiated Rates—KeySpan Gas East dba National Grid (RTS) 550–14 to be effective 3/27/2017.

Filed Date: 03/27/2017.

Accession Number: 20170327–5208.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 2017.

Docket Numbers: RP17–559–000.

Applicants: Alliance Pipeline L.P.

Description: Alliance Pipeline L.P. submits tariff filing per 154.204: Seasonal Service Apr–Oct 2017 to be effective 4/1/2017.

Filed Date: 03/27/2017.

Accession Number: 20170327–5225.

Comment Date: 5:00 p.m. Eastern Time on Monday, April 10, 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.

Dated: March 28, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06601 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–80–000]

Columbia Gas Transmission, LLC; Notice of Application

Take notice that on March 15, 2017, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed an application under section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, requesting authorization to implement its Eastern Panhandle Expansion Project. The project as proposed will consist of the construction of a new 8-inch diameter pipeline and appurtenances extending approximately 3.37 miles from Columbia's 20-inch diameter Line 1804 and 24-inch diameter Line 10240 in Fulton County, Pennsylvania in order to provide 47,500 Dekatherms per day (Dth/d) of firm transportation service. The new 8-inch diameter line will end at the project shipper's Point of Delivery (POD) site in Morgan County, West Virginia, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Richard Bralow, Legal Counsel, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, or by calling (832) 320–5177 (telephone) or email at *Richard_Bralow@transcanada.com.*

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for

Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 19, 2017.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06604 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–79–000]

Florida Gas Transmission Company, LLC; Notice of Application

Take notice that on March 16, 2017, Florida Gas Transmission Company, LLC (FGT) 1300 Main Street, Houston, Texas 77002, filed in Docket No. CP17–79–000, an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations, for a certificate of public convenience and necessity to construct and operate its Wekiva Parkway Relocation Project located in Lake and Seminole Counties, Florida. The purpose of the Wekiva Parkway Relocation Project is to resolve conflicts with the Florida Department of Transportation construction of State Road 429, part of a new toll road known as the Wekiva Parkway which conflicts with portions of FGT's existing 12-inch and 26-inch Sanford Laterals and appurtenant facilities. Specifically, FGT requests to relocate/replace approximately 4.60 miles of 12-inch Sanford Lateral pipe and approximately 3.16 miles of 26-inch Sanford Lateral Loop pipeline with approximately 4.56 miles of 12-inch Sanford Lateral pipe and 3.12 miles of 26-inch Sanford Later Loop pipeline facilities used to render transportation services. FGT is proposing to abandon, relocate, and replace portions of the affected Sanford Laterals by installing the replacement lines adjacent to each other in new right of way, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Blair Lichtenwalter, Senior Director of Regulatory, Florida Gas Transmission Company, LLC, 1300 Main Street, Houston, Texas 77002, or by phone: (713) 989–2605, or by fax: (713) 989–1205 or by email: *blair.lichtenwalter@energytransfer.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211)

and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 19, 2017.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06603 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–54–000]

Dynegy Marketing and Trade, LLC Illinois Power Marketing Company v. Midcontinent Independent System Operator, Inc.; Notice of Complaint

Take notice that on March 28, 2017, pursuant to sections 206 and 306 of the Federal Power Act,[1] and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[2] Dynegy Marketing and Trade, LLC and Illinois Power Marketing Company (collectively, Complainants), filed a formal complaint against Midcontinent Independent System Operator, Inc., (MISO or Respondent) alleging that MISO has violated its tariff by charging Complainants duplicative congestion and losses costs for pseudo-tied resources through Financial Schedules, as more fully explained in the complaint.

Complainants certify that copies of the complaint were served on the contacts for Respondent, as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for 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.

Comment Date: 5:00 p.m. Eastern Time on April 17, 2017.

Dated: March 29, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–06605 Filed 4–3–17; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824e and 825e (2012).

[2] 18 CFR 385.206 (2016).

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2014–0738; FRL–9960–13–OAR]

Notice of Requests for Approval of an Alternative Means of Emission Limitation at Chevron Phillips Chemical Company LP

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments.

SUMMARY: This action provides public notice and solicits comment on the alternative means of emission limitation (AMEL) request from Chevron Phillips Chemical Company LP (CP Chem), requested under the Clean Air Act (CAA), to operate a multi-point ground flare (MPGF) at their new ethylene plant in Baytown, Texas, and an MPGF at their new polyethylene plant in Old Ocean, Texas.[1] In this action, the Environmental Protection Agency (EPA) is soliciting comment on all aspects of this request for an AMEL and the alternative operating conditions that would be sufficient to achieve a reduction in emissions of volatile organic compounds (VOC) and

[1] The MPGF at both the ethylene plant and polyethylene plant will utilize pressure-assisted burners on all the high pressure stages; however, the first two stages on the MPGF at the polyethylene plant will also be steam-assisted.

hazardous air pollutants (HAP) at least equivalent to the reduction in emissions required by various standards in 40 CFR parts 60, 61, and 63 that apply to emission sources controlled by these MPGFs. These standards incorporate the design and operating requirements for flares in the General Provisions to parts 60 and 63, respectively, as part of the emission reduction requirements. The proposed MPGF designs cannot meet the velocity requirements in these General Provisions; however, CP Chem's request for an alternative means of emission limit demonstrates that the alternative proposed would achieve at least equivalent emissions reductions as flares that meet the standards in the General Provisions.

DATES: *Comments.* Comments must be received on or before May 4, 2017, unless a public hearing is requested by April 10, 2017. If a public hearing is requested on this action, written comments must be received by May 19, 2017.

Public Hearing. If a public hearing is requested by April 10, 2017, we will hold a public hearing on April 19, 2017, from 1:00 p.m. [Central Daylight Time] to 5:00 p.m. [Central Daylight Time] in the Houston, Texas, area. We will provide details on the public hearing, if one is requested, on our Web site at: *https://www3.epa.gov/ttn/atw/groundflares/groundflarespg.html.* The EPA does not intend to publish another notice in the **Federal Register** announcing any updates on the request for a public hearing, so please be sure to check the Web site above for updates. Again, a public hearing will not be held unless someone specifically requests that the EPA hold a public hearing regarding these requests. Please contact Ms. Virginia Hunt, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–0832; email address: *hunt.virginia@epa.gov;* to request a public hearing, to register to speak at the public hearing or to inquire as to whether a public hearing will be held. The last day to pre-register in advance to speak at the public hearing will be April 17, 2017.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0738, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0738. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* 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. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2014–0738. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: For questions about this action, contact Mr. Andrew Bouchard, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards (OAQPS), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4036; fax number: (919) 541–0246; and email address: *bouchard.andrew@epa.gov.*

SUPPLEMENTARY INFORMATION:

Acronyms and Abbreviations. We use multiple acronyms and terms in this notice. While this list may not be exhaustive, to ease the reading of this notice and for reference purposes, the EPA defines the following terms and acronyms here:

AMEL alternative means of emission limitation
Btu/scf British thermal units per standard cubic foot
CAA Clean Air Act
CBI confidential business information
CFR Code of Federal Regulations
CP Chem Chevron Phillips Chemical Company LP
EPA Environmental Protection Agency
Eqn equation
HAP hazardous air pollutants
HP high pressure
LFL lower flammability limit
LFL_{cz} lower flammability limit of combustion zone gas
LFL_{vg} lower flammability limit of flare vent gas
MPGF multi-point ground flares
NESHAP national emission standards for hazardous air pollutants
NHV net heating value
NHV_{cz} net heating value of combustion zone gas
NHV_{vg} net heating value of flare vent gas
NSPS new source performance standards
OAQPS Office of Air Quality Planning and Standards
scf standard cubic feet
VOC volatile organic compounds

Organization of This Document. The information in this notice is organized as follows:

I. Background

A. Regulatory Flare Requirements and CP Chem's AMEL Request

CP Chem submitted a complete MPGF AMEL request, following the MPGF AMEL framework that was published in the **Federal Register** (see 81 FR 23480, April 21, 2016), to the EPA on November 28, 2016. CP Chem is seeking an AMEL to operate an MPGF for use during limited high-pressure maintenance, startup, and shutdown events, as well as during upset events at their ethylene plant in Baytown, Texas. In addition, CP Chem is seeking an AMEL to operate an MPGF during certain routine operations (*i.e.,* the first two stages only), as well as during periods of maintenance, startup, shutdown, and upset at their polyethylene plant in Old Ocean, Texas (see section II.B. below for more details). In their request, CP Chem cited various regulatory requirements in 40 CFR parts 60, 61, and 63 that will apply to the flare vent gas streams that will be collected and routed to their MPGF at each of these two plants. See Table 1 for a list of regulations, by subparts, that CP Chem has identified as applicable to the two plants described above. These new source performance standards (NSPS) and national emissions standards for hazardous air pollutants (NESHAP) require that flares subject to these subparts meet the flare design and operating requirements in the General Provisions of part 60 and 63, respectively (*i.e.,* 40 CFR 60.18(b) and 63.11(b)). CP Chem is requesting that the EPA approve an AMEL for the flare requirements in these subparts.

TABLE 1—SUMMARY OF APPLICABLE RULES THAT MAY APPLY TO VENT STREAMS CONTROLLED BY MULTI-POINT GROUND FLARES

Applicable rules with vent streams going to control device(s)	CP Chem ethylene plant	CP Chem polyethylene plant	Rule citation from Title 40 CFR that allow for use of a flare	Provisions for alternative means of emission limitation
NSPS Subpart VV		X	60.482–10(d)	60.484(a)–(f).
NSPS Subpart VVa	X		60.482–10a(d)	60.484a(a)–(f).
NSPS Subpart DDD		X	60.562–1(a)(1)(i)(C)	CAA section 111(h)(3).
NSPS Subpart NNN	X		60.662(b)	CAA section 111(h)(3).
NSPS Subpart RRR	X		60.702(b)	CAA section 111(h)(3).
NESHAP Subpart FF	X		61.349(a)(2)	61.353(a); also see 61.12(d).
NESHAP Subpart SS	X		63.982(b)	CAA section 112(h)(3).
NESHAP Subpart UU	X		63.1034	63.1021(a)–(d).
NESHAP Subpart XX	X		63.1091	63.1097(b)(1).
			* Note—This subpart cross-references to NESHAP subpart FF above.	
NESHAP Subpart YY	X		Table 7 to § 63.1103(e) cross-references to NESHAP subpart SS above.	63.1113.
NESHAP Subpart FFFF		X	63.2450(e)(2)	63.2545(b)(1); also see 63.6(g).

The provisions in each NSPS and NESHAP cited above that ensure flares meet certain specific requirements when used to satisfy the requirements of the NSPS or NESHAP were established as work practice standards pursuant to CAA sections 111(h)(1) or 112(h)(1). For standards established according to these provisions, CAA sections 111(h)(3) and 112(h)(3) allow the EPA to permit the use of an AMEL by a source if, after notice and opportunity for comment,[2] it is established to the Administrator's satisfaction that such an AMEL will achieve emissions reductions at least equivalent to the reductions required under the CAA section 111(h)(1) or 112(h)(1) standard. As noted in Table 1, many of the NSPS and NESHAP also include specific regulatory provisions allowing sources to request an AMEL.

CP Chem submitted an AMEL request because their MPGFs are designed to operate above the maximum permitted velocity requirements for flares in the General Provisions in 40 CFR parts 60 and 63. CP Chem provided information that the MPGF designs they propose to use at both sites will achieve a reduction in emissions at least equivalent to the reduction in emissions for flares complying with these General Provisions requirements. For further information on CP Chem's specific AMEL request, see supporting materials from CP Chem at Docket ID No. EPA–HQ–OAR–2014–0738.

II. Requests for AMEL

A. CP Chem's Ethylene Plant

CP Chem indicates in their MPGF AMEL request that they plan to construct and operate an MPGF at their Cedar Bayou ethylene plant in Baytown, Texas. This new ethylene plant will use ethane as a feedstock and be able to produce approximately 1.5 million metric tons per year of ethylene. CP Chem is proposing to use a staged flare design to control emissions of VOC and HAP from various process vents during normal operations, as well as during maintenance, startup, shutdown, and upset operating conditions. During normal operation and most of the routine maintenance activities, CP Chem will operate a low pressure steam-assisted ground flare consisting of eight Callidus MP4U burners. This low pressure stage of the flare is not specifically part of the AMEL request, because this flare can comply with the General Provisions requirements of 40 CFR 60.18(b) and 63.11(b), which are cross-referenced in the applicable NSPS and NESHAP provisions. CP Chem has submitted an AMEL request to operate the 17 high pressure (HP) stages (*i.e.,* 16 stages plus one spare stage) of the MPGF because the designed flaring scenarios for when this portion of the MPGF will be used (*i.e.,* during limited HP maintenance, startup, and shutdown

[2] CAA section 111(h)(3) specifically requires that the EPA provide an opportunity for a hearing.

events, as well as during upset events) will exceed the maximum permitted velocity requirements in the General Provisions at 40 CFR 60.18(b) and 40 CFR 63.11(b). The HP stages will also use Callidus MP4U burners and have anywhere from 6 to 62 burners per stage (see supporting materials from CP Chem at Docket ID No. EPA–HQ–OAR–2014–0738 for more details).

B. CP Chem's Polyethylene Plant

CP Chem indicates in their MPGF AMEL request that they also plan to construct and operate an MPGF at their new polyethylene plant that will be located adjacent to their Sweeny Chemical and Natural Gas Liquids (NGL) Fractionation Plant in Old Ocean, Texas. The polyethylene plant consists of two polyethylene units, each capable of producing 500,000 metric tons per year of polyethylene products. CP Chem is also proposing to use a staged flare design scheme to control emissions of VOC and HAP from various process vents during normal operations, as well as during maintenance, startup, shutdown, and upset operating conditions; however, the design, burner type and configuration of this flare differ from that of the MPGF at the ethylene plant in a few key ways. First, the low pressure stage of the flare will have four steam-assisted Callidus LP-Expert tip burners. Similar to the design of CP Chem's ethylene plant MPGF, this low pressure stage is not specifically part of the AMEL request as it can comply with the flare General Provisions requirements of 40 CFR 60.18(b) and 40 CFR 63.11(b). Second, the MPGF will consist of 10 HP stages (*i.e.,* nine stages plus one spare stage), with each stage using Callidus MP4U burners. Lastly, unlike CP Chem's ethylene plant MPGF, the first two stages of the HP side of this MPGF will operate pressure-assisted burners that will also be steam-assisted and control emissions during certain routine operations, as well as during periods of startup, shutdown, maintenance, and upset conditions. CP Chem indicates in their AMEL request that this particular control scheme was chosen due to insufficient area in the plot plan to add additional flare burners on the low pressure side that could comply with the maximum permitted velocity requirements of 40 CFR 60.18(b) and 40 CFR 63.11(b). Thus, in order to account for all potential routine flaring operation scenarios, CP Chem will operate the first two stages of the HP side of the MPGF as flexible, or ''swing'' stages that can operate in both a low pressure capacity as well as high pressure capacity. These first two stages will have a total of 18 burners, which account for approximately 10 percent of the total number of flare burners on the HP side of the MPGF being proposed for use by CP Chem (see supporting materials from CP Chem at Docket ID No. EPA–HQ–OAR–2014–0738 for more details).

C. Information Supporting CP Chem's MPGF AMEL Requests

CP Chem provided all the information specified in the MPGF AMEL framework finalized on April 21, 2016 (see 81 FR 23480), to support their AMEL request. This information includes, but is not limited to: (1) Details on the project scope and background; (2) information on regulatory applicability; (3) MPGF test data on destruction efficiency/combustion efficiency; (4) MPGF stability testing data, (5) MPGF cross-light testing data; (6) information on flare reduction considerations; and (7) information on appropriate MPGF monitoring and operating conditions. In addition, because the MPGF AMEL framework did not specifically address an MPGF design that would utilize pressure-assisted burners and that would also be steam-assisted (*i.e.,* HP stages 1 and 2 of CP Chem's polyethylene plant MPGF), CP Chem conducted additional performance testing on an n-butane/nitrogen vent gas mixture over a range of combustion zone net heating values (NHV_{cz}), vent gas exit velocity regimes, and steam flow rate regimes in order to establish where the burners can achieve a destruction efficiency of n-butane of 98 percent or greater.[3] An n-butane vent gas mixture was tested because CP Chem indicated in their AMEL request that a cooling water failure would be their worst case upset design scenario from an MPGF perspective and that the vent gas sent to the flare would be predominantly isobutane. However, given that n-butane was more readily available than isobutane and given that they both have the same molecular formula (C_4H_{10}), the same lower flammability limits, and have almost identical net heating values, n-butane was tested in lieu of isobutane (see Table 2 in section III. below for more details). In addition, each of the valid destruction efficiency test runs conducted lasted for a minimum of 10 minutes and none of these runs displayed any characteristics of flame instability (for further information on the supporting materials provided by CP Chem, see the docket at Docket ID No. EPA–HQ–OAR–2014–0738).

III. AMEL for the Proposed MPGFs

We are seeking the public's input on CP Chem's request that the EPA approve an AMEL for the two MPGFs proposed to be used at CP Chem's ethylene plant in Baytown, Texas, and CP Chem's polyethylene plant in Old Ocean, Texas. Specifically, the EPA seeks the public's input on the requirements that will ensure that the AMEL will achieve emission reductions at least equivalent to the emission reductions achieved under the applicable NESHAP and NSPS identified in Table 1, all of which require compliance with 40 CFR 63.11(b) or 40 CFR 60.18(b), respectively, when using a flare.[3] Based upon our review of the completed AMEL request and the available emissions test data submitted by CP Chem,[4] we believe that, by complying with the following list of requirements, the two proposed MPGFs will achieve emission reductions at least equivalent to emission reductions achieved under 40 CFR 63.11(b) and 40 CFR 60.18(b), as required by the applicable NESHAP and NSPS identified in Table 1:

(1) The MPGF system for all HP stages at CP Chem's ethylene plant and for all HP stages excluding stage 1 and 2 for CP Chem's polyethylene plant must be designed and operated such that the net heating value of the combustion zone gas (NHV_{cz}) is greater than or equal to 800 British thermal units per standard cubic foot (Btu/scf) or lower flammability limit of the combustion zone gas (LFL_{cz}) is less than or equal to 6.5 percent by volume. The MPGF system for HP stages 1 and 2 of CP Chem's polyethlene plant must be designed and operated such that the NHV_{cz} is greater than or equal to 600 Btu/scf or the LFL_{cz} is less than or equal to 8.0 percent by volume. Owners or operators must demonstrate compliance with the NHV_{cz} or LFL_{cz} metric by continuously complying with a 15-minute block average. Owners or operators must calculate and monitor for the NHV_{cz} or LFL_{cz} according to the following:

(a) Calculation of NHV_{cz}

[3] The EPA has previously concluded that flares operating in accordance with the General Provisions flare requirements of part 60 and 63 destroy VOC and HAP with a destruction efficiency of 98 percent or greater. *Standard of Performance for New Stationary Sources: General Provisions; National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions,* 63 FR 24436, 24437 (May 4, 1998).

[4] For further information on the test data submitted by CP Chem to support their AMEL request, see ''CP Chemical AMEL Request for Multi-Point Ground Flares September 2015'' at Docket ID No. EPA–HQ–OAR–2014–0738–0048, as well as ''CP Chemical Response to EPA November 2016'' at Docket ID No. EPA–HQ–OAR–2014–0738–0052.

(i) The owner or operator shall determine the net heating value of flare vent gas (NHV_{vg}) by following the requirements of (1)(d)–(1)(e) below. If an owner or operator elects to use a monitoring system capable of continuously measuring (*i.e.,* at least once every 15 minutes), calculating, and recording the individual component concentrations present in the flare vent gas, NHV_{vg} shall be calculated using the following equation:

$$NHV_{vg} = \sum_{i=1}^{n} x_i NHV_i \quad \text{(Eqn. 1)}$$

where:

NHV_{vg} = Net heating value of flare vent gas, Btu/scf. *Flare vent gas* means all gas found just prior to the MPGF. This gas includes all flare waste gas (*i.e.,* gas from facility operations that is directed to a flare for the purpose of disposing of the gas), flare sweep gas, flare purge gas and flare supplemental gas, but does not include pilot gas.
i = Individual component in flare vent gas.
n = Number of components in flare vent gas.
x_i = Concentration of component i in flare vent gas, volume fraction.
NHV_i = Net heating value of component i determined as the heat of combustion where the net enthalpy per mole of offgas is based on combustion at 25 degrees Celsius (°C) and 1 atmosphere (or constant pressure) with water in the gaseous state from values published in the literature, and then the values converted to a volumetric basis using 20 °C for ''standard temperature.'' Table 2 summarizes component properties including net heating values.

(ii) For all MPGF HP stages at CP Chem's ethylene plant and for all MPGF HP stages, excluding stage 1 and 2 for CP Chem's polyethylene plant, $NHV_{vg} = NHV_{cz}$.

(iii) For HP stages 1 and 2 of CP Chem's polyethlene plant MPGF, NHV_{cz} shall be calculated using the following equation:

$$NHV_{cz} = \frac{Q_{vg} \times NHV_{vg}}{\left(Q_{vg} + Q_s\right)} \quad \text{(Eqn. 2)}$$

where:

NHV_{cz} = Net heating value of combustion zone gas, Btu/scf.
NHV_{vg} = Net heating value of flare vent gas for the 15-minute block period as determined according to (1)(a)(i) above, Btu/scf.
Q_{vg} = Cumulative volumetric flow of flare vent gas during the 15-minute block period, standard cubic feet (scf).
Q_s = Cumulative volumetric flow of total assist steam during the 15-minute block period, scf.

(b) Calculation of LFL_{cz}

(i) The owner or operator shall determine LFL_{cz} from compositional analysis data by using the following equation:

$$LFL_{vg} = \frac{1}{\sum_{i=1}^{n}\left(\frac{\chi_i}{LFL_i}\right)} \times 100\% \quad \text{(Eqn. 3)}$$

where:

LFL_{vg} = Lower flammability limit of flare vent gas, volume percent (vol %).
n = Number of components in the vent gas.
i = Individual component in the vent gas.
χ_i = Concentration of component i in the vent gas, vol %.
LFL_i = Lower flammability limit of component i as determined using values published by the U.S. Bureau of Mines (Zabetakis, 1965), vol %. All inerts, including nitrogen, are assumed to have an infinite LFL (*e.g.,* $LFL_{N2} = \infty$, so that $\chi_{N2}/LFL_{N2} = 0$). LFL values for common flare vent gas components are provided in Table 2.

(ii) For all MPGF HP stages at CP Chem's ethylene plant and for all MPGF HP stages excluding stages 1 and 2 for CP Chem's polyethylene plant, $LFL_{vg} = LFL_{cz}$.

(iii) For HP stages 1 and 2 of CP Chem's polyethlene plant MPGF, LFL_{cz} shall be calculated using the following equation:

$$LFL_{cz} = \frac{LFL_{vg} \times \left(Q_{vg} + Q_s\right)}{Q_{vg}} \quad \text{(Eqn. 4)}$$

where:

LFL_{cz} = lower flammability limit of combustion zone gas, vol %.
LFL_{vg} = Lower flammability limit of flare vent gas, vol %.
Q_{vg} = Cumulative volumetric flow of flare vent gas during the 15-minute block period, scf.
Q_s = Cumulative volumetric flow of total assist steam during the 15-minute block period, scf.

(c) The operator of an MPGF system shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring the volumetric flow rate of flare vent gas (Q_{vg}) and the volumetric flow rate of total assist steam (Q_s).

(i) The flow rate monitoring systems must be able to correct for the temperature and pressure of the system and output parameters in standard conditions (*i.e.,* a temperature of 20 °C (68 °F) and a pressure of 1 atmosphere).

(ii) Mass flow monitors may be used for determining volumetric flow rate of flare vent gas provided the molecular weight of the flare vent gas is determined using compositional analysis so that the mass flow rate can be converted to volumetric flow at standard conditions using the following equation:

$$Q_{vol} = \frac{Q_{mass} \times 385.3}{MW_t} \quad \text{(Eqn. 5)}$$

where:

Q_{vol} = Volumetric flow rate, scf per second.
Q_{mass} = Mass flow rate, pounds per second.
385.3 = Conversion factor, scf per pound-mole.
MW_t = Molecular weight of the gas at the flow monitoring location, pounds per pound-mole.

(iii) Mass flow monitors may be used for determining volumetric flow rate of total assist steam. Use Equation 5 to convert mass flow rates to volumetric flow rates. Use a molecular weight of 18 pounds per pound-mole for total assist steam.

(d) The operator shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring (*i.e.,* at least once every 15 minutes), calculating, and recording the individual component concentrations present in the flare vent gas or the owner or operator shall install, operate, calibrate, and maintain a monitoring system capable of continuously measuring, calculating, and recording NHV_{vg} (in BTU/scf).

(e) For each measurement produced by the monitoring system used to comply with (1)(d) above, the operator shall determine the 15-minute block average as the arithmetic average of all measurements made by the monitoring system within the 15-minute period.

(f) The operator must follow the calibration and maintenance procedures according to Table 3. Maintenance periods, instrument adjustments, or checks to maintain precision and accuracy and zero and span adjustments may not exceed 5 percent of the time the flare is receiving regulated material.

TABLE 2—INDIVIDUAL COMPONENT PROPERTIES

Component	Molecular formula	MW_i (pounds per pound-mole)	NHV_i (British thermal units per standard cubic foot)	LFL_i (volume %)
Acetylene	C_2H_2	26.04	1,404	2.5
Benzene	C_6H_6	78.11	3,591	1.3
1,2-Butadiene	C_4H_6	54.09	2,794	2.0
1,3-Butadiene	C_4H_6	54.09	2,690	2.0
iso-Butane	C_4H_{10}	58.12	2,957	1.8
n-Butane	C_4H_{10}	58.12	2,968	1.8
cis-Butene	C_4H_8	56.11	2,830	1.6
iso-Butene	C_4H_8	56.11	2,928	1.8
trans-Butene	C_4H_8	56.11	2,826	1.7
Carbon Dioxide	CO_2	44.01	0	∞
Carbon Monoxide	CO	28.01	316	12.5
Cyclopropane	C_3H_6	42.08	2,185	2.4
Ethane	C_2H_6	30.07	1,595	3.0
Ethylene	C_2H_4	28.05	1,477	2.7
Hydrogen	H_2	2.02	274	4.0
Hydrogen Sulfide	H_2S	34.08	587	4.0
Methane	CH_4	16.04	896	5.0
Methyl-Acetylene	C_3H_4	40.06	2,088	1.7
Nitrogen	N_2	28.01	0	∞
Oxygen	O_2	32.00	0	∞
Pentane+ (C5+)	C_5H_{12}	72.15	3,655	1.4
Propadiene	C_3H_4	40.06	2,066	2.16
Propane	C_3H_8	44.10	2,281	2.1
Propylene	C_3H_6	42.08	2,150	2.4
Water	H_2O	18.02	0	∞

TABLE 3—ACCURACY AND CALIBRATION REQUIREMENTS

Parameter	Accuracy requirements	Calibration requirements
Flare Vent Gas Flow Rate	±20 percent of flow rate at velocities ranging from 0.1 to 1 foot per second.	Performance evaluation biennially (every 2 years) and following any period of more than 24 hours throughout which the flow rate exceeded the maximum rated flow rate of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspections and checks of system operation every 3 months, unless the system has a redundant flow sensor.
	±5 percent of flow rate at velocities greater than 1 foot per second.	Select a representative measurement location where swirling flow or abnormal velocity distributions due to upstream and downstream disturbances at the point of measurement are minimized.
Flow Rate for All Flows Other Than Flare Vent Gas	±5 percent over the normal range of flow measured or 1.9 liters per minute (0.5 gallons per minute), whichever is greater, for liquid flow.	Conduct a flow sensor calibration check at least biennially (every two years); conduct a calibration check following any period of more than 24 hours throughout which the flow rate exceeded the manufacturer's specified maximum rated flow rate or install a new flow sensor.
	±5 percent over the normal range of flow measured or 280 liters per minute (10 cubic feet per minute), whichever is greater, for gas flow.	At least quarterly, inspect all components for leakage, unless the continuous parameter monitoring system has a redundant flow sensor.
	±5 percent over the normal range measured for mass flow.	Record the results of each calibration check and inspection. Locate the flow sensor(s) and other necessary equipment (such as straightening vanes) in a position that provides representative flow; reduce swirling flow or abnormal velocity distributions due to upstream and downstream disturbances.
Pressure	±5 percent over the normal range measured or 0.12 kilopascals (0.5 inches of water column), whichever is greater.	Review pressure sensor readings at least once a week for straight-line (unchanging) pressure and perform corrective action to ensure proper pressure sensor operation if blockage is indicated.

TABLE 3—ACCURACY AND CALIBRATION REQUIREMENTS—Continued

Parameter	Accuracy requirements	Calibration requirements
		Performance evaluation annually and following any period of more than 24 hours throughout which the pressure exceeded the maximum rated pressure of the sensor, or the data recorder was off scale. Checks of all mechanical connections for leakage monthly. Visual inspection of all components for integrity, oxidation and galvanic corrosion every 3 months, unless the system has a redundant pressure sensor.
Net Heating Value by Calorimeter	±2 percent of span	Select a representative measurement location that minimizes or eliminates pulsating pressure, vibration, and internal and external corrosion. Calibration requirements should follow manufacturer's recommendations at a minimum. Temperature control (heated and/or cooled as necessary) the sampling system to ensure proper year-round operation. Where feasible, select a sampling location at least 2 equivalent diameters downstream from and 0.5 equivalent diameters upstream from the nearest disturbance. Select the sampling location at least 2 equivalent duct diameters from the nearest control device, point of pollutant generation, air in-leakages, or other point at which a change in the pollutant concentration or emission rate occurs.
Net Heating Value by Gas Chromatograph	As specified in Performance Specification (PS) 9 of 40 CFR part 60, appendix B.	Follow the procedure in PS 9 of 40 CFR part 60, appendix B, except that a single daily mid-level calibration check can be used (rather than triplicate analysis), the multi-point calibration can be conducted quarterly (rather than monthly), and the sampling line temperature must be maintained at a minimum temperature of 60 °C (rather than 120 °C).

(2) The MPGF system shall be operated with a flame present at all times when in use. Each burner on HP stages 1 and 2 of CP Chem's polyethylene plant MPGF must have a pilot with a continuously lit pilot flame. Additionally, each HP stage of CP Chem's ethylene plant MPGF and all HP stages excluding stages 1 and 2 for CP Chem's polyethylene plant MPGF must have at least two pilots with a continuously lit pilot flame. Each pilot flame must be continuously monitored by a thermocouple or any other equivalent device used to detect the presence of a flame. The time, date, and duration of any complete loss of pilot flame on any of the individual MPGF burners on HP stages 1 and 2 of CP Chem's polyethylene plant MPGF, on any of the HP stages of CP Chem's ethylene plant MPGF and on any of the HP stages excluding stages 1 and 2 of CP Chem's polyethylene plant MPGF must be recorded. Each monitoring device must be maintained or replaced at a frequency in accordance with the manufacturer's specifications.

(3) The MPGF system shall be operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours. A video camera that is capable of continuously recording (*i.e.,* at least one frame every 15 seconds with time and date stamps) images of the flare flame and a reasonable distance above the flare flame at an angle suitable for visible emissions observations must be used to demonstrate compliance with this requirement. The owner or operator must provide real-time video surveillance camera output to the control room or other continuously manned location where the video camera images may be viewed at any time.

(4) The operator of an MPGF system shall install and operate pressure monitor(s) on the main flare header, as well as a valve position indicator monitoring system capable of monitoring and recording the position for each staging valve to ensure that the MPGF operates within the range of tested conditions or within the range of the manufacturer's specifications. The pressure monitor shall meet the requirements in Table 3. Maintenance periods, instrument adjustments or checks to maintain precision and accuracy, and zero and span adjustments may not exceed 5 percent of the time the flare is receiving regulated material.

(5) Recordkeeping Requirements

(a) All data must be recorded and maintained for a minimum of 3 years or for as long as required under applicable rule subpart(s), whichever is longer.

(6) Reporting Requirements

(a) The information specified in section III (6)(b) and (c) below must be reported in the timeline specified by the applicable rule subpart(s) for which the MPGF will control emissions.

(b) Owners or operators shall include the following information in their initial Notification of Compliance status report:

(i) Specify flare design as a pressure-assisted MPGF. CP Chem's polyethylene plant shall also clearly note that HP stages 1 and 2 are also steam-assisted.

(ii) All visible emission readings, NHV_{cz} and/or LFL_{cz} determinations, and flow rate measurements. For MPGF, exit velocity determinations do not need to be reported as the maximum permitted velocity requirements in the General Provisions at 40 CFR 60.18(b) and 40 CFR 63.11(b) are not applicable.

(iii) All periods during the compliance determination when a complete loss of pilot flame on any stage of MPGF burners occurs, and, for HP stages 1 and 2 of CP Chem's polyethylene plant MPGF, all periods during the compliance determination

when a complete loss of pilot flame on an individual burner occurs.

(iv) All periods during the compliance determination when the pressure monitor(s) on the main flare header show the MPGF burners operating outside the range of tested conditions or outside the range of the manufacturer's specifications.

(v) All periods during the compliance determination when the staging valve position indicator monitoring system indicates a stage of the MPGF should not be in operation and is or when a stage of the MPGF should be in operation and is not.

(c) The owner or operator shall notify the Administrator of periods of excess emissions in their Periodic Reports. These periods of excess emissions shall include:

(i) Records of each 15-minute block for all HP stages of CP Chem's ethylene plant MPGF and for all HP stages excluding stages 1 and 2 of CP Chem's polyethylene plant MPGF during which there was at least 1 minute when regulated material was routed to the MPGF and a complete loss of pilot flame on a stage of burners occurred, and, for HP stages 1 and 2 of CP Chem's polyethylene plant MPGF, records of each 15-minute block during which there was at least 1 minute when regulated material was routed to the MPGF and a complete loss of pilot flame on an individual burner occurred.

(ii) Records of visible emissions events (including the time and date stamp) that exceed more than 5 minutes in any 2-hour consecutive period.

(iii) Records of each 15-minute block period for which an applicable combustion zone operating limit (*i.e.,* NHV_{cz} or LFL_{cz}) is not met for the MPGF when regulated material is being combusted in the flare. Indicate the date and time for each period, the NHV_{cz} and/or LFL_{cz} operating parameter for the period and the type of monitoring system used to determine compliance with the operating parameters (*e.g.,* gas chromatograph or calorimeter). For CP Chem's polyethylene plant MPGF, also indicate which HP stages were in use.

(iv) Records of when the pressure monitor(s) on the main flare header show the MPGF burners are operating outside the range of tested conditions or outside the range of the manufacturer's specifications. Indicate the date and time for each period, the pressure measurement, the stage(s) and number of MPGF burners affected, and the range of tested conditions or manufacturer's specifications.

(v) Records of when the staging valve position indicator monitoring system indicates a stage of the MPGF should not be in operation and is or when a stage of the MPGF should be in operation and is not. Indicate the date and time for each period, whether the stage was supposed to be open, but was closed or vice versa, and the stage(s) and number of MPGF burners affected.

IV. Request for Comments

We solicit comments on all aspects of CP Chem's request for approval of an AMEL for the standards specified in Table 1. We specifically seek comment regarding whether or not the alternative operating requirements listed in section III above will achieve emission reductions at least equivalent to the provisions in the NSPS and NESHAP presented in Table 1 that require flares to meet the requirements in 40 CFR 63.11(b) and 40 CFR 60.18(b).

Dated: March 14, 2017.

Stephen Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2017–06597 Filed 4–3–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS17–03]

Appraisal Subcommittee; Proposed Revised Policy Statements

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Suspension of comment period.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC) is suspending the public comment period for the Proposed Revised Policy Statements effective April 4, 2017. The ASC published the Proposed Revised Policy Statements on January 10, 2017, under Docket Number AS17–01. The comment period was scheduled to close on April 10, 2017. The suspension of the comment period will allow the President's appointees the opportunity to review and consider this action.

DATES: The comment period is indefinitely suspended effective April 4, 2017.

ADDRESSES: For access to the docket to read background documents and comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW., Suite 760, Washington, DC 20005.

Dated: March 29, 2017.

Arthur Lindo,

Chairman.

[FR Doc. 2017–06596 Filed 4–3–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1561]

Solicitation of Applications for Membership on the Community Advisory Council

AGENCY: Board of Governors of the Federal Reserve System, Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) established the Community Advisory Council (the ''CAC'') as an advisory committee to the Board on issues affecting consumers and communities. This Notice advises individuals who wish to serve as CAC members of the opportunity to be considered for the CAC.

DATES: Applications received on or before June 5, 2017, 11:59 p.m. Eastern Standard Time will be considered for selection to the CAC for terms beginning January 1, 2018.

ADDRESSES: Individuals who are interested in being considered for the CAC may submit an application via the Board's Web site or via email. The application can be accessed at *https://www.federalreserve.gov/secure/CAC/Application/*. Emailed submissions can be sent to *CCA-CAC@frb.gov.* The information required for consideration is described below.

If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop N–805, 20th Street and Constitution Ave. NW., Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: Jennifer Fernandez, Community Development Analyst, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW., Washington, DC 20551, or (202) 912–4386, or *CCA-CAC@frb.gov.* Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869.

SUPPLEMENTARY INFORMATION: The Board created the Community Advisory

Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. The CAC is composed of a diverse group of experts and representatives of consumer and community development organizations and interests, including from such fields as affordable housing, community and economic development, labor and workforce development, financial technology, small business, and asset and wealth building. CAC members meet semiannually with the members of the Board in Washington, DC to provide a range of perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income consumers and communities. The CAC complements two of the Board's other advisory councils—the Community Depository Institutions Advisory Council (CDIAC) and the Federal Advisory Council (FAC)—whose members represent depository institutions.

The CAC serves as a mechanism to gather feedback and perspectives on a wide range of policy matters and emerging issues of interest to the Board of Governors and aligns with the Federal Reserve's mission and current responsibilities. These responsibilities include, but are not limited to, banking supervision and regulatory compliance (including the enforcement of consumer protection laws), systemic risk oversight and monetary policy decision-making, and, in conjunction with the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), responsibility for implementation of the Community Reinvestment Act (CRA).

This Notice advises individuals of the opportunity to be considered for appointment to the CAC. To assist with the selection of CAC members, the Board will consider the information submitted by the candidate along with other publicly available information that it independently obtains.

Council Size and Terms

The CAC consists of at least 15 members. The Board will select four members in the fall of 2017 to replace current members whose terms will expire on December 31, 2017. The newly appointed members will serve three-year terms that will begin on January 1, 2018. If a member vacates the CAC before the end of the three-year term, a replacement member will be appointed to fill the unexpired term.

Application

Candidates may submit applications by one of three options:

- *Online:* Complete the application form on the Board's Web site at *https://www.federalreserve.gov/secure/CAC/Application/*.
- *Email:* Submit all required information to *CCA-CAC@frb.gov.*
- *Postal Mail:* If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop N–805, 20th Street and Constitution Ave. NW., Washington, DC 20551.

Below are the application fields.

Asterisks (*) indicate required fields.

- Full Name *
- Email Address *
- Phone Number *
- Postal Mail Street Address *
- Postal Mail City *
- Postal Zip Code *
- Organization *
- Title *
- Organization Type (select one) *
  - For Profit
    - Community Development Financial Institution (CDFI)
    - Non-CDFI Financial Institution
    - Financial Services
    - Professional Services
    - Other
  - Non-Profit
    - Advocacy
    - Association
    - Community Development Financial Institution (CDFI)
    - Educational Institution
    - Foundation
    - Service Provider
    - Think Tank/Policy Organization
    - Other
  - Government
- Primary Area of Expertise (select one) *
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Secondary Area of Expertise (select one)
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Resume *
  - The resume should include information about past and present positions you have held, dates of service for each, and a description of responsibilities.
- Cover Letter *
  - The cover letter should explain why you are interested in serving on the CAC as well as what you believe are your primary qualifications.
- Additional Information
  - At your option, you may also provide additional information about your qualifications.

Qualifications

The Board is interested in candidates with knowledge of fields such as affordable housing, community and economic development, labor and workforce development, financial technology, small business, and asset and wealth building, with a particular focus on the concerns of low- and moderate-income consumers and communities. Candidates do not have to be experts on all topics related to consumer financial services or community development, but they should possess some basic knowledge of these areas and related issues. In appointing members to the CAC, the Board will consider a number of factors, including diversity in terms of subject matter expertise, geographic representation, and the representation of women and minority groups.

CAC members must be willing and able to make the necessary time commitment to participate in organizational conference calls and prepare for and attend meetings two times per year (usually for two days). The meetings will be held at the Board's offices in Washington, DC The Board will provide a nominal honorarium and will reimburse CAC members only for their actual travel expenses subject to Board policy.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, March 22, 2017.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2017–06021 Filed 4–3–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 151 0204]

DaVita, Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 27, 2017.

ADDRESSES: Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/davitarenalconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''In the Matter of DaVita, Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC., File No. 151–0204'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/davitarenalconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, write ''In the Matter of DaVita, Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC., File No. 151–0204'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Lisa DeMarchi Sleigh (202–326–2535), Bureau of Competition, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent orders to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 28, 2017), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.*

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 27, 2017. Write ''In the Matter of DaVita, Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC., File No. 151–0204'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *https://www.ftc.gov/policy/public-comments.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/davitarenalconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''In the Matter of DaVita, Inc., RV Management Corp., Renal Ventures Partners, LLC, Renal Ventures Limited, LLC, and Renal Ventures Management, LLC., File No. 151–0204'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 27, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Consent Agreement'') from DaVita, Inc. (''DaVita''). The purpose of the Consent

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Agreement is to remedy the anticompetitive effects resulting from DaVita's purchase of Renal Ventures Management, LLC from Renal Ventures Limited, LLC, which is owned by RV Management Corp. and Renal Ventures Partners, LLC (together, ''Renal Ventures''). Under the terms of the Consent Agreement, DaVita is required to divest seven dialysis clinics in seven markets across the United States.

The Consent Agreement has been placed on the public record for 30 days to solicit comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the Consent Agreement and the comments received, and will decide whether it should withdraw from the Consent Agreement, modify it, or make final the Decision and Order (''Order'').

The Transaction

Pursuant to an agreement dated August 17, 2015, DaVita proposes to acquire all issued and outstanding equity interests in Renal Ventures in a transaction valued at approximately $358 million. The Commission's Complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition for the provision of outpatient dialysis services in seven markets.

The Respondents

Headquartered in Denver, Colorado, DaVita is the second-largest provider of outpatient dialysis services in the United States. DaVita operates or manages 2,251 outpatient dialysis clinics in forty-six states and the District of Columbia at which approximately 180,000 end stage renal disease (''ESRD'') patients receive treatment. In 2015, DaVita's revenues were approximately $13.8 billion.

Renal Ventures, headquartered in Lakewood, Colorado, is a privately held company and the seventh-largest provider of outpatient dialysis services in the United States. Renal Ventures operates thirty-six dialysis centers, providing dialysis services to approximately 2,300 patients in six states. In 2015, Renal Ventures' revenues were approximately $161 million.

The Relevant Product and Structure of the Markets

Outpatient dialysis services is the relevant product market in which to assess the effects of the proposed transaction. For patients suffering from ESRD, dialysis treatments are a life-sustaining therapy that replaces the function of the kidneys by removing toxins and excess fluid from the blood. Kidney transplantation is the only alternative to dialysis for ESRD patients. However, the wait-time for donor kidneys—during which ESRD patients must receive dialysis treatments—can exceed five years. Additionally, many ESRD patients are not viable transplant candidates. As a result, ESRD patients have no alternative to dialysis treatments. Unless hospitalized, ESRD patients must obtain dialysis treatments from outpatient dialysis clinics.

Because most ESRD patients receive outpatient dialysis treatment three times per week in sessions lasting between three and five hours the relevant geographic markets are local and limited by the travel distance from patients' homes. ESRD patients are often very ill and suffer from multiple health problems, making travel further than thirty miles or thirty minutes very difficult. As a result, competition among dialysis clinics occurs at a local level, corresponding to metropolitan areas or subsets thereof. The exact contours of each market vary depending on traffic patterns, local geography, and the patients' proximity to the nearest center.

Competitive Effects of the Acquisition

Each of the seven geographic markets identified in the Complaint is highly concentrated. In each of the affected markets, the proposed acquisition would cause the number of providers to drop from three to two or cause a merger to monopoly, and the post-acquisition HHI levels to exceed 5,000, and in the three-to-two provider markets, changes in their HHIs greater than 200. The high post-acquisition concentration levels, along with the elimination of the head-to-head competition between DaVita and Renal Ventures, suggest the proposed combination likely would result in higher prices for outpatient dialysis services in each geographic market. In addition, market participants compete for patients on a number of quality measures—including quality of facilities, wait times, operating hours, and location. The proposed combination likely also would result in diminished service and quality for patients in each market.

Entry

Entry into the outpatient dialysis services markets identified in the Commission's Complaint is not likely to occur in a timely manner at a level sufficient to deter or counteract the likely anticompetitive effects of the proposed transaction. By law, each dialysis clinic must have a nephrologist medical director, and most dialysis clinics have long-term (seven to ten year) contracts with nephrologist medical directors, that also include non-competes. As a practical matter, medical directors also serve as the primary source of referrals and are essential to a clinic's success. The relative shortage and lack of available nephrologists, particularly those with an established referral stream, is a significant barrier to entry into each of the relevant markets. These obstacles make entry in the affected markets more challenging and less likely to avert the anticompetitive effects of the transaction.

The Consent Agreement

The Consent Agreement remedies the proposed acquisition's anticompetitive effects in seven markets where both DaVita and Renal Ventures operate dialysis clinics by requiring DaVita to divest seven outpatient dialysis clinics to PDA–GMF Holdco LLP, a joint venture between Physicians Dialysis and GMF Capital LLC (''PDA''). Physicians Dialysis has been in business since 1990 and currently operates several outpatient dialysis clinics. The Commission is satisfied that PDA is a qualified acquirer of the divested assets.

As part of the divestitures, DaVita is required to obtain the agreement of the medical director affiliated with each divested clinic to continue providing physician services after the transfer of ownership to the buyer. Similarly, the Consent Agreement requires DaVita to obtain the consent of all lessors necessary to assign the leases for the real property associated with the divested clinics to the buyer. These provisions ensure that the buyer will have the assets necessary to operate the divested clinics in a competitive manner.

The Consent Agreement contains several additional provisions designed to help ensure the continued competitiveness of the divested clinics. First, the Consent Agreement provides the buyer with the opportunity to interview and hire employees affiliated with the divested clinics and prevents DaVita from offering these employees incentives to decline the buyer's offer of employment. This helps ensure the buyer has access to patient care and supervisory staff familiar with the clinics' patients and the local physicians. Second, the Consent Agreement prevents DaVita from contracting with the medical directors affiliated with the divested clinics for three years, to prevent DaVita from

potentially limiting the competitiveness of the divested clinics. Third, to ensure continuity of patient care and records as the buyer implements its quality care, billing, and supply systems, the Consent Agreement requires DaVita to provide transition services for a period up to twenty-four months. Firewalls and confidentiality agreements will prevent the exchange of competitively sensitive information. Fourth, the Consent Agreement requires DaVita to provide the buyer with a license to Renal Ventures' policies, procedures, and medical protocols, as well as the option to obtain and use DaVita's medical protocols, policies, and procedures, to help with continuity of care for the divested clinics' patients.

The Consent Agreement requires DaVita to provide notice to the Commission prior to any acquisitions of dialysis clinics in the markets addressed by the Consent Agreement to ensure that subsequent acquisitions do not adversely impact competition in those markets or undermine the remedial goals of the proposed order. Finally, the Consent Agreement allows the Commission to appoint a monitor to oversee DaVita's compliance with the Consent Agreement.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order, or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–06556 Filed 4–3–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) GH17–002, Program Development and Research to Establish and Evaluate Innovative and Emerging Best Practices in Clinical and Community Services through the President's Emergency Plan for AIDS Relief (PEPFAR); GH17–003, Conducting Public Health Research in South Africa; and GH17–004, Conducting Public Health Research Activities in Egypt.

Times and Dates: 9:00 a.m.–2:00 p.m., EDT, April 25, 2017 (Closed), 9:00 a.m.–2:00 p.m., EDT, April 26, 2017 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Program Development and Research to Establish and Evaluate Innovative and Emerging Best Practices in Clinical and Community Services through the President's Emergency Plan for AIDS Relief (PEPFAR), FOA GH17–002; ''Conducting Public Health Research in South Africa'', FOA GH17–003,; and ''Conducting Public Health Research Activities in Egypt'', FOA GH17–004.

Contact Person for More Information: Hylan Shoob, Scientific Review Officer, Center for Global Health (CGH) Science Office, CGH, CDC, 1600 Clifton Road, NE., Mailstop D–69, Atlanta, Georgia 30033, Telephone: (404) 639–4796.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2017–06537 Filed 4–3–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–17–17AX]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted 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. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) 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; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Mobile Messaging Intervention to Present New HIV Prevention Options for Men Who have Sex with Men (MSM) Study—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Public health approaches to HIV prevention and control are increasingly complex for men who have sex with men (MSM), a population with a disproportionately high burden of HIV infection. In addition to the established biomedical treatments for HIV-positive MSM, and behavioral strategies to reduce the risk of transmitting or contracting HIV, current recommendations incorporate the breakthrough biomedical risk reduction

strategy of pre-exposure prophylaxis (PrEP) for HIV-negative MSM who are at high risk of contracting HIV. For maximum efficacy, health communications about HIV prevention and control should be delivered to MSM according to their HIV serostatus and risk category.

The National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention is requesting approval to evaluate the efficacy of a smartphone-based HIV prevention intervention for MSM, known as M^3(M-Cubed) that has been designed to deliver targeted messages in six intervention domains: HIV testing, sexually transmitted infection (STI) testing, PrEP, antiretroviral (ARV) treatment, Condoms, and Engagement in Care. The smartphone and tablet application includes 36 core messages and 12 videos that were developed based on CDC-sponsored iterative formative research (OMB No. 0920–0840) and a review of HIV health communications literature. Messages will be delivered to each participant's device. The proposed study will assess whether exposure to the message-delivery platform results in improvements in participants' self-reported sexual health and HIV prevention behaviors, beliefs and attitudes. Information will be collected at baseline and 3-month, 6-month, and 9-month follow-ups.

The study population will include 1,206 adult MSM living in Atlanta, GA, Detroit, MI and New York City, NY. These study sites were selected not only because they have high rates of HIV, but also because significant disparities in HIV among men who have sex with men (MSM) have been observed by race/ethnicity and age. Study participants will be sexually active MSM at least 18 years in age who own and use and Android and iOS smartphone. Study participants will be stratified by risk category: HIV positive (one third) and HIV negative (one third each: condomless anal sex in past three months; no condomless anal sex past three months). Across the three sites, we will ensure that at least 40% of participants are people of color (non-white or Hispanic) by quota sampling. Participants will be recruited to the study through a combination of approaches, including online advertisement, traditional print advertisement, referral, in-person outreach, and through word of mouth. Participants will be randomly assigned to an intervention group or a waitlist control group. The control group will receive the intervention after the study has been completed.

A quantitative assessment questionnaire will be administered online at four points in time. The assessment will be used to measure changes in condom use behavior, number of sex partners, HIV testing, sexually transmitted disease (STD) testing, health care engagement, pre-exposure prophylaxis uptake and adherence, and antiretroviral therapy uptake and adherence following completion of the intervention. Participants will complete the assessment in-person at baseline and 9-months, using a computer in a private location, and remotely via their personal computer or tablet device at the 3-month and 6-month follow-ups. The same information will be collected from all participants. The burden per response for each assessment is 1.5 hours.

It is expected that 50% of men screened will meet study eligibility and provide contact information, that 75 percent will schedule and show up for an in-person appointment, and that 95 percent of these men will remain eligible after reverification. We expect the initial screening to take approximately four minutes to complete, that providing contact information will take 1 minute, and the rescreening prior to study enrollment to take another four minutes.

OMB approval is requested for two years. Participation is voluntary and there are no costs to the respondents other than their time. The total estimated annual burden is 3,787 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Men ≥ 18 Years of Age Who Have Sex With Men.	Participant Screening (Eligibility)	1,693	1	4/60
	Contact Information Form	847	1	1/60
	Participant Screening (Verification)	635	1	4/60
	Assessment	603	4	1.5

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. 2017–06577 Filed 4–3–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to Funding Opportunity Announcement (FOA) DP17–001, Community Characteristics Associated with Geographic Disparities in Diabetes and Cardiometabolic Health.

Times and Dates:

10:00 a.m.–6:00 p.m., EDT, April 25, 2017 (Closed)

10:00 a.m.–6:00 p.m., EDT, April 26, 2017 (Closed)

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review,

discussion, and evaluation of applications received in response to ''Community Characteristics Associated with Geographic Disparities in Diabetes and Cardiometabolic Health'', DP17–001.

Contact Person for More Information: Jaya Raman Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, Mailstop F80, Atlanta, Georgia 30341, Telephone: (770) 488–6511, *kva5@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–06536 Filed 4–3–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.

Date: May 30–31, 2017.

Time: 2:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Neuroscience of Aging Review Committee,

Date: June 1–2, 2017.

Time: 2:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Jeannette L. Johnson, Ph.D., Deputy Review Branch Chief, National Institutes of Health, National Institute on Aging, Gateway Building, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: June 1–2, 2017.

Time: 2:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Alicja L. Markowska, Ph.D., Dsc., National Institute on Aging, National Institutes of Health, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06553 Filed 4–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Development and Commercialization of Peptides Promoting Lipid Efflux for the Treatment of Hypertriglyceridemia, With or Without Concomitant Metabolic Syndrome

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Heart, Lung, and Blood Institute (NHLBI), an institute of the National Institutes of Health; an agency within the Department of Health and Human Services, is contemplating the grant of an exclusive patent license to commercialize the invention(s) embodied in the intellectual property estate stated in the Summary Information section of this notice to Corvidia Therapeutics Inc. (Corvidia) located in Waltham, MA and incorporated under the laws of Delaware.

DATES: Only written comments and/or applications for a license which are received by the NHLBI Office of Technology Transfer and Development on or before April 19, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive license should be directed to: Cristina Thalhammer-Reyero, Ph.D., MBA, Senior Licensing and Patenting Manager, NHLBI Office of Technology Transfer and Development, 31 Center Drive Room 4A29, MSC2479, Bethesda, MD 20892–2479; Telephone: +1–301–435–4507; Fax: +1–301–594–3080; Email: *thalhamc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The following represents the intellectual property to be licensed under the prospective agreement:

U.S. Provisional Patent Application Serial No. 61/045,213, filed 04/15/2008; PCT Application No. PCT/US2009/040560, filed 04/14/2009; U.S. Patent Application Serial No.12/937,974, issued as 8,936,787 on 01/20/2015; Titled ''Peptides Promoting Lipid Efflux'' (NIH Reference No. E–138–2008/0).

With respect to persons who have an obligation to assign their right, title and interest to the Government of the United States of America, the patent rights in these inventions have been assigned to the Government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to: ''Treatment of Hypertriglyceridemia, with or without concomitant metabolic syndrome''.

The invention pertains to compositions and methods of use of ApoC–II mimetic peptides with multiple amphipathic alpha helical domains that have the dual ability to promote lipid efflux from cells and stimulate lipoprotein lipase activity, without inducing toxicity. This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Exclusive Patent License will be royalty bearing and may be granted unless within fifteen (15) days from the date of this published notice, the NHLBI Office of Technology Transfer and Development receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant

of the contemplated Exclusive Patent License. Comments and objections to this notice submitted will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: March 21, 2017.

Cristina Thalhammer-Reyero,

Senior Licensing and Patenting Manager, Office of Technology Transfer and Development, National Heart, Lung, and Blood Institute.

[FR Doc. 2017–06546 Filed 4–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Start-up Exclusive Evaluation Option Patent License: ''The Development and Use of Diazeniumdiolated and Hybrid Diazeniumdiolated Compounds for the Treatment of Ovarian Cancer in Humans''

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of a Start-up Exclusive Evaluation Option License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to Tar Meta Biosciences, Inc. (''TarMeta'') located in King of Prussia, PA, USA.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before April 19, 2017 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Start-up Exclusive Evaluation Option License should be directed to: Kathleen Higinbotham, Senior Technology Transfer Manager, NCI Technology Transfer Center, Riverside 5, Suite 400, 8490 Progress Dr., Frederick, MD 21701, Telephone: (301)-624–8775; Facsimile: (301)-631–3027 Email: *higinbok@mail.nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

(1) E–025–2010/0 entitled ''Nitric Oxide-based Cancer Therapeutic Agents For Lung Cancers With Elevated Levels Of Reactive Oxygen Species (ROS) And/or Low Levels Of Antioxidant Defense/DNA Repair Mechanisms.''

(a) United States Provisional Patent Application No. 61/261,175 filed November 13, 2009;

(b) PCT Application No. PCT/US2010/056446 filed November 12, 2010;

(c) United States Patent Application No. 13/509,431 filed June 01, 2012, US Patent 9,205,091 issued December 08, 2015;

(d) Australian Patent Application No. 2010319398 filed May 09, 2012;

(e) Canadian Patent Application No. 2,780,633 filed May 10, 2012;

(f) European Patent Application No. 10778814.3 filed May 14, 2012;

(2) E–220–2011/0 entitled ''Hybrid Diazeniumdiolated Compounds, Pharmaceutical Compositions, And Method Of Treating Cancer.''

(a) United States Provisional Patent Application No. 61/549,862, filed October 21, 2011;

(b) PCT Application No. PCT/US2012/060785 filed October 18, 2012;

(c) United States Patent Application No. 14/352,096 filed April 16, 2014, US Patent 9,168,266 issued October 27, 2015;

(d) Australian Patent Application No. 2012326105 filed April 14, 2014;

(e) Canadian Patent Application No. 2,852,682 filed April 14, 2014;

(f) European Patent Application No. 12841601.3 filed April 14, 2014, European Patent 2768824 issued December 07, 2016;

(i) German Patent 602012026435.7 issued December 07, 2016;

(ii) French Patent 2768824 issued December 07, 2016; and

(iii) UK Patent 2768824 issued December 07, 2016.

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to ''The development and use of diazeniumdiolated and hybrid diazeniumdiolated compounds for the treatment of ovarian cancer in humans.''

The present inventions describe the use of diazeniumdiolate-based nitric oxide (NO)-releasing compounds wherein the cancer cell has an elevated level of reactive oxygen species (ROS), as well as the use of hybrid prodrug molecules that combine a diazeniumdiolated compound and a poly(ADP-ribose) polymerase (PARP) inhibitor in cancer cells to produce synergistic effects, whether alone or as an adjuvant for other therapies. The hybrid prodrug is expected to enhance cytotoxicity by creating DNA damage with NO and preventing its repair with the PARP inhibitor. The prodrug and the hybrid are activated by glutathione S-transferase and are predicted to be effective in cancers with reactive oxygen species (ROS), both of which are elevated in many cancers. In addition, the prodrug and hybrid may have synergy with therapeutics (such as proteasome inhibitor bortezomib and doxorubicin) which act through generation of ROS. Taken together, these features suggest that the prodrug and hybrid may have therapeutic applications in cancer patients whose tumors include high levels of ROS.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Start-up Exclusive Evaluation Option License will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the contemplated Start-up Exclusive Evaluation Option License Agreement. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: March 21, 2017.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2017–06545 Filed 4–3–17; 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 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 Heart, Lung, and Blood Institute Special Emphasis Panel; Molecular Mechanisms of Ventilator-Induced Lung Injury.

Date: April 27, 2017.

Time: 10:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Shelley S Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.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: March 29, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06551 Filed 4–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will also be videocast and can be accessed from the NIH Videocasting and Podcasting Web site (*http://videocast.nih.gov/*).

Name of Committee: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: May 8, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: Ongoing and new activities at the Frederick National Laboratory for Cancer Research.

Place: National Institutes of Health, 31 Center Drive, Building 31, Wing C; 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Caron A. Lyman, Ph.D., Executive Secretary, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W–126, Bethesda, MD 20892, 240–276–6348, *lymanc@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/fac/fac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06550 Filed 4–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 patentablematerial, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel, Developmental Programming and Aging.

Date: May 2, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200C, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Greg Bissonette, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Translational Bioinformatics and Alzheimer's Disease.

Date: May 18, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200C, 7201 Wisconsin Ave., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Greg Bissonette, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health,Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1622, *bissonettegb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 29, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–06552 Filed 4–3–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0203]

National Maritime Security Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The National Maritime Security Advisory Committee will meet in Norfolk, Virginia, to review and discuss various issues relating to national maritime security. All meetings will be open to the public.

DATES: The Committee will meet on Tuesday, April 25, 2017, from 12 Noon to 4:30 p.m. and on Wednesday, April 26, 2017, from 8 a.m. to 12 Noon. This meeting may close early if all business is finished.

ADDRESSES: The meeting will be held in the Port of Virginia Conference Room on the 6th floor of the World Trade Center,

600 World Trade Center; Norfolk, Virginia 23510. The Port of Virginia's Web site is: *http://www.portofvirginia.com/.*

This meeting will be broadcast via a web enabled interactive online format and teleconference line. To participate via teleconference, dial 1–855–475–2447; the pass code to join is 764 990 20#. Additionally, if you would like to participate in this meeting via the online web format, please log onto *https://share.dhs.gov/nmsac/* and follow the online instructions to register for this meeting. If you encounter technical difficulties, contact Mr. Ryan Owens at (202) 302–6565.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the individual listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want committee members to review your comment before the meetings, please submit your comments no later than April 20, 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–2017–0203] in your submission. Written comments should be submitted using the Federal eRulemaking Portal: *http://www.regulations.gov.* If you encounter technical difficulties, contact Mr. Ryan F. Owens. Comments received will be posted without alteration at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005 issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* and use ''USCG–2017–0203'' in the ''Search'' box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–372–1108 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the Federal Advisory Committee Act, (Title 5, United States Code, Appendix). The National Maritime Security Advisory Committee operates under the authority of 46 U.S.C. 70112. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NMSAC* by April 25, 2017. Alternatively, you may contact Ryan Owens as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda of Meeting

Day 1

The Committee will meet to review, discuss and formulate recommendations on the following issues:

(1) Security and Partnerships in the Port Of Virginia. The Committee will receive a presentation from the Port of Virginia providing review of how the Port of Virginia is partnering to implement security strategies.

(2) Container Security, Non-Intrusive Inspection/Radiation Portal Monitors. The Committee will discuss, receive a briefing and provide recommendations on Customs and Border Protections efforts to implement non-intrusive inspection in US ports.

(3) Unmanned Aerial Vehicles. The increase in the use of unmanned aerial vehicles within ports has introduced the need to provide guidance on how to identify and report potential suspicious activity associated with these vehicles. The Committee will discuss, receive a briefing and provide guidance.

(4) Seafarer Access. The Committee will receive a follow-on brief from a discussion at the last October 2016 public meeting.

(5) Regulatory Update. The Committee will receive an update brief on regulatory efforts to date.

(6) Public Comment period.

Day 2

The Committee will meet to review, discuss and formulate recommendations on the following issues:

(1) Extremely Hazardous Cargo Strategy. In July, the Coast Guard tasked the Committee to work with the Chemical Transportation Advisory Committee to assist in the development of an Extremely Hazardous Cargo Strategy Implementation Plan. The Committee will discuss and receive an update from the Extremely Hazardous Cargo Working Group on their efforts.

(2) Cyber Security. The Committee will discuss and receive a brief on the current efforts to implement cyber security strategies.

(3) Cascadia Horizon. The Committee will discuss and receive a brief on the results of the Coast Guard's participation in the Cascadia Rising National Level exercise.

(4) Public comment period.

Public comments or questions will be taken throughout the meeting as the Committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: March 29, 2017.

V.B. Gifford, Jr.

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2017–06656 Filed 4–3–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6025–N–01]

Mortgagee Review Board: Administrative Actions

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (''HUD'').

ACTION: Notice.

SUMMARY: In compliance with Section 202(c)(5) of the National Housing Act, this notice advises of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

FOR FURTHER INFORMATION CONTACT: Nancy A. Murray, Secretary to the Mortgagee Review Board, 451 Seventh Street SW., Room B–133/3150, Washington, DC 20410–8000; telephone (202) 708–2224 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Section 202(c)(5) of the National Housing Act (12 U.S.C. 1708(c)(5)) requires that HUD ''publish a description of and the cause

for administrative action against a HUD-approved mortgagee'' by HUD's Mortgagee Review Board (''Board''). In compliance with the requirements of Section 202(c)(5), this notice advises of actions that have been taken by the Board in its meetings from October 1, 2015 to September 30, 2016.

I. Civil Money Penalties, Withdrawals of FHA Approval, Suspensions, Probations, Reprimands, and Administrative Payments

1. AmCap Mortgage, Ltd., Houston, TX [Docket No. 15–1889–MR]

Action: On June 16, 2016, the Board voted to accept the terms of a settlement agreement with AmCap Mortgage, Ltd. (''AmCap'') that required AmCap to (a) pay a civil money penalty in the amount of $262,500; (b) pay an additional $75,000; and (c) refrain from making any claim for insurance benefits and/or indemnify HUD/FHA for all losses associated with three HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: AmCap (a) falsely certified to HUD/FHA that it had complied with all HUD/FHA regulations in its 2013 and 2014 annual certifications; (b) failed to timely notify HUD of four incidents in which AmCap and its employees were sanctioned by the states of Utah and Oklahoma; (c) failed to ensure the correct branch identification number was used when originating four HUD/FHA insured mortgage loans; (d) failed to perform quality control reviews for 43 loans that had early payment defaults; (e) failed to perform the HUD/FHA required management response to address material appraisal deficiencies identified in the quality control report for one loan; (f) failed to include all of the borrower's liabilities in determining the debt to income ratio for one loan; (g) failed to properly document the source of closing funds for two loans; and (h) failed to question the appraiser's use of properties as comparables that were not of the same quality as the subject modular home for one loan.

2. BancFirst, Oklahoma City, OK [Docket No. 16–1736]

Action: On August 25, 2016, the Board voted to seek civil money penalties against BancFirst. The Board entered into a settlement agreement with BancFirst that required BancFirst to pay a civil money penalty in the amount of $17,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: BancFirst (a) failed to properly notify HUD/FHA it had acquired CSB Bancshares, Inc. and its subsidiary bank, Bank of Commerce; and (b) falsely certified to HUD/FHA that it had complied with all HUD/FHA regulations in its March 1, 2016 annual certification.

3. Bank of England, Little Rock, AR [Docket No. 16–1669–MR]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with Bank of England (''BOE''). Pursuant to the terms of the settlement, BOE was required to (a) pay a civil money penalty in the amount of $6,500; and (b) refrain from making any claim for insurance benefits and/or indemnify HUD/FHA for the life of the loan on all losses associated with one HUD/FHA insured loan. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on BOE's alleged violation of HUD/FHA requirements by its failure to verify and adequately document the borrowers' source of funds for closing for two loans.

4. Branch Banking and Trust Company, Greensboro, NC [Docket No. 16–0075–FC]

Action: On September 9, 2016, the Board voted to release Branch Banking and Trust Company (''BB&T'') from any civil money penalties or administrative actions as part of a settlement between BB&T and the United States that required BB&T to pay the United States $83,000,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on BB&T's alleged failure to properly originate, underwrite and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

5. City First Mortgage Services, LLC, Bountiful, UT [Docket No. 15–1657–MR]

Action: On March 10, 2016, the Board voted to accept the terms of a settlement agreement with City First Mortgage Services, LLC (''City First'') that required City First to pay a civil money penalty in the amount of $35,000 without admitting fault or liability.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: City First (a) failed to comply with Generally Accepted Accounting Principles by inappropriately placing two real estate properties, and the mortgage loans secured by those properties, on its 2012 and 2013 balance sheets; (b) falsely certified to HUD/FHA that City First had complied with all HUD/FHA regulations in its 2014 annual certification; (c) failed to notify HUD that City First entered into a consent order with and paid a fine to the State of Illinois, Department of Financial and Professional Regulation, Division of Banking; and (d) failed to notify HUD that City First entered into a settlement agreement with and paid a penalty to the Department of Business Oversight for the State of California.

6. First Heritage Financial, LLC., Trevose, PA [Docket No. 16–0000–MR]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with First Heritage Financial, LLC (''First Heritage''). The settlement agreement required First Heritage to (a) pay a civil money penalty in the amount of $120,500; and (b) refrain from making any claim for insurance benefits and/or indemnify HUD/FHA for the life of the loan on all losses associated with 36 HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault and the Board executed the settlement agreement on January 3, 2017.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: First Heritage (a) falsely certified to HUD/FHA that First Heritage had complied with all HUD/FHA regulations in its 2015 annual certification; (b) failed to notify HUD that First Heritage entered into a consent agreement and order with and paid a fine to the Pennsylvania Department of Banking, Securities Compliance office; and (c) submitted false loan certifications for 36 loan files by allowing an individual whose mortgage loan license had been suspended and cancelled to process the origination of HUD/FHA insured loans.

7. First Mortgage Company, Oklahoma City, OK [Docket No. 16–1823]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with First Mortgage Company (''First Mortgage''). Pursuant to the terms of the settlement agreement, First Mortgage was required to pay a civil money penalty in the amount of $5,000 without admitting fault or liability.

Cause: The Board took this action based on First Mortgage's alleged violation of HUD/FHA requirements by its failure to notify HUD that First Mortgage entered into a consent order

with and paid fine to the State of Washington's Department of Financial Institutions.

8. Franklin American Mortgage Company, Franklin, IN [Docket No. 15–0094–FC]

Action: On November 29, 2015, the Board voted to release Franklin American Mortgage Company (''FAMC'') from any civil money penalties or administrative actions as part of a settlement between FAMC and the United States that required FAMC to pay the United States $70,000,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on FAMC's alleged failure to properly originate, underwrite, and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

9. Freedom Mortgage Corporation, Mount Laurel, NJ [Docket No. 16–0034–FC]

Action: On March 10, 2016, the Board voted to release Freedom Mortgage Corporation (''FMC'') from any civil money penalties or administrative actions as part of a settlement between FMC and the United States that required FMC to pay the United States $113,000,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on FMC's alleged failure to properly originate, underwrite, and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

10. Golden Empire Mortgage, Inc., Bakersfield, CA [Docket No. 16–1670–MR]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with Golden Empire Mortgage, Inc. (''GEMI''). Pursuant to the terms of the settlement agreement, GEMI was required (a) to pay a civil money penalty in the amount of $128,000; and (b) refrain from making any claim for insurance benefits and/or indemnify HUD/FHA for all losses associated with six HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: GEMI (a) employed a branch manager who was indicted for bank fraud during his tenure with GEMI; (b) continued to originate HUD/FHA loans that were ineligible for insurance due to GEMI's continued employment of the indicted manager; and (c) failed to promptly notify HUD that GEMI's branch manager had been indicted for bank fraud.

11. HSBC Bank USA NA, Depew, NY [Docket No. 16–0076–FC]

Action: On January 29, 2016, the Board voted to release HSBC Bank USA NA (''HSBC'') from any civil money penalties or administrative actions as part of a settlement between HSBC and the United States that required HSBC to pay the United States $100,000,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on HSBC's alleged failure to properly service HUD/FHA insured loans in violation of HUD/FHA requirements.

12. Liberty Bank, Middletown, CT [Docket No. 16–1690 MRT]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with Liberty Bank. Pursuant to the terms of the agreement, Liberty Bank was required to pay a civil money penalty in the amount of $8,500 without admitting fault or liability.

Cause: The Board took this action based on Liberty Bank's alleged violation of HUD/FHA requirements by its failure to comply with HUD/FHA merger notification requirements.

13. Manufacturers and Traders Trust Company, Buffalo, NY [Docket No. 16–0040–FC]

Action: On March 10, 2016, the Board voted to release Manufacturers and Traders Company (''M&T'') from any civil money penalties or administrative actions as part of a settlement between M&T and the United States that required M&T to pay the United States $64,000,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on M&T's alleged failure to properly originate, underwrite, and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

14. Meadowbrook Financial Mortgage Bankers Corporation, Garden City, NY [Docket No. 16–1661–MR]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with Meadowbrook Financial Mortgage Bankers Corporation (''MFMBC'') that required MFMBC to pay a civil money penalty in the amount of $5,000.

Cause: The Board took this action based on MFMBC's alleged violation of HUD/FHA requirements by its improper approval of an HUD/FHA insured mortgage for an ineligible co-borrower as the co-borrower was a non-permanent resident alien and was not going to occupy the property as a principal residence.

15. Mortgage Services III, Bloomington, IL [Docket No. 15–1814–MR]

Action: On October 22, 2015, the Board voted to accept the terms of a settlement agreement with Mortgage Services III, LLC (''MSIII'') that required MSIII to pay a civil money penalty in the amount of $3,500 without admitting fault or liability.

Cause: The Board took this action based on MSIII's alleged violation of HUD/FHA requirements by its failure to obtain a payoff statement for a subordinate lien that was to be paid off with the proceeds of a HUD/FHA insured mortgage.

16. Ocwen Loan Servicing, LLC, West Palm Beach, FL [Docket No. 15–1636–MR]

Action: On June 2, 2016, the Board entered into a settlement agreement with Ocwen Loan Servicing, LLC (''Ocwen'') that required Ocwen to (a) pay a civil money penalty in the amount of $604,000; (b) reimburse HUD in the amount of $225,875 for losses HUD incurred on three HUD/FHA insured loans; and (c) reimburse HUD in the amount of $2,000 for loss mitigation incentive fees with respect to two HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: Ocwen (a) failed to comply with HUD's loss mitigation requirements with respect to seven loans; (b) failed to send letters to borrowers' attorneys notifying them of the availability of loss mitigation for four loans; (c) failed to conduct and document that it performed a management committee review prior to referring loans to foreclosure for 37 loans; (d) failed to complete foreclosures within the required time frames, without seeking an extension of time from HUD for 18 loans; (e) failed to timely disburse escrow funds for insurance and taxes, resulting in penalties or late fees accruing to the borrower, for five loans; (f) improperly charged borrowers fees that were not in accordance with HUD/FHA requirements for 52 loans; (g) failed to check the Limited Denial of Participation and System for Award Management (''LDP/SAM'') exclusion lists prior to approving a Home

Affordable Modification Program (''HAMP''); (h) failed to produce or retain portions of the servicing files as required by HUD for five loans; (i) failed to comply with HUD document requests; (j) failed to accurately report 38 loans in HUD's Single Family Default Monitoring System (''SFDMS''); (k) sent delinquent borrowers outdated HUD documentation; (l) failed to implement a quality control program that contained all of the elements required by HUD; and (m) failed to timely report to HUD a regulatory action by multiple state attorneys general and the CFPB.

17. Peoples Bank, Overland Park, KS [Docket No. 15–1703–MR]

Action: On October 22, 2015, the Board voted to accept the terms of a settlement agreement with Peoples Bank that required Peoples Bank to (a) pay a civil money penalty in the amount of $5,000; and (b) refrain from making any claim for insurance benefits and/or indemnify HUD/FHA for all losses associated with one HUD/FHA insured loan. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on Peoples Bank's alleged violation of HUD/FHA requirements by its failure to reconcile discrepancies with respect to verification of a borrower's employment.

18. RANLife, Inc., Sandy, UT [Docket No.16–0077–FC]

Action: On October 22, 2015, the Board voted to accept the terms of a settlement agreement between RANLife, Inc. (''RANLife'') and the United States that required RANLife to pay the United States $1,032,714.96, of which HUD will receive $1,001,733.51 paid over two years. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on RANLife's alleged violation of HUD/FHA requirements by its failure to properly underwrite and conduct quality control reviews on HUD/FHA insured loans.

19. Regions Bank, Hoover, AL [Docket No. 16–0068–FC]

Action: On September 9, 2016, the Board voted to release Regions Bank (''Regions'') from any civil money penalties or administrative actions as part of a settlement between Regions and the United States that required Regions to pay the United States $52,400,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on Regions' alleged failure to properly originate, underwrite, and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

20. Renasant Bank, Birmingham, AL [Docket No. 16–1721–MR]

Action: On August 25, 2016, the Board voted to accept the terms of a settlement agreement with Renasant Bank (''Renasant'') that required Renasant to pay a civil money penalty in the amount of $17,000 without admitting fault or liability.

Cause: The Board took this action based on the following violation of HUD/FHA requirements alleged by HUD: Renasant (a) failed to comply with HUD/FHA merger notification requirements; and (b) falsely certified to HUD/FHA that Renasant had complied with all HUD/FHA regulations in its 2015 annual certification.

21. Ross Mortgage Corporation, Troy, MI [Docket No. 16–1633–MR]

Action: On April 21, 2016, the Board voted to accept the terms of a settlement agreement with Ross Mortgage Corporation (''RMC'') that required RMC to: (a) Pay a civil money penalty in the amount of $97,500; (b) pay a sum of $327,500; (c) pay $1,325,000 to reimburse HUD for losses that it has suffered, or anticipates that it will suffer, with respect to 20 HUD/FHA insured loans; and (d) indemnify HUD for 33 HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: RMC (a) failed to obtain adequate documentation to verify the source of funds or failed to clarify and resolve discrepancies in the documentation prior to the loans' approval for HUD/FHA insurance for 67 loans; (b) accepted and used faxed documents from an undisclosed source without obtaining a copy of the original documents or verifying the authenticity of the information provided for 24 loans; (c) submitted false certifications regarding the origination and processing of seven HUD/FHA insured mortgage loans; (d) failed to comply with HUD's requirements regarding the prohibition on property flipping, or failed to obtain and submit to HUD a complete second appraisal for three loans; (e) failed to consider the borrower's liabilities in the underwriting analysis and to verify and document whether the borrower met HUD/FHA requirements relating to income, credit, and cash investment for six loans; (f) failed to provide adequate documentation to ensure the borrowers were current for the month due prior to closing on the land contract being refinanced for one loan; (g) charged a commitment fee without a written guarantee that ensured the loan terms would not change for a definite period of time for ten loans; and (h) failed to implement a quality control plan that was in compliance with HUD/FHA requirements.

22. SecurityNational Mortgage Company, Salt Lake City, UT [Docket No. 16–0073–FC]

Action: On September 9, 2016, the Board voted to release SecurityNational Mortgage Company (''SNMC'') from any civil money penalties or administrative actions as part of a settlement between SNMC and the United States that required SNMC to pay the United States $4,250,000. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on SNMC's alleged failure properly originate, underwrite, and conduct quality control reviews for HUD/FHA insured loans in violation of HUD/FHA requirements.

23. Sutherland Mortgage Services, Inc., Houston, TX [Docket No. 16–1657–MRT]

Action: On August 25, 2016, the Board voted to seek civil money penalties against Sutherland Mortgage Services, Inc. (''SMS''). The Board entered into a settlement agreement with SMS that required SMS to pay civil money penalties in the amount of $23,500.

Cause: The Board took this action based on the following violations of HUD/FHA requirements as alleged by HUD: SMS (a) failed to timely submit its annual audited financial statement and supplemental reports; (b) failed to notify HUD of quarterly net operating losses exceeding 20%; and (c) failed to notify HUD of a sanction imposed by the State of Oklahoma.

24. TD Bank Group, Falmouth, ME [Docket No. 15–1668–MR]

Action: On March 10, 2016, the Board voted to accept the terms of a settlement agreement with TD Bank Group (''TD Bank'') that required TD Bank to pay a civil money penalty in the amount of $221,000 and indemnify HUD for losses incurred for fourteen HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements as alleged by HUD: TD Bank (a) failed to resolve discrepancies regarding the borrower's employment and bank documents with respect to one loan; (b) failed to

adequately document the income and/or stability of borrower income for two loans; (c) failed to properly document a gift for one loan; (d) failed to properly record a Mortgage Insurance Certificate for one loan; (e) failed to ensure that borrowers met credit eligibility requirements with respect to four loans; (f) failed to confirm that borrowers in refinance transactions had made all mortgage payments on loans being refinanced within the month due for the prior 12 months for 11 loans; (g) failed to document the mortgage loan payoff statements for five loans; and (h) failed to obtain a Certification for Individual Unit Financing as required for condominium approval.

25. United Shore Financial Services, LLC., Troy MI [Docket No. 15–1566–MR]

Action: On December 17, 2015, the Board voted to accept the terms of a settlement agreement with United Shore Financial Services, LLC (''USFS'') that required USFS (a) to pay a civil money penalty in the amount of $110,500; and (b) refrain from making any claim for insurance benefits and/or indemnify HUD for losses incurred for twenty-four HUD/FHA insured loans. The settlement did not constitute an admission of liability or fault.

Cause: The Board took this action based on the following violations of HUD/FHA requirements alleged by HUD: USFS (a) failed to adequately document the income or stability of income used to qualify borrowers for nine loans; (b) failed to adequately document the source of funds used for the down payment, closing costs, or payment of debt prior to closing for eight loans; (c) failed to consider all of the borrowers' liabilities in the underwriting analysis for six loans; (d) failed to resolve discrepancies or irregularities with respect to social security numbers and paystubs for one loan; (e) failed to correctly calculate the maximum mortgage amount for one loan; (f) failed to properly check the Credit Alert Verification Reporting System (''CAVRS'') by entering the wrong social security number and consequently approving one loan; (g) failed to comply with HUD's property flipping waiver requirements for one loan; (h) failed to submit accurate loan level data in FHA Connection for six loans; and (i) charged borrowers for credit reports in amounts that exceeded USFS's actual costs for ten loans.

II. Lenders That Failed To Timely Meet Requirements for Annual Recertification of HUD/FHA Approval but Came Into Compliance

Action: The Board entered into settlement agreements with the lenders listed below, which required the lender to pay a civil money penalty without admitting fault or liability.

Cause: The Board took this action based upon allegations that the lenders listed below failed to comply with HUD's annual recertification requirements in a timely manner.

1. 1st Constitution Bank, Cranbury, NJ ($3,500) *[Docket No.15–1935–MRT]*
2. 1st Reliant Home Loans, Inc., Costa Mesa, CA ($3,500) *[Docket No. 15–1811–MRT]*
3. ADK Bancorp, Inc., Westminster, CA ($8,500) *[Docket No.15–1949–MRT]*
4. Anchor Mortgage, LLC, Daniel Island, SC ($3,500) *[Docket No.16–1607–MRT]*
5. Approved Funding Corp., Brooklyn, NY ($8,500) *[Docket No. 15–1913–MRT]*
6. Arcstone Financial, Inc., Los Angeles, CA ($4,500) *[Docket No.16–1839–MRT]*
7. Arcstone Financial, Inc., Los Angeles, CA ($3,500) *[Docket No. 15–1833–MRT]*
8. Associated Credit Union of Texas, League City, TX ($4,500) *[Docket No. 16–1734–MRT]*
9. Audubon Savings Bank, Audubon, NJ ($3,500) *[Docket No. 15–1652–MRT]*
10. Aurora Financial Group, Inc., Marlton, NJ ($4,500) *[Docket No.16–1788–MRT]*
11. Bank Vista, Sartell, MN ($3,500) *[Docket No. 15–1916–MRT]*
12. Bay Bank, FSB, Timonium, MD ($4,500) *[Docket No. 15–1809–MRT]*
13. BCB Community Bank, Bayonne, NJ ($16,000) *[Docket No. 15–1666–MRT]*
14. BondCorp Realty Services, Inc., Newport Beach, CA ($4,250) *[Docket No. 15–1859–MRT]*
15. Boulder Valley Credit Union, Boulder, CO ($8,500) *[Docket No.16–1639–MRT]*
16. Bridgeview Mortgage Corporation, Franklin Square, NY ($8,500) *[Docket No. 15–1712–MRT]*
17. Cache Valley Bank, Logan, UT ($3,500) *[Docket No. 14–1635–MRT]*
18. Castle Mortgage Corporation, San Diego, CA ($4,500) *[Docket No. 16–1680–MRT]*
19. CBC Federal Credit Union, Oxnard, CA ($3,500) *[Docket No. 15–1604–MRT]*
20. CenterBank, Milford, OH ($3,500) *[Docket No. 15–1897–MRT]*
21. Central Bank, Tampa, FL ($3,500) *[Docket No. 15–1866–MRT]*
22. Central Bank and Trust, Lander, WY ($3,500) *[Docket No. 15–1590–MRT]*
23. Chicago Financial Services, Inc., Chicago, IL ($3,500) *[Docket No. 15–1955–MRT]*
24. Citizens National Bank of Greater St. Louis, Maplewood, MO ($3,500) *[Docket No. 15–1581–MRT]*
25. Citizens Trust Bank, Atlanta, GA, ($3,500) *[Docket No. 15–1760–MRT]*
26. City Savings Bank & Trust, Deridder, LA, ($8,500) *[Docket No. 15–1761–MRT]*
27. Clark County Credit Union, Las Vegas, NV ($3,500) *[Docket No. 15–1829–MRT]*
28. Community First National Bank, Manhattan, KS ($3,500) *[Docket No. 15–1874–MRT]*
29. Community Resource Credit Union, Baytown, TX ($4,500) *[Docket No. 16–1826–MRT]*
30. Community State Bank, Saint Charles, MI ($3,500) *[Docket No. 15–1623–MRT]*
31. Congressional Bank, Bethesda, MD ($8,500) *[Docket No. 15–1763–MRT]*
32. Cooperativa de Ahorro y Credito La Puertorriquena, San Juan, PR ($8,500) *[Docket No. 16–1600–MRT]*
33. CoVantage Credit Union, Antigo, WI ($4,500) *[Docket No. 16–1664–MRT]*
34. Crescent Mortgage Company, Atlanta, GA ($4,500) *[Docket No. 15–1888–MRT]*
35. Cross River Bank, Teaneck, NJ ($3,500) *[Docket No. 16–1677–MRT]*
36. Directors Financial Group, Newport Beach, CA ($4,500) *[Docket No. 16–1842–MRT]*
37. DSW Mortgage, Inc., Boulder, CO ($4,500) *[Docket No. 16–1808–MRT]*
38. Eagle Mortgage & Funding Inc., Memphis, TN ($3,500) *[Docket No. 15–1725–MRT]*
39. Express Solutions Mortgage Corporation, Cabo Rojo, PR ($8,500) *[Docket No. 16–1810–MRT]*
40. Fifth Third Bank, Cincinnati, OH ($3,500) *[Docket No. 16–1648–MRT]*
41. First Bank of the Palm Beaches, West Palm Beach, FL ($3,500) *[Docket No. 15–1965–MRT]*
42. First Capital Bank of Kentucky, Louisville, KY ($3,500) *[Docket No. 14–1720–MRT]*
43. FirstCity Bank of Commerce, Palm Beach Gardens, FL ($3,500) *[Docket No. 15–1890–MRT]*
44. First Mariner Bank, Baltimore, MD ($3,500) *[Docket No. 15–1927]*
45. First National Bank, Southlake, TX ($7,500) *[Docket No. 15–1769–MRT]*
46. First National Bank, Cortez, Cortez, CO ($4,500) *[Docket No. 16–1676–MRT]*
47. First National Bank, USA, Boutte, LA ($3,500) *[Docket No. 15–1579–MRT]*
48. First NBC Bank, New Orleans, LA ($9,468) *[Docket No.* 16–1844–MRT]
49. First State Bank, Omaha, NE ($3,500) *[Docket No. 15–1855–MRT]*
50. First Utah Bank, Sandy, UT ($8,500) *[Docket No. 15–1715–MRT]*
51. Forbix Financial, Flowood, MS ($3,500) *[Docket No. 15–1876–MRT]*
52. Freedom of Maryland Federal Credit Union, Bel Air, MD ($4,500) *[Docket No. 16–1738–MRT]*
53. Fremont Bank, Fremont, CA ($3,500) *[Docket No. 15–1839–MRT]*
54. Global Bancorp d/b/a New Rate Lending, Irvine, CA ($8,500) *[Docket No. 15–1967–MRT]*
55. Green Bank, N.A., Houston, TX ($4,500) *[Docket No. 16–1759–MRT]*
56. Guaranty Bank FSB, Milwaukee, WI ($3,500) *[Docket No. 15–1898–MRT]*
57. Guardian Savings Bank FSB, Cincinnati, OH ($3,500) *[Docket No. 15–1873–MRT]*
58. Gulf Atlantic Funding Group, Inc., Davie, FL ($8,500) *[Docket No. 16–1643–MRT]*
59. Highmark Federal Credit Union, Rapid City, SD ($4,500) *[Docket No. 16–1654–MRT]*
60. Home Bank, N.A., Lafayette, LA ($8,500) *[Docket No. 16–1642–MRT]*
61. Home Federal Bank, Shreveport, LA

($3,500) *[Docket No. 15–1640–MRT]*
62. Home Savings Bank, Madison, WI ($3,500) *[Docket No. 16–1655–MRT]*
63. HR Mortgage Corp., Caguas, PR ($8,500) *[Docket No. 15–1925- MRT]*
64. iBeriaBank, Lafayette, LA ($3,500) *[Docket No. 15–1903–MRT]*
65. Integrity Financial Services of Tampa Bay, Inc., Largo, FL ($4,500) *[Docket No. 16–1674–MRT]*
66. International Bank of Commerce, Laredo, TX ($3,500) *[Docket No. 15–1877–MRT]*
67. iServe Residential Lending LLC, San Diego, CA ($4,500) *[Docket No. 16–1813–MRT]*
68. Legends Bank, Clarksville, TN ($3,500) *[Docket No. 15–1709–MRT]*
69. Liberty Mortgage Corporation, Birmingham, AL ($3,500) *[Docket No. 15–1951–MRT]*
70. Magnolia Bank, Magnolia, KY ($3,500) *[Docket No. 15–1862–MRT]*
71. Marketplace Home Mortgage, LLC, Edina, MN ($3,500) *[Docket No. 16–1709–MRT]*
72. Massachusetts Mutual Life Insurance Company, Springfield, MA ($3,500) *[Docket No. 15–1731–MRT]*
73. MCT Credit Union, Port Neches, TX ($3,500) *[Docket No. 15–1749–MRT]*
74. MK Lending Corp., Los Angeles, CA ($8,500) *[Docket No. 16–1656–MRT]*
75. Mortgage Trust, Inc., Portland, OR ($3,500) *[Docket No. 15–1936–MRT]*
76. Nationwide Mortgage Bankers, Inc., Lebanon, NJ ($3,500) *[Docket No. 15–1942–MRT]*
77. Northwest Bank of Rockford, Loves Park, IL ($3,500) *[Docket No. 15–1891–MRT]*
78. PFL, Inc., San Antonio, TX ($8,500) *[Docket No. 15–1892–MRT]*
79. Pacific Premier Bank, Irvine, CA ($8,500) *[Docket No. 15–1738–MRT]*
80. Pacific Transportation Federal Credit Union, Carson, CA ($3,500) *[Docket No. 15–1620–MRT]*
81. Parks Heritage Federal Credit Union, Glenn Falls, NY ($3,500) *[Docket No. 15–1586–MRT]*
82. Phenix-Girard Bank, Phenix City, AL ($3,500) *[Docket No. 15–1648–MRT]*
83. Platinum Bank, Lubbock, TX ($3,500) *[Docket No. 15–1932–MRT]*
84. PMAC Lending Services, Inc., Chino Hills, CA ($3,500) *[Docket No. 15–1751–MRT]*
85. Ready Mortgage Lenders LLC, Miami, FL ($3,500) *[Docket No. 15–1849–MRT]*
86. Ross Mortgage Company, Inc., Westborough, MA ($3,500) *[Docket No. 16–1640–MRT]*
87. Scient Federal Credit Union, Groton, CT ($3,500) *[Docket No.15–1906–MRT]*
88. Seattle Metropolitan Credit Union, Seattle, WA ($3,500) *[Docket No. 15–1918–MRT]*
89. Seckel Capital LLC, Newtown, PA ($3,500) *[Docket No.15–1583–MRT]*
90. SecurityPlus Federal Credit Union, Baltimore, MD ($10,000) *[Docket No. 15–1781–MRT]*
91. Southeast Funding Alliance, Inc., Orlando, FL ($8,500) *[Docket No. 15–1934–MRT]*
92. Southern Crescent Mortgage and Investment Corporation, Fayetteville, GA ($3,500) *[Docket No.16–1619–MRT]*
93. SpiritBank, N.A., Tulsa, Ok ($3,500) *[Docket No. 15–1910–MRT]*
94. Standard Pacific Mortgage Inc., Irvine, CA ($4,500) *[Docket No. 16–1847–MRT]*
95. Sterling United Federal Credit Union, Evansville, IN ($3,500) *[Docket No. 15–1954–MRT]*
96. Supreme Funding Corporation, Arcadia, CA ($3,500) *[Docket No.15–1589–MRT]*
97. Telco Triad Community Credit Union, Sioux City, IA ($8,500) *[Docket No. 15–1785–MRT]*
98. Texas Tech Federal Credit Union, Lubbock, TX ($4,500) *[Docket No. 15–1719–MRT]*
99. United Texas Bank, Dallas, TX ($3,500) *[Docket No. 15–1615–MRT]*
100. University First Federal Credit Union, Salt Lake City, UT ($3,500) *[Docket No. 15–1923–MRT]*
101. U.S. Financial Group, Inc., Lake Charles, LA ($3,500) *[Docket No. 15–1909–MRT]*
102. Wall Financial, Inc., Los Angeles, CA ($3,500) *[Docket No.15–1958–MRT]*
103. West One Capital Group, Inc., Newport Beach, CA ($3,500) *[Docket No. 15–1850–MRT]*
104. West Town Bank & Trust, Frederick, MD ($3,500) *[Docket No. 15–1949–MRT]*
105. Willamette Valley Bank, Salem, OR ($4,500) *[Docket No. 16–1786–MRT]*
106. Winona National Bank, Winona, MN ($3,500) *[Docket No. 15–1796–MRT]*

III. Lenders That Failed To Meet Requirements for Annual Recertification of HUD/FHA Approval

Action: The Board voted to withdraw the FHA approval of each of the lenders listed below for a period of one (1) year.

Cause: The Board took this action based upon allegations that the lenders listed below were not in compliance with HUD's annual recertification requirements.

1. ACNB Bank, Gettysburg, PA *[Docket No. 17–173–MRT]*
2. Adams Mortgage, LLC, Colorado Springs, CO *[Docket No. 15–1907–MRT]*
3. Advance Mortgage Bankers, Inc., Bayamon, PR *[Docket No. 17–1802–MRT]*
4. Advantage Financial Mortgage Bankers, Inc., Robbinsville, NJ *[Docket No. 15–1802–MRT]*
5. Agree Capital Corporation, Fresh Meadows, NY *[Docket No. 17–1809–MRT]*
6. AIG Federal Savings Bank, Wilmington, DE *[Docket No. 17–1765–MRT]*
7. Air Force Federal Credit Union, San Antonio, TX *[Docket No. 17–1789–MRT]*
8. AllQuest Home Mortgage Corporation, Houston, TX *[Docket No. 15–1792–MRT]*
9. Amera Mortgage Corporation, Milford, MI *[Docket No. 17–1756–MRT]*
10. American Investors Bank & Mortgage, Eden Prairie, MN *[Docket No. 17–1810–MRT]*
11. Americas Mortgage LLC, Wheat Ridge, CO *[Docket No. 17–1757–MRT]*
12. Anchor Funding Corporation, Norcross, GA *[Docket No. 17–1790–MRT]*
13. Bank of Commerce, Yukon, OK *[Docket No. 16–1783–MRT]*
14. Bank of Manhattan, NA, El Segundo, CA *[Docket No. 17–1734–MRT]*
15. Bank of Union, El Reno, OK *[Docket No. 17–1782–MRT]*
16. Bank Tennessee, Germantown, TN *[Docket No. 14–1590–MRT]*
17. Bankers Financial Group, Inc., Bowie, MD *[Docket No. 17–1766–MRT]*
18. Bankers Mortgage and Investment Group, Inc., Overland Park, KS *[Docket No. 15–1663–MRT]*
19. Battery Park City Authority, New York, NY *[Docket No. 17–1811–MRT]*
20. Beacon Federal, East Syracuse, NY *[Docket No. 17–1791–MRT]*
21. Berkshire Bank, Wyomissing, PA *[Docket No. 16–1841–MRT]*
22. Biopharmaceutica Coop, Carolina, PR *[Docket No. 15–1641–MRT]*
23. Blanco National Bank, Spring Branch, TX *[Docket No. 17–1758–MRT]*
24. BondCorp Realty Services, Inc., Newport Beach, CA *[Docket No. 17–1829–MRT]*
25. Boulevard Bank, Neosho, MO *[Docket No. 17–1792–MRT]*
26. Buffalo Trace Area Development District, Maysville, KY *[Docket No. 17–1812–MRT]*
27. C F Funding Corporation, Naperville, IL *[Docket No. 16–1779–MRT]*
28. Carnegie Mortgage, LLC, Irvine, CA *[Docket No. 17–1738–MRT]*
29. Cavalier Mortgage Group, Inc., Raleigh, NC *[Docket No. 15–1804–MRT]*
30. Chicago Bancorp, Inc., Chicago, IL *[Docket No. 16–1848–MRT]*
31. Citizen Home Loans of America, Inc., Dayton, OH *[Docket No. 17–1813–MRT]*
32. Citizens National Bank, N.A., Bossier City, LA *[Docket No. 15–1728–MRT]*
33. ClearSpring Loan Services, Inc., Dallas, TX *[Docket No. 16–1653–MRT]*
34. CMS Bank, White Plains, NY *[Docket No. 17–1793–MRT]*
35. Cobalt Mortgage, Kirkland, WA *[Docket No. 17–1739–MRT]*
36. Colonial American Bank, Shrewsbury, NJ *[Docket No. 17–1803–MRT]*
37. Community Bank-Wheaton Glen Ellyn, Glen Ellyn, IL *[Docket No. 17–1814–MRT]*
38. Corridor Mortgage Company, LLC, Bristol, PA *[Docket No. 17–1804–MRT]*
39. Covenant Bank, Leeds, AL *[Docket No. 17–1740–MRT]*
40. Day Air Credit Union, Kettering, OH *[Docket No. 15–1611–MRT]*
41. Dexter Credit Union, Central Falls, RI *[Docket No. 16–1744–MRT]*
42. Doral Bank, San Juan, PR *[Docket No. 17–1741–MRT]*
43. Doral Financial Corporation, San Juan, PR *[Docket No. 17–1742–MRT]*
44. Evergreen Credit Union, Portland, ME *[Docket No. 17–1794–MRT]*
45. Farmers Bank & Trust Company, Blytheville, AR *[Docket No. 15–1917–MRT]*
46. Farmers Citizens Bank, Dublin, OH *[Docket No. 17–1767–MRT]*
47. Farmington Financial Group LLC, Nashville, TN *[Docket No. 17–1759–MRT]*
48. FedTrust Mortgage LLC, Farmington Hills, MI *[Docket No. 17–1795–MRT]*
49. FirstBank, Strasburg, VA *[Docket No. 17–1815–MRT]*

50. First Capital Mortgage Group, Inc., Pittsburgh, PA *[Docket No. 17–1768–MRT]*
51. First Century Bank, N.A., Gainesville, GA *[Docket No. 16–1878–MRT]*
52. First Choice Bank, Cerritos, CA *[Docket No. 15–1843–MRT]*
53. First Commercial Bank, Oklahoma City, OK *[Docket No. 15–1572–MRT]*
54. First Financial Services, Charlotte, NC *[Docket No. 17–1751–MRT]*
55. First Florida Credit Union, Jacksonville, FL *[Docket No. 17–1816–MRT]*
56. First National Bank, Camdenton, MO *[Docket No. 17–1783–MRT]*
57. First Savings Bank of Perkasie, Perkasie, PA *[Docket No. 17–1750–MRT]*
58. First Southern Capital Development Corporation, Rancho Palos Verdes, CA *[Docket No. 17–1755–MRT]*
59. First State Bank Mortgage Company, LLC, Clinton Township, MI *[Docket No. 17–1743–MRT]*
60. Flatbush Federal Savings, Brooklyn, NY *[Docket No. 17–1760–MRT]*
61. Florida Bank of Commerce, Orlando, FL *[Docket No. 15–1797–MRT]*
62. Foundation First Bank, Omaha, NE *[Docket No. 15–1742–MRT]*
63. Frontier State Bank, Oklahoma City, OK *[Docket No. 16–1787–MRT]*
64. Gateway Bank, F.S.B., Oakland, CA *[Docket No. 15–1658–MRT]*
65. Gencor Mortgage, Inc., Scottsdale, AZ *[Docket No. 17–1769–MRT]*
66. Global Advisory Group, Inc., Everett, WA *[Docket No. 17–1770–MRT]*
67. Grand Bank, N.A., Hamilton, NJ *[Docket No. 15–1729–MRT]*
68. Guaranteed Home Mortgage Company, Inc., White Plains, NY *[Docket No. 17–1771–MRT]*
69. Hana Financial, Inc., Los Angeles, CA *[Docket No. 17–1817–MRT]*
70. Harbor National Bank, Mt. Pleasant, SC *[Docket No. 17–1752–MRT]*
71. Harvard Home Mortgage, Inc., Annapolis, MD *[Docket No. 17–1772–MRT]*
72. Heritage Bank, Jonesboro, AR *[Docket No. 17–1773–MRT]*
73. Hickory Point Bank and Trust, F.S.B., Decatur, IL *[Docket No. 15–1929–MRT]*
74. Home Federal Bank, Nampa, ID *[Docket No. 15–1640–MRT]*
75. Home Loan Center, Inc., Irvine, CA *[Docket No. 17–1784–MRT]*
76. Homeowners Mortgage of America, Inc., Jacksonville, FL *[Docket No. 17–1774–MRT]*
77. Housing Authority of the Osage Tribe, Hominy, OK *[Docket No. 17–1818–MRT]*
78. Hudson City Savings Bank, Paramus, NJ *[Docket No. 17–1805–MRT]*
79. Infinity Federal Credit Union, Westbrook, ME *[Docket No. 17–1747–MRT]*
80. Integrated Financial Group, Inc., Newtown PA *[Docket No. 17–1775–MRT]*
81. Kenilworth Financial, Oakbrook, Terrace, IL *[Docket No. 17–1764–MRT]*
82. Lafayette Federal Credit Union, Kensington, MD *[Docket No. 16–1853–MRT]*
83. Lake Federal Bank, FSB, Hammond, IN *[Docket No. 16–1694–MRT]*
84. Landmark Credit Union, New Berlin, WI *[Docket No. 17–1796–MRT]*
85. Lending Solutions, Inc., Duluth, GA *[Docket No. 16–1767–MRT]*
86. LGE Community Credit Union, Marietta, GA *[Docket No. 16–1678–MRT]*
87. Liberty Bank of Arkansas, Jonesboro, AR *[Docket No. 17–1776–MRT]*
88. Loan One Mortgage Co., Inc., Westerville, OH *[Docket No. 16–1629–MRT]*
89. Main Street Financial, Inc., Indianapolis, IN *[Docket No. 17–1819–MRT]*
90. Medallion Mortgage Company LLC, Agoura Hills, CA *[Docket No. 17–177–MRT]*
91. Menna Company, Marietta, GA *[Docket No. 16–1726–MRT]*
92. Meridian Lending Corporation, Lone Tree, CO *[Docket No. 17–1761–MRT]*
93. Metropolitan National Bank, Springfield, MO *[Docket No. 17–1820–MRT]*
94. Midwest Mortgage Capital, LLC, Saint Louis, MO *[Docket No. 15–1803–MRT]*
95. Minneapolis Community Development Agency, Minneapolis, MN *[Docket No. 17–1821–MRT]*
96. Monument Bank, Rockville, MD *[Docket No. 17–1735–MRT]*
97. Mortgage Factory, Inc., Houston, TX *[Docket No. 15–1944–MRT]*
98. Mortgage House, San Juan, PR *[Docket No. 16–1646–MRT]*
99. Mortgage Investors Corporation, Saint Petersburg, FL *[Docket No. 16–1747–MRT]*
100. Mortgage Resources, Inc., Chesterfield, MO *[Docket No. 17–1778–MRT]*
101. MVB Bank, Inc., Bridgeport, WV *[Docket No. 17–1744–MRT]*
102. Naugatuck Valley Savings and Loan, Naugatuck, CT *[Docket No. 16–1755–MRT]*
103. NE Moves Mortgage, LLC, Waltham, MA *[Docket No. 17–1822–MRT]*
104. Nebraska Investment Finance Authority, Lincoln, NE *[Docket No. 17–1823–MRT]*
105. North Jersey Federal Credit Union, Totowa, NJ *[Docket No. 17–1736–MRT]*
106. Northwest Georgia Bank, Ringgold, GA *[Docket No. 15–1878–MRT]*
107. NYMEO Federal Credit Union, Frederick, MD *[Docket No. 15–1795–MRT]*
108. Oasis Bank, SSB, Houston, TX *[Docket No. 17–1785–MRT]*
109. One Mortgage, Inc., Irving, TX *[Docket No. 17–1786–MRT]*
110. Palmetto South Mortgage Corporation, Columbia, SC *[Docket No. 17–1787–MRT]*
111. Patriot Bank Mortgage, Inc., Houston, TX *[Docket No. 17–1806–MRT]*
112. Raaven Capital, Inc., Olympia, WA *[Docket No. 17–1807–MRT]*
113. RBS Mortgage Corporation, San Juan, PR *[Docket No. 17–1797–MRT]*
114. Red Stone Agency Lending, LLC, New York, NY *[Docket No. 17–1798–MRT]*
115. Reliant Mortgage Company, LLC, Beverly MA *[Docket No. 15–1751–MRT]*
116. Renew Financial Corporation II, Allentown, PA *[Docket No. 17–1824–MRT]*
117. Resource Mortgage Banking LTD, Tarrytown, NY *[Docket No. 17–1788–MRT]*
118. Resurgent Capital Services, LP, Greenville, SC *[Docket No. 17–1753–MRT]*
119. Reverse Mortgage USA, Inc., Dallas TX *[Docket No. 17–1762–MRT]*
120. Roundpoint Mortgage Company, Charlotte, NC *[Docket No. 17–1745–MRT]*
121. S Bank, Glennville, GA *[Docket No. 15–1661–MRT]*
122. Sanford Institution for Savings, Sanford, ME *[Docket No. 17–1799–MRT]*
123. Schaeffer Mortgage Corporation, Londonderry, NH *[Docket No. 17–1825–MRT]*
124. Seasons Federal Credit Union, Middletown, CT *[Docket No. 15–1883–MRT]*
125. Sherburne State Bank, Saint Cloud, MN *[Docket No. 17–1779–MRT]*
126. Sidus Financial, LLC, Greensboro, NC *[Docket No. 16–1811–MRT]*
127. Solera National Bank, Colorado Springs, CO *[Docket No. 17–1808–MRT]*
128. Southern Bank, Poplar Bluff, MO *[Docket No. 17–1826–MRT]*
129. Southern Puget Sound Inter Tribal Housing Authority, Shelton, WA *[Docket No. 17–1827–MRT]*
130. Summit Bank, Little Rock, AR *[Docket No. 15–1807–MRT]*
131. Texas Bay Area Credit Union, Houston, TX *[Docket No. 17–1749–MRT]*
132. The First National Bank Layton, Layton, UT *[Docket No. 17–1754–MRT]*
133. The Harbor Bank of Maryland, Baltimore, MD *[Docket No. 15–1714–MRT]*
134. Trust One Mortgage Corporation, Irvine, CA *[Docket No. 17–1748–MRT]*
135. TXL Mortgage Corporation, Houston, TX *[Docket No. 17–1746–MRT]*
136. United Bank, West Springfield, MA, *[Docket No. 15–1788–MRT]*
137. Union Federal Savings Bank, North Providence, RI *[Docket No. 17–1800–MRT]*
138. Valley Bank, Davenport, IA *[Docket No. 17–1780–MRT]*
139. Valley National Bank, Tulsa, OK *[Docket No. 15–1746–MRT]*
140. Virginia Heritage Bank, Vienna, VA *[Docket No. 15–1919–MRT]*
141. Vist Bank, Reading, PA *[Docket No. 17–1781–MRT]*
142. Visterra Credit Union, Moreno Valley, CA *[Docket No. 16–1822–MRT]*
143. Washington First Bank, Reston, VA *[Docket No. 16–1795–MRT]*
144. WCS Funding Group, Inc., Baltimore, MD *[Docket No. 15–1915–MRT]*
145. Western Heritage Bank, N.A., Las Cruces, NM *[Docket No. 17–1801–MRT]*
146. Wingspan Portfolio Advisors, LLC, Dallas, TX *[Docket No. 17–1763–MRT]*
147. Your Community Bank, New Albany, IN *[Docket No. 17–828–MRT]*

Dated: March 30, 2017.

Genger Charles,

General Deputy Assistant Secretary, for Housing/FHA Commissioner, Chairman, Mortgagee Review Board.

[FR Doc. 2017–06642 Filed 4–3–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–FHC–2017–N039; FF07CAMM00–178–FXES111607MRG01]

Information Collection Request Sent to the Office of Management and Budget for Approval; Incidental Take of Marine Mammals During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on March 31, 2017. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before May 4, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail), or *madonna_baucum@fws.gov* (email). Please include ''1018–0070'' in the subject line of your comments. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: Christopher Putnam, Supervisory Fish and Wildlife Biologist, Marine Mammals Management, U.S. Fish and Wildlife Service, 1011 East Tudor Rd., MS 341, Anchorage, AK 99503–6199 (mail), or at *christopher_putnam@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection includes requirements associated with specified oil and gas industry activities and their incidental taking of polar bears, Pacific walruses, and northern sea otters in Alaska. The Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 *et seq.*), imposed, with certain exceptions, a moratorium on the taking of marine mammals. Section 101(a)(5)(A) of the MMPA directs the Secretary of the Interior to allow, upon request by citizens of the United States, the taking of small numbers of marine mammals incidental to specified activities (other than commercial fishing) if the Secretary makes certain findings and prescribes specific regulations that, among other things, establish permissible methods of taking.

Applicants seeking to conduct activities must request a Letter of Authorization (LOA) for the specific activity and submit onsite monitoring reports and a final report of the activity to the Secretary. This is a nonform collection. Regulations at 50 CFR 18.27 outline the procedures and requirements for submitting a request. Specific regulations governing authorized activities in the Beaufort Sea are in 50 CFR part 18, subpart J. Regulations governing authorized activities in the Chukchi Sea are in 50 CFR part 18, subpart I. These regulations provide the applicant with a detailed description of information that we need to evaluate the proposed activity and determine if it is appropriate to issue specific regulations and, subsequently, LOAs.

We use the information to verify the findings required to issue incidental take regulations, to decide if we should issue an LOA, and, if issued, what conditions should be included the LOA. In addition, we analyze the information to determine impacts to polar bears and Pacific walruses and the availability of those marine mammals for subsistence purposes of Alaska Natives.

II. Data

OMB Control Number: 1018–0070.

Title: Incidental Take of Marine Mammals During Specified Activities, 50 CFR 18.27 and 50 CFR 18, Subparts I and J.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Oil and gas industry companies.

Respondent's Obligation: Required to obtain or retain a benefit.

Estimated Number of Annual Respondents: 20.

Frequency of Collection: On occasion.

Type of action	Number of annual respondents	Number of responses each	Total annual responses	Average completion time (hours)	Total annual burden hours
Incidental Take of Marine Mammals—Application for Regulations[1]	20	0.1	2	150	300
Incidental Take of Marine Mammals—LOA Requests	20	1.25	25	24	600
Incidental Take of Marine Mammals—Onsite Monitoring and Observation Reports	20	15	300	1.5	450
Incidental Take of Marine Mammals—Final Monitoring Report	20	1.25	25	10	250
Polar Bear Den Detection Report	4	1	4	50	200
Total	84		356		1,800

[1] Occurs once every 5 years.

Estimated Nonhour Cost Burden: We estimate the nonhour cost burden to be $200,000 for the Polar Bear Den Detection Survey and Report (4 responses X $50,000 each).

III. Comments

On January 11, 2017, we published a notice in the **Federal Register** (82 FR 3350) informing the public of our intent to request revisions of this information collection and soliciting comments for 60 days. The public comment period closed on March 13, 2017. We received six comments in response to that notice. The comments and our responses are summarized below.

Comment (1): The Marine Mammal Commission (Commission) expressed support for the information collection

request. The Commission stated that they believe that the requested information is necessary for the Service to evaluate incidental take applications and to determine whether to issue incidental take regulations and associated LOAs, as required under the MMPA. The Commission also agrees that the cost and burden estimates are appropriate. The Commission suggested that the Service should request that oil and gas industry companies submit information electronically (including both the applications and monitoring reports) and then make that information publicly accessible, barring any confidentiality concerns. The Commission further suggested that the Service make the collected information publicly accessible consistent with the manner in which the National Marine Fisheries Service handles its incidental take authorizations and regulations.

Our Response: We agree with the Commission that our information requests are necessary and appropriate for us to meet our obligations under the MMPA. We note that we recommend that oil and gas industry companies submit information electronically, though we do accept information in a variety of formats to accommodate convenience. We collect information primarily via electronic mail. Information that is restricted for confidentiality or privacy reasons is summarized and anonymized prior to public availability. The Service periodically posts issued authorizations and summaries of monitoring report data on our Web site and in other public media. The Service believes that we provide the public access to relevant information in a transparent manner while also fulfilling our responsibility to protect confidential information.

Comment (2): One commenter opposed the killing of polar bears, walrus, seals, or any other wildlife by the oil and gas industry. The commenter also thinks the Artic should not be open to energy exploration and suggested significant fines for anyone killing those animals.

Our Response: The information collection authorization, and the associated MMPA incidental take regulations, do not authorize the lethal or injurious take of any wildlife, including polar bears and walruses, nor do they authorize any activities, including oil and gas industry activities. The MMPA provides for both civil and criminal penalties for violations of the MMPA. The commenter did not address the information collection requirements, and we did not make any changes to our information collection; we therefore have no further response.

Comment (3): One commenter claimed that the proposed information collection does not comply with the MMPA and that the proposed method of information collection would constitute an unlawful taking under the MMPA. The commenter claimed that the proposed information collection allows for intentional takings of polar bears. The commenter suggested that the proposed information collection must impose much stricter standards on obtaining data. The commenter further suggested that mandatory polar bear disturbance mitigation requirements should be imposed for any LOAs issued under the MMPA incidental take regulations.

Our Response: We disagree with the commenter's understanding and interpretation of the MMPA, the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this information collection authorization, and related enacting regulations, terms, and requirements. The commenter did not address the information collection requirements, and we did not make any changes to our information collection; we therefore have no further response.

Comments (4–6): Three oil and gas industry companies operating in Alaska and subject to our collection of information under this authorization provided substantially similar comments. The commenters support our request for information collection authorization and agree that our collection of information is necessary and useful, is not overly burdensome at current levels, and that our estimate of the burden and costs associated with collecting information is generally accurate. However, the commenters expressed a concern that the burden and costs in certain cases are occasionally greater than our estimate. For example, the location and monitoring of maternal polar bear dens or situations when individual polar bears linger in an area for an extended time require additional monitoring. The commenters suggested that it would improve the usefulness of the collected information, and provide a benefit for the regulated public, if the Service would provide more frequent public summaries and analyses of collected information. For example, the commenters suggested more frequent summary and analysis of numbers of reported polar bear observations. The commenters also supported the continued use of electronic methods of information collection and reporting to reduce the burden and increase efficiency.

Our Response: We agree that our collection of information from oil and gas industry companies is necessary and useful, is not overly burdensome, and that our estimate of the burden and costs is generally accurate. Regarding specific cases where the burden or cost is greater than the estimate, we point out that the estimate we provide is an annualized average over the 3-year period of the information collection authorization for all of the regulated public subject to our collection of information. We are confident that the overall estimates are generally accurate. Nevertheless, we will continue to work with the regulated public to ensure that our information collection is not unduly burdensome and that our estimates accurately reflect reality. Furthermore, we are currently developing additional technological capability to collect information electronically and to enhance our ability to provide feedback to the public with relevant information products based on the information we collect.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Authority: The authorities for this action are the Marine Mammal Protection Act (MMPA) of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 30, 2017.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017–06649 Filed 4–3–17; 8:45 am]

BILLING CODE 4333–15–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1002]

Certain Carbon and Alloy Steel Products; Commission Determination With Respect to the Procedure for the April 20, 2017, Oral Argument

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to conduct the April 20, 2017, oral argument, *see* 82 FR 13133–34 (Mar. 9, 2017), in accordance with the procedure set forth herein.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Investigation No. 337–TA–1002 on June 2, 2016, based on a complaint filed by Complainant United States Steel Corporation of Pittsburgh, Pennsylvania (''U.S. Steel''), alleging a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337. *See* 81 FR 35381 (June 2, 2016). The complaint alleges violations of Section 337 based upon the importation into the United States, or in the sale of certain carbon and alloy steel products by reason of: (1) A conspiracy to fix prices and control output and export volumes, the threat or effect of which is to restrain or monopolize trade and commerce in the United States; (2) misappropriation and use of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States; and (3) false designation of origin or manufacturer, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation identified forty (40) respondents that are Chinese steel manufacturers or distributors, as well as some of their Hong Kong and United States affiliates. *Id.* In addition to the private parties, the Commission assigned an Investigative Attorney from the Commission's Office of Unfair Import Investigations (OUII), who functions as an independent litigant or party in the investigation. *Id.*

On August 26, 2016, Respondents filed a motion to terminate U.S. Steel's antitrust claim under 19 CFR 210.21. On September 6, 2016, U.S. Steel filed a response in opposition to Respondents' motion to terminate. On September 9, 2016, the Commission Investigative Attorney (''IA'') filed a response in opposition to Respondents' motion to terminate. On November 14, 2016, the ALJ issued the subject ID, granting Respondents' motion to terminate Complainant's antitrust claim under 19 CFR 210.21 and, in the alternative, under 19 CFR 210.18. On November 23, 2016, Complainant and the IA filed petitions for review of the ID. Complainant also requested oral argument before the Commission. On December 1, 2016, Respondents filed a response to the petitions for review. Also on December 1, 2016, Complainant filed a response to the IA's petition for review.

On December 19, 2016, the Commission issued a Notice determining to review the ID (Order No. 38). *See* 81 FR 94416–17 (Dec. 23, 2016). In the Notice, the Commission requested written submissions from ''[t]he parties to the investigation, including the Office of Unfair Import Investigations, and interested government agencies'' in connection with its review and set a date of March 14, 2017, for possible oral argument. *Id.*

On February 24, 2017, the Commission issued a notice indicating that, pursuant to Commission Rule 210.45 (19 CFR 210.45), an oral argument would be held on March 14, 2017, in connection with the Commission's review of Order No. 38.

On March 3, 2017, the Commission issued a notice seeking further written submissions from the public in response to the December 19, 2016, Notice and rescheduling the date for the oral argument to April 20, 2017. *See* 82 FR 13133–34 (Mar. 9, 2017).

The Commission has determined to conduct the April 20, 2017, oral argument as follows:

1. The oral argument will include up to four (4) distinct panels, one for Complainant U.S. Steel, one for Respondents, one for OUII, and one, if applicable, for interested government agencies.

2. At the beginning of the oral argument, each panel will be allowed to give a 10-minute opening statement in the following order: (1) Complainant; (2) Respondents; (3) OUII; and (4) government agencies, if any.

3. Upon completion of all of the opening statements, an initial Questions & Answers (Q&A) session with each panel will follow, whereby each panel, in the same order as outlined in paragraph (2) above, may receive questions from the Commissioners. Each Commissioner will be allocated 10 minutes per round of questions, with potential additional rounds for any given panel, if one or more Commissioners have further questions.

4. After the initial Q&A session when all the panels are completed, there will be the opportunity for a rebuttal Q&A session, where Commissioners will get the opportunity to ask rebuttal questions of the oral argument participants. Each Commissioner will be allocated 5 minutes per round of questions, with potential additional rounds if one or more Commissioners have further questions.

5. At the end of the Q&A sessions, each panel will be allowed to give a 5-minute closing statement, in the same order as outlined in paragraph (2) above, without opportunity for rebuttal or questions from the Commissioners.

COMMISSION ORAL ARGUMENT: The Commission will hold the public oral argument in the Commission's Main Hearing Room (Room 101), 500 E Street SW., Washington DC 20436, beginning at 9:30 a.m. While any member of the public may attend the oral argument, only counsel for the parties to the investigation, including OUII, and representatives of interested government agencies may participate and/or argue at the oral argument.

This is a public proceeding; confidential business information (''CBI'') shall not be discussed. A party, however, can draw the Commission's attention to CBI, if necessary, by pointing to where in the record the information can be found.

The oral argument will be limited in scope to the issues identified in the ID (Order No. 38); the Commission's December 19, 2016, Notice; the Commission's March 3, 2017, Notice; and any related petition, written submissions, and responses thereto.

NOTICE OF APPEARANCE: Counsel for the parties to the investigation or any representatives of interested government

agencies who wish to participate in the oral argument must file a written request to appear at the Commission oral argument by April 6, 2017, and must provide their email addresses as part of their contact information.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 30, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–06637 Filed 4–3–17; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Advisory Committee on Rules of Appellate Procedure, Judicial Conference of the United States.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a meeting on May 2, 2017. The meeting will be open to public observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.*

DATES: May 2, 2017.

TIME: 8:30 a.m.

ADDRESSES: Hilton Harbor Island, Skyline and Lindberg Meeting Rooms, 1960 Harbor Island Drive, San Diego, CA 92101

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: March 30, 2017.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2017–06620 Filed 4–3–17; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Shipbuilding Research Program

Notice is hereby given that, on March 2, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Shipbuilding Research Program (''NSRP'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Conrad Industries, Inc., Morgan City, LA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSRP intends to file additional written notifications disclosing all changes in membership.

On March 13, 1998, NSRP filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 29, 1999 (64 FR 4708).

The last notification was filed with the Department on October 12, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2016 (81 FR 76628).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06589 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on March 13, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, FUDAN University, China, Shanghai, People's Republic of China; Hunan Institute of Science and Technology, Yueyang City, People's Republic of China; Shenyang Institute of Automation (SIA), Chinese Academy of Sciences, Shenyang Liaoning Province, People's Republic of China; Sun Yat-sen University, Guangzhou, People's Republic of China; Southeast University, Nanjing, People's Republic of China; Nantong University's School of Electronics and Information, Jiangsu, People's Republic of China; Nanjing University of Aeronautics and Astronautics, Nanjing, People's Republic of China; The International School of Microelectronics of Nanjing University, Nanjing, People's Republic of China; Nanjing University of Posts and Telecommunications, Nanjing, People's Republic of China; Jiangsu Software Defined Radio Engineering Research Center, Nanjing, People's Republic of China; Institute of Computing Technology, Chinese Academy of Sciences, Beijing, People's Republic of China; Shanghai Advanced Research Institute, Chinese Academy of Sciences, Shanghai, People's Republic of China; Shanghai Institute of Microsystem and Information Technology, Shanghai, People's Republic of China; Shanghai Jiao Tong University, Shanghai, People's Republic of China; Shanghai Research Center for Wireless Communications, Shanghai, People's Republic of China; Shanghai University, Shanghai, People's Republic of China; and University of Science and Technology Beijing, Beijing, People's Republic of China, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on September 27, 2016. A notice was published in the **Federal**

Register pursuant to Section 6(b) of the Act on November 3, 2016 (81 FR 76629).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06593 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Consortium for NASGRO Development and Support

Notice is hereby given that, on February 24, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Consortium for NASGRO Development and Support (''NASGRO'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Korean Aerospace Industries, Ltd., Gyeongnam, Korea, and Blue Origin, LLC, Kent, WA, have been added as parties to this venture.

Also, Lockheed Martin Corporation, Cherry Hill, NJ, have withdrawn as a party to this venture.

The following parties have changed their names: Israel Aircraft Industries Ltd. to Israel Aerospace Industries, Ltd., Ben-Gurion Airport, Israel; Agusta Westland to Leonardo SpA, Cascina Costa di Samarate, Italy; GKN Aerospace Sweden AB to GKN Aerospace Services Ltd., Trollhattan, Sweden; EADS Airbus GmbH and EADS Airbus S.A. to Airbus Operations S.A.S., Cedex, France; Alcoa Technical Center to Aronic, Inc., New York, NY; and Siemens Westinghouse Power Corporation to Siemens Energy, Orlando, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NASGRO intends to file additional written notifications disclosing all changes in membership.

On October 3, 2001, NASGRO filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on January 22, 2002 (67 FR 2910).

The last notification was filed with the Department on August 5, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 25, 2015 (80 FR 51606).

Patricia A. Brink

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06584 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Platform for NFV Project, Inc.

Notice is hereby given that, on March 9, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Open Platform for NFV Project, Inc. (''Open Platform for NFV Project'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, NetScout Systems, Westford, MA, has been added as a party to this venture.

Also, Brocade Communications, San Jose, CA; CenturyLink, Monroe, LA; Qosmos, Paris, France; and Xilinx, Inc., San Jose, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Open Platform for NFV Project intends to file additional written notifications disclosing all changes in membership.

On October 17, 2014, Open Platform for NFV Project filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 14, 2014 (79 FR 68301).

The last notification was filed with the Department on October 7, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2016 (81 FR 76628).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06587 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Energy Storage System Evaluation and Safety II

Notice is hereby given that, on February 21, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Energy Storage System Evaluation and Safety II (''EssEs-II'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Toyota Motor Engineering and Manufacturing North America, Inc., Ann Arbor, MI, has been added as a party to this venture.

Also, Deere & Company, Moline, IL, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and EssEs-II intends to file additional written notifications disclosing all changes in membership.

On September 21, 2016, EssEs-II filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 15, 2016 (81 FR 80087).

The last notification was filed with the Department on November 30, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 4, 2017 (82 FR 870).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06590 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on ROS-Industrial Consortium-Americas

Notice is hereby given that, on February 21, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium-Americas (''RIC-Americas'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its Membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Air Force Mantech (AFRL/RXM), Wright-Patterson Air Force Base, OH; and 3M, St. Paul, MN, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and RIC-Americas intends to file additional written notifications disclosing all changes in membership or planned activities.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on November 30, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 11, 2017 (82 FR 3360).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06586 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on March 13, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Centric Operations Industry Consortium, Inc. (''NCOIC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Compusult Systems, Inc., Reston, VA; and Scott Goessling (individual member), Mansfield, TX, have been added as parties to this venture.

Also, International Business Machines Corp., Armonk, NY, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on May 26, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 21, 2016 (81 FR 40351).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–06585 Filed 4–3–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Xcelience

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before May 4, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before May 4, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix of subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on September 30, 2016, Xcelience, 4901 West Grace Street, Tampa, Florida 33607 applied to be registered as an importer of amphetamine (1100), a basic class of controlled substance listed in schedule II.

The company plans to import the listed controlled substance in finished dosage form for clinical trials, research and analytical purposes.

The import of this class of controlled substance will be granted only for analytical testing, research and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial sale.

Dated: March 24, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–06555 Filed 4–3–17; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–017)]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 7th Street NW., Washington, DC 20543. Attention: Desk Officer for NASA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546, (202) 358–2225.

SUPPLEMENTARY INFORMATION:

I. Abstract

NASA hosts/sponsors numerous events on federally owned/leased property which are open to NASA affiliates and members of the public. The events include but are not limited to meetings, conferences, briefings, public outreach activities, tours, focus groups, etc. Visitor access is substantiated by a credentialed NASA sponsor who validates the visitor's need to access a building/area, guest networking services, etc. for a specific event/purpose. Information is collected to validate identity and enable intermittent access to activities.

Currently, visitor registration is accomplished via several electronic and paper processes. The NASA Office of Protective Services is transitioning to a one-NASA process to manage access for visitors with an affiliation less than 30-days.

NASA may collect event registration information to include but not limited to a visitor's name, address, citizenship, biometric data, purpose of visit, the location to be visited, escort/sponsor name with contact data, and preferred meeting/event sessions when options are available. When parking is provided on federal owned/leased space, driver's license information as well as vehicle make/model/tag information will be collected.

When visitors/vendors are permitted to bring equipment and/or event set-up materials such as booths and displays. Information will be collected to issue property passes and coordinate equipment/property delivery as well as set-up requirements to include electrical power, internet capability, etc.

NASA collects, stores, and secures information from individuals requiring routine and intermittent access in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a) and the Paperwork Reduction Act.

II. Method of Collection

Electronic.

III. Data

Title: The NASA Visitor Management System for Intermittent Access to NASA Hosted/Sponsored Events and Activities.

OMB Number: 2700–XXXX.

Type of Review: Active Information Collection without OMB Approval.

Affected Public: Individuals.

Estimated Number of Respondents: 400,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Public Burden Hours: 53,333.

Estimated Total Annual Public Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

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

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2017–06548 Filed 4–3–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice: (17–016)

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: Interested persons are invited to submit written comments regarding the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 7th Street NW., Washington, DC 20543. Attention: Desk Officer for NASA.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Frances Teel, NASA Clearance Officer, NASA Headquarters, 300 E Street SW., JF0000, Washington, DC 20546.

SUPPLEMENTARY INFORMATION:

I. Abstract

Contractors performing research and development are required by statutes, NASA implementing regulations, and OMB policy to submit reports of inventions, patents, data, and copyrights, including the utilization and disposition of same. The NASA New Technology Summary Report reporting form is being used for this purpose.

II. Method of Collection

NASA FAR Supplement clauses for patent rights and new technology encourage the contractor to use an electronic form and provide a hyperlink to the electronic New Technology Reporting Web (eNTRe) site *http://*

invention.nasa.gov. This Web site is designed to enable parties under NASA funding agreements (*i.e.,* contracts, grants, cooperative agreements, and subcontracts) to report new technology information directly, via a secure Internet connection, to NASA.

III. Data

Title: NASA FAR Supplement (NFS) 1827—Patents, Data, and Copyrights.

OMB Number: 2700–0052.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 2,240.

Estimated Time per Response: 5 hours average.

Estimated Total Annual Burden Hours: 11,395.

Estimated Total Annual Cost: $736,916.

IV. Request for Comments

Comments are invited on—(1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) 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 automated collection techniques or the use of other forms of information technology.

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

Frances Teel,

NASA PRA Clearance Officer.

[FR Doc. 2017–06547 Filed 4–3–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Government Information Services

[NARA–2017–033]

Office of Government Information Services (OGIS); Annual Open Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Annual open meeting notice.

SUMMARY: We are conducting an annual meeting open to the public. The purpose of the meeting is to discuss OGIS's reviews and reports and to allow interested people to present oral or written statements.

DATES: The meeting will be Thursday, April 20, 2017, from 9:00 a.m. to 9:45 a.m. EDT. Please register for the meeting no later than April 18, 2017, at 5:00 p.m. EDT.

Location: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW.; William G. McGowan Theater; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Amy Bennett, by mail at National Archives and Records Administration; Office of Government Information Services; 8601 Adelphi Road—OGIS; College Park, MD 20740–6001, by telephone at 202–741–5782, or by email at *amy.bennett@nara.gov.*

SUPPLEMENTARY INFORMATION: We are conducting this open meeting in accordance with the Freedom of Information Act, 5 U.S.C. 552(h)(6).

You can find summaries of OGIS's work in our Annual Reports, at*https://www.ogis.archives.gov/about-ogis/annual-reports.htm.* Our Fiscal Year 2016 Annual Report (*https://www.ogis.archives.gov/Assets/FY+2016+Annual+Report.pdf?method=1*) was published during Sunshine Week (March 12–18, 2017).

Procedures: The meeting is open to the public. Due to security requirements, you must register in advance if you wish to attend the meeting. You will also go through security screening when you enter the building. Registration for the meeting will go live via Eventbrite on April 1, 2017, at 10:00 a.m. EDT. To register for the meeting, please do so at this Eventbrite link: *https://www.eventbrite.com/e/office-of-government-information-services-annual-open-meeting-april-20–2017-registration-33089414329*

We will also live-stream this program on the U.S. National Archives' YouTube channel, at *https://www.youtube.com/user/usnationalarchives/playlists.* The webcast will include a captioning option. To request additional accommodations (*e.g.,* a transcript), email *ogis@nara.gov* or call 202–741–5770.

Members of the media who wish to register, those who are unable to register online, and those who require special accommodations, should contact Amy Bennett at the phone number, mailing address, or email address listed above.

Alina M. Semo,

Director, Office of Government Information Services.

[FR Doc. 2017–06650 Filed 4–3–17; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0075]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of one amendment request. The amendment request is for Southern California Edison Company, San Onofre Nuclear Generating Station, Units 1, 2, and 3 (SONGS). This amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI). The proposed amendment would revise the Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan and remove the Cyber Security requirements from the Facility Operating Licenses at SONGS to reflect the permanently shutdown and defueled status of the facility. For this amendment request, the NRC proposes to determine that it involves no significant hazards consideration. Because the amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI) an order imposes procedures to obtain access to SUNSI and SGI for contention preparation.

DATES: Comments must be filed by May 4, 2017. A request for a hearing must be filed by June 5, 2017. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI and/or SGI is necessary to respond to this

notice must request document access by April 14, 2017.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0075. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Beverly Clayton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3475, email: *Beverly.Clayton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0075, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0075.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

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

B. Submitting Comments

Please include Docket ID NRC–2017–0075, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes a notice of an amendment containing SUNSI and SGI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555

Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by June 5, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/*

getting-started.html. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Southern California Edison Company, et al., Docket Nos. 50–206, 50–361, and 50–362, San Onofre Nuclear Generating Station, Units 1, 2, and 3, San Diego County, California

Date of amendment request: December 19, 2016. A publicly-available version is in ADAMS under Package Accession No. ML17037D114.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI). The proposed amendment would revise the Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan (the ''Plan'' or ''Security Plan'') and remove the Cyber Security requirements from the Facility Operating Licenses at the San Onofre Nuclear Generating Station, Units 1, 2, and 3 (SONGS). The Security Plan will supersede the current Physical Security Plan, Training and Qualification Plan, and Safeguards Contingency Plan at SONGS. These changes will more fully reflect the permanently shutdown and defueled status of the facility, as well as the reduced scope of potential radiological accidents and security concerns once all spent fuel has been permanently moved to dry cask storage within the onsite SONGS independent spent fuel storage installation (ISFSI), an activity which is currently scheduled for completion in 2019.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The irradiated fuel at SONGS is currently stored in the Units 2 and 3 spent fuel pool (SFP) and at the SONGS ISFSI. In this condition, the number of credible accidents/transients is significantly smaller than for a plant authorized to operate the reactor or emplace or retain fuel in the reactor vessel. In addition, the proposed Plan reflects the future site configuration where all the remaining spent fuel in the SFP has been moved to the ISFSI with no intention to return spent fuel to the SFP. In this configuration, the Fuel Handling Accident would no longer be credible. The probability and consequences of the remaining SONGS Updated Final Safety Analysis Report (UFSAR) Chapter 15 events are not significantly affected by the proposed changes to the existing Security Plan because the proposed changes have no effect on plant systems, structures, and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed changes would not increase the likelihood of the malfunction of any plant SSC.

Therefore, the proposed amendments do not involve a significant increase in the probability or consequences of a previously evaluated accident.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendments constitute a revision of the emergency planning function commensurate with the ongoing and anticipated reduction in radiological source term at SONGS.

The proposed amendments do not involve significant physical alteration of the plant. The proposed license amendments would not

physically change any SSCs involved in the safe storage of spent fuel or the mitigation of any postulated accident. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed amendments do not create the possibility of a new failure mode associated with any equipment or personnel failures. The credible events for the ISFSI remain unchanged.

Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Because the 10 CFR part 50 licenses for SONGS no longer authorize operation of the reactors or emplacement or retention of fuel into the reactor vessels, as specified in 10 CFR 50.82(a)(2), the occurrence of postulated accidents associated with reactor operation is no longer credible. With all nuclear spent fuel transferred out of wet storage from the spent fuel pools and placed in dry storage within the ISFSI, a fuel handling accident is no longer credible. The proposed amendments do not involve a change in the plant's design, configuration, or operation. There are no modifications associated with this proposed amendment that would affect either the way in which the plant SSCs perform their safety functions or their design margins.

Therefore, the proposed amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Walker A. Matthews, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Branch Chief: Bruce Watson, CHP.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

Southern California Edison Company, et al., Docket Nos. 50–206, 50–361, and 50–362, San Onofre Nuclear Generating Stations, Units 1, 2, and 3, San Diego County, California

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–415–3710.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Administrative Services, Mail Services Center, Mail Stop P1–37, U.S. Nuclear

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

Regulatory Commission, Washington, DC 20555–0001, or by email to *MAILSVC.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $324.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, ATTN: Personnel Security Branch, Mail Stop TWFN–03–B46M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.[5]

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 28th of March 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

[FR Doc. 2017–06384 Filed 4–3–17; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–08903; EA–16–114; NRC–2017–0087]

In the Matter of Homestake Mining Company of California; Grants Reclamation Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a confirmatory order (Order) to Homestake Mining Company of California (HMC), to memorialize the agreements reached during alternative dispute resolution mediation sessions held on December 12, 2016, and February 15, 2017. This Order will resolve the apparent violations that were identified during an NRC records review to determine if HMC was in compliance with regulatory and license requirements for HMC's activities at the Grants, New Mexico site. This Order is effective upon its issuance.

DATES: *Effective Date:* This order was issued and was effective on March 28, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0087 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0087. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For questions about this order, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Susanne Woods, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–001; telephone: 301–287–9446, email: *S.Woods@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 28th day of March 2017.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Director, Office of Enforcement.

United States of America

Nuclear Regulatory Commission

EA–16–114

In the Matter of Homestake Mining Company of California Grants Reclamation Project Confirmatory Order Modifying License

I

Homestake Mining Company of California, (HMC or Licensee) is the holder of Materials License No. SUA–1471 issued on November 10, 1986, by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 40 of title 10 of the *Code of Federal Regulations* (10 CFR). The license authorizes HMC the possession, incidental to decommissioning, of residual uranium and byproduct material in the form of uranium waste tailings and other byproduct waste generated by the licensee's past milling operations in accordance with their license. The facility is located on the Licensee's site in Grants, New Mexico.

This Confirmatory Order is the result of an agreement reached during Alternative Dispute Resolution (ADR) mediation sessions conducted on December 12, 2016, and February 15, 2017.

II

The NRC staff conducted a records review from approximately October 2014 to May 2016. The NRC staff reviewed records dated from 1998 to 2015, including a letter, dated May 14, 2015, sent by HMC to the NRC in response to the NRC's request for information. The purpose of the records review was to determine whether HMC was in compliance with regulatory and license requirements for HMC's activities at the Grants, New Mexico site. Based on the evidence developed during its records review, the NRC identified five apparent violations.

On October 4, 2016, the NRC issued a letter (Agencywide Documents Access and Management System [ADAMS] Accession No. ML16251A526) to HMC that detailed the results of the records inspection and outlined five apparent violations. The apparent violations involved: (1) Implementation of the Reinjection Program in a manner inconsistent with HMC's groundwater Corrective Action Program (CAP); (2) discharge of liquid effluents from the Reverse Osmosis (RO) Plant in excess of the site ground water protection standards established in the license; (3) failure to report to the NRC the results of all effluent monitoring required by the license; (4) failure to obtain monthly composite samples as required by the license; and (5) the discharge of liquid effluents containing byproduct material to land application areas without first obtaining NRC approval.

In the October 4, 2016 letter, the NRC offered HMC the choice to: (1) Request a Pre-decisional Enforcement Conference (PEC) or (2) request ADR.

In response to the NRC's offer, HMC requested the use of the NRC's ADR process. The ADR mediation sessions conducted on December 12, 2016 and February 15, 2017 between HMC and the NRC were mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement on resolving any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

III

During the ADR mediation session on February 15, 2017, HMC and the NRC reached a preliminary settlement agreement. Prior to the ADR mediation session on February 15, 2017, HMC completed the following corrective actions:

1. As of November 2012, HMC ceased discharging irrigation water with effluents containing byproduct material, to land application areas, which consisted of the following lands in Township 12 North, Range 10 West:

a. Section 28 (approximately 100 acres).

b. Section 33 (approximately 150 acres and approximately 24 acres);

c. Section 34 (approximately 120 acres); and

2. As of August 2016, HMC ceased operation of the re-injection system

described as apparent violation 1 in the NRC's October 4, 2016 letter.

The elements of the preliminary settlement agreement developed during the ADR mediation sessions included the following:

1. The Parties' agreement is a voluntary settlement of a dispute between the Parties and does not constitute any admission by HMC with respect to non-compliance with License No. SUA–1471. The NRC and HMC agree to disagree that the activities resulted in violations of NRC requirements.

2. The NRC will issue the agreement as a Confirmatory Order pursuant to 10 CFR 2.202.

3. In consideration of the commitments delineated herein, the NRC agrees to forgo seeking an NOV or civil penalty in this matter. The NRC will consider the Confirmatory Order as an escalated enforcement. However, NRC agrees that it will not use this Confirmatory Order as an element in any future action assessing civil penalties per the Enforcement Policy unless the action involves a violation of this Confirmatory Order.

4. This agreement is binding upon the successors and assigns of License No. SUA–1471.

5. Unless otherwise specified, all documents required to be submitted to the NRC pursuant to this agreement prior to NRC approval of the revised groundwater Corrective Action Program (CAP) described in Condition 11 of this section will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, with a copy to the Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738.

6. HMC will submit its root cause protocol to an independent third party consultant with expertise in root cause analysis and provide a copy of the independent third party reviewed protocol to the NRC within 120 days of issuance of this Confirmatory Order. The root cause protocol will also be available for review during future inspections. The root cause protocol submitted to the NRC will identify any changes made by the independent third party reviewer and include a qualification statement for the independent third party reviewer. This protocol will be used to complete Conditions 7, 8 and 9 of this section.

7. Within 30 days of submitting to NRC the root cause protocol in Condition 6 of this section, HMC will use the root cause protocol to analyze the reasons for the apparent violations documented in the NRC's October 4, 2016 letter (ADAMS Accession No. ML16251A526). HMC will submit any proposed corrective actions to the NRC for review and approval within 60 days of completing the root cause analyses.

8. HMC will complete an assessment of all HMC activities to determine whether all activities are authorized and are being conducted in compliance with NRC requirements. The assessment will identify areas where clarity could be added to the license. The assessment will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment and any corrective actions deemed appropriate. This report will identify any proposed changes to the license and procedures. This assessment will include a review of the licensee's Safety Culture, to identify any actions that may be necessary to improve upon or enhance the Safety Culture.

9. HMC will engage an independent third party consultant to review and evaluate HMC's assessments described in Condition 8 of this section. That review will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment, and any proposed corrective actions. The evaluation will include the effectiveness of any actions proposed by HMC.

a. HMC will submit the name and qualifications of the consultant for NRC approval within 30 days of issuance of this Confirmatory Order.

b. HMC will submit a copy of the assessment described in Condition 8 of this section to the independent third party consultant within 120 days of NRC approval of the independent third party consultant.

c. HMC will provide a copy of the HMC assessment, the consultant's review report, and any modifications by HMC as a result of the third party consultant's report to the NRC within 120 days of submission of the HMC assessment to the independent third party consultant.

d. NRC will perform an audit of the assessment and the independent third party report and provide NRC audit results in writing, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 10 of this section.

e. HMC will maintain copies of all reports at the site for NRC inspection.

10. Unless otherwise specified, for any changes or additions to the license or procedures resulting from this Confirmatory Order, HMC will either (1) submit to the NRC a license amendment request(s), for NRC approval, or (2) update the appropriate HMC procedure(s) after notification of the NRC. All license amendment requests resulting from this Confirmatory Order will be submitted to the NRC within 60 days of receiving the results of NRC's audit(s). All notifications of updates to procedures resulting from this Confirmatory Order will be made to the NRC by the end of calendar year 2018.

11. HMC will submit a revised groundwater CAP to the NRC by the end of calendar year 2018, including amendments to the license approved by that date. The NRC and HMC will work, aggressively and in good faith, toward a goal of final approval of the groundwater CAP within a year from the date of submittal.

12. HMC will conduct initial and annual refresher training for all individuals (employees and vendors, commensurate with their duties) engaged in licensed activities.

a. The initial and annual training will address awareness and understanding of regulatory and license No. SUA–1471 requirements, including but not necessarily limited to informing HMC employees of the jurisdiction of the NRC, the Environmental Protection Agency, and the New Mexico Environment Department over the Grants site. The training may be an electronic read and sign format.

b. HMC will maintain documentation for each training session conducted. The training documentation will include a summary of the contents of the training and the individuals in attendance. The training documentation will be maintained available for NRC inspection for 5 years after each training session.

13. HMC will use the mass balance methodology described in its revised 2012 groundwater CAP submittal, incorporating the issues raised in the Requests for Additional Information provided by NRC (ADAMS Package No. ML13360A224), and adapting the methodology for the purpose of completing an analysis of the re-injection system's impact to the time estimate for completion of the groundwater CAP. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the re-injection analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. NRC will perform an audit of the analysis, and provide in writing NRC audit results,

including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 10 of this section.

14. As soon as practicable, but not to exceed 30 days from issuance of this Confirmatory Order, HMC will adjust operations to better ensure compliance with the Ground Water Protection Standards (GWPS) in License Condition 35B as required by License Condition 35C and described in HMC's submittal dated January 15, 1998 (ADAMS Accession No. ML12291A910) and the NRC's approval dated March 5, 1998 (ADAMS Accession No. ML14203A023). HMC will evaluate the procedure required by License Condition 23 to ensure that the process is adequate to reduce constituent concentrations to values below the GWPS listed in License Condition 35B before discharge.

15. HMC will use the methodology described in NUREG–1620 (ADAMS Accession No. ML032250190) to analyze the impact of exceedances documented in the NRC's October 4, 2016 letter to HMC. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the impact of exceedances analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to the NRC all discussion material at least 10 days prior to the discussion. The NRC will perform an audit of the analysis and provide in writing, the NRC audit results, including any recommended changes. HMC will incorporate the NRC audit results in the actions described in Condition 10 of this section.

In the event of a future non-compliance related to the GWPS, HMC will perform a similar assessment of the impacts of the non-compliance. HMC will report the incident to the NRC in accordance with License Condition 40 within 30 days of receipt of initial and confirmatory laboratory results.

16. Condition 35C of License No. SUA–1471 is amended by this Confirmatory Order to read as follows:

''Implement the corrective action program described in the September 15, 1989 submittal, as modified by the reverse osmosis system described in the January 15, 1998 submittal, excluding all sampling and reporting requirements for Sample Point 1, with the objective of achieving the concentrations of all constituents listed in License Condition 35B. Composite samples from Sample Point 2 will be taken monthly and analyzed for the constituents listed in License Condition 35B; the results of these analyses will be reported in the semi-annual and annual reports required by License Conditions 15 and 42.''

17. HMC will develop written procedures to ensure that HMC will sample all required composite samples from Sample Point 2 (SP2) monthly and will report the results of those sample results in the semi-annual and annual reports required by License Conditions 15 and 42. The procedure will include a requirement that if sampling is not performed, a justification will be provided in the semi-annual report required by License Condition 15 for that sampling period, *e.g.,* ''inadequate volume of water collected per the appropriate sampling procedure due to the RO plant being inoperable for 25 out of 30 days during that sampling period.'' For clarity, this reporting requirement does not apply to additional samples taken for operational purposes. For any report submitted to NRC, HMC will clearly identify all values at SP2 that exceed GWPS or regulatory or license limits for the COCs identified in License Condition 35B and corrective actions taken, if any, as a result of the exceedances. HMC will submit these procedures to NRC within 120 days of issuance of this Confirmatory Order.

18. Condition 15 of License No. SUA–1471 is amended by this Confirmatory Order to read as follows:

''The results of all effluent and environmental monitoring required by this license and regulation shall be reported semi-annually, by March 31 and September 30. All groundwater monitoring data shall be reported per the requirements in License Condition 35.''

19. HMC will identify sources of supply water, soil and groundwater data, and reports, and will use those data to develop a land application assessment of any impacts due to the use of the irrigation water containing byproduct material to past, current, or foreseeable future uses of the land application areas in Township 12 North, Range 10 West, Sections 28 (approximately 100 acres), 33 (approximately 150 acres and approximately 24 acres), and 34 (approximately 120 acres). The land application assessment will establish background concentrations, remedial action levels (radiological dose and non-radiological risk), and current concentrations of COCs in its license at all areas used for land application. The land application assessment will also identify and assess impacts from soil pore water data at the land application areas. HMC's land application assessment will be consistent with the requirements of 10 CFR 20.2002 and in accordance with Appendix F1.4 of NUREG–1620 (ADAMS Accession No. ML032250190) to demonstrate that the discharge of byproduct material containing both radiological and non-radiological constituents did not impact and will not impact members of the public or the environment. In addition, HMC will take immediate action to ensure that the land application areas are not being used to produce crops for human consumption. The land application assessment will be submitted for NRC review and approval within 180 days of issuance of this Confirmatory Order.

20. If the results of HMC's analysis discussed in Condition 19 of this section indicates that radiological doses and non-radiological risks are in excess of the NRC-approved remedial action levels, HMC will propose appropriate measures to control both use and access to the impacted areas, a corrective action plan, if necessary, to achieve the NRC-approved remedial action levels, and final status survey plans to demonstrate that the radiological doses and non-radiological risks are below NRC-approved remedial action levels. If corrective actions are needed, HMC will submit corrective actions (that include completion timeframes), for NRC approval, within 60 days of NRC's approval of HMC's land application assessment.

21. HMC will provide to the NRC an integrated table that sets forth all actions taken pursuant to this Confirmatory Order. An updated integrated table will be provided to the NRC semi-annually, until all license and procedure changes under this Confirmatory Order are completed.

22. The NRC considers the actions discussed above, along with the NRC's specified approval, to be satisfactory, appropriately prompt, and comprehensively responsive to the apparent violations identified in the NRC's letter to HMC dated October 4, 2016.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees to not pursue any further enforcement action based on the apparent violations identified in the NRC's October 4, 2016 letter.

On March 21, 2017, HMC consented to issuing this Confirmatory Order with the commitments, as described in Section V below. HMC further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that HMC has waived its right to a hearing.

IV

I find that the HMC actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that HMC's commitments be confirmed by this Confirmatory Order. Based on the above and HMC's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81,161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 40.71, *it is hereby ordered,* EFFECTIVE UPON ISSUANCE, THAT LICENSE NO. SUA–1471 IS MODIFIED AS FOLLOWS:

1. HMC will submit its root cause protocol to an independent third party consultant with expertise in root cause analysis and provide a copy of the independent third party reviewed protocol to the NRC within 120 days of issuance of this Confirmatory Order. The root cause protocol will also be available for review during future inspections. The root cause protocol submitted to the NRC will identify any changes made by the independent third party reviewer and include a qualification statement for the independent third party reviewer. This protocol will be used to complete Conditions 2, 3, and 4 of this section.

2. Within 30 days of submitting to NRC the root cause protocol in Condition 1 of this section, HMC will use the root cause protocol to analyze the reasons for the apparent violations documented in the NRC's October 4, 2016 letter (ADAMS Accession No. ML16251A526). HMC will submit any proposed corrective actions to the NRC for review and approval within 60 days of completing the root cause analyses.

3. HMC will complete an assessment of all HMC activities to determine whether all activities are authorized and are being conducted in compliance with NRC requirements. The assessment will identify areas where clarity could be added to the license. The assessment will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment and any corrective actions deemed appropriate. This report will identify any proposed changes to the license and procedures. This assessment will include a review of the licensee's Safety Culture, to identify any actions that may be necessary to improve upon or enhance the Safety Culture.

4. HMC will engage an independent third party consultant to review and evaluate HMC's assessments described in Condition 3 of this section. That review will include a written report that identifies all areas assessed, the scope of the assessment, the method used to perform the assessment, the results of each assessment, and any proposed corrective actions. The evaluation will include the effectiveness of any actions proposed by HMC.

a. HMC will submit the name and qualifications of the consultant for NRC approval within 30 days of issuance of this Confirmatory Order.

b. HMC will submit a copy of the assessment described in Condition 3 of this section to the independent third party consultant within 120 days of NRC approval of the independent third party consultant.

c. HMC will provide a copy of the HMC assessment, the consultant's review report, and any modifications by HMC as a result of the third party consultant's report to the NRC within 120 days of submission of the HMC assessment to the independent third party consultant.

d. NRC will perform an audit of the assessment and the independent third party report and provide NRC audit results in writing, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.

e. HMC will maintain copies of all reports at the site for NRC inspection.

5. Unless otherwise specified, for any changes or additions to the license or procedures resulting from this Confirmatory Order, HMC will either (1) submit to the NRC a license amendment request(s), for NRC approval, or (2) update the appropriate HMC procedure(s) after notification of the NRC. All license amendment requests resulting from this Confirmatory Order will be submitted to the NRC within 60 days of receiving the results of NRC's audit(s). All notifications of updates to procedures resulting from this Confirmatory Order will be made to the NRC by the end of calendar year 2018.

6. HMC will submit a revised groundwater CAP to the NRC by the end of calendar year 2018, including amendments to the license approved by that date. The NRC and HMC will work, aggressively and in good faith, toward a goal of final approval of the groundwater CAP within a year from the date of submittal.

7. HMC will conduct initial and annual refresher training for all individuals (employees and vendors, commensurate with their duties) engaged in licensed activities.

a. The initial and annual training will address awareness and understanding of regulatory and license No. SUA–1471 requirements, including but not necessarily limited to informing HMC employees of the jurisdiction of the NRC, the Environmental Protection Agency, and the New Mexico Environment Department over the Grants site. The training may be an electronic read and sign format.

b. HMC will maintain documentation for each training session conducted. The training documentation will include a summary of the contents of the training and the individuals in attendance. The training documentation will be maintained available for NRC inspection for 5 years after each training session.

8. HMC will use the mass balance methodology described in its revised 2012 groundwater CAP submittal, incorporating the issues raised in the Requests for Additional Information provided by NRC (ADAMS Package No. ML13360A224), and adapting the methodology for the purpose of completing an analysis of the re-injection system's impact to the time estimate for completion of the groundwater CAP. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the re-injection analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. NRC will perform an audit of the analysis, and provide in writing NRC audit results, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.

9. As soon as practicable, but not to exceed 30 days from issuance of this Confirmatory Order, HMC will adjust operations to better ensure compliance with the Ground Water Protection Standards (GWPS) in License Condition 35B as required by License Condition 35C (as amended by this Confirmatory Order) and described in HMC's submittal dated January 15, 1998 (ADAMS Accession No. ML12291A910) and the NRC's approval dated March 5, 1998 (ADAMS Accession No. ML14203A023). HMC will evaluate the procedure required by License Condition 23 to ensure that the process is adequate to reduce constituent

concentrations to values below the GWPS listed in License Condition 35B before discharge.

10. HMC will use the methodology described in NUREG–1620 (ADAMS Accession No. ML032250190) to analyze the impact of exceedances documented in the NRC's October 4, 2016 letter to HMC. The analysis will be completed within 120 days of issuance of this Confirmatory Order. No less than 30 days prior to its finalization of the impact of exceedances analysis, HMC will discuss with NRC the methodology, data, and analysis. HMC will provide to NRC all discussion material at least 10 days prior to the discussion. The NRC will perform an audit of the analysis and provide in writing, the NRC audit results, including any recommended changes. HMC will incorporate NRC audit results in the actions described in Condition 5 of this section.

In the event of a future non-compliance related to the GWPS, HMC will perform a similar assessment of the impacts of the non-compliance. HMC will report the incident to the NRC in accordance with License Condition 40 within 30 days of receipt of initial and confirmatory laboratory results.

11. Condition 35C of License No. SUA–1471 is amended by this Confirmatory Order to read as follows:

''Implement the corrective action program described in the September 15, 1989 submittal, as modified by the reverse osmosis system described in the January 15, 1998 submittal, excluding all sampling and reporting requirements for Sample Point 1, with the objective of achieving the concentrations of all constituents listed in License Condition 35B. Composite samples from Sample Point 2 (SP2) will be taken monthly and analyzed for the constituents listed in License Condition 35B; the results of these analyses will be reported in the semi-annual and annual reports required by License Conditions 15 and 42.''

12. HMC will develop written procedures to ensure that HMC will sample all required composite samples from Sample Point 2 (SP2) monthly and will report the results of those sample results in the semi-annual and annual reports required by License Conditions 15 and 42. The procedure will include a requirement that if sampling is not performed, a justification will be provided in the semi-annual report required by License Condition 15 for that sampling period, *e.g.,* ''inadequate volume of water collected per the appropriate sampling procedure due to the RO plant being inoperable for 25 out of 30 days during that sampling period.'' For clarity, this reporting requirement does not apply to additional samples taken for operational purposes. For any report submitted to NRC, HMC will clearly identify all values at SP2 that exceed GWPS or regulatory or license limits for the COCs identified in License Condition 35B and corrective actions taken, if any, as a result of the exceedances. HMC will submit these procedures to NRC within 120 days of issuance of this Confirmatory Order.

13. Condition 15 of License No. SUA–1471 is amended by this Confirmatory Order to read as follows:

''The results of all effluent and environmental monitoring required by this license and regulation shall be reported semi-annually, by March 31 and September 30. All groundwater monitoring data shall be reported per the requirements in License Condition 35.''

14. HMC will identify sources of supply water, soil and groundwater data, and reports, and will use those data to develop a land application assessment of any impacts due to the use of the irrigation water containing byproduct material to past, current, or foreseeable future uses of the land application areas in Township 12 North, Range 10 West, Sections 28 (approximately 100 acres), 33 (approximately 150 acres and approximately 24 acres), and 34 (approximately 120 acres). The land application assessment will establish background concentrations, remedial action levels (radiological dose and non-radiological risk), and current concentrations of COCs in its license at all areas used for land application. The land application assessment will also identify and assess impacts from soil pore water data at the land application areas. HMC's land application assessment will be consistent with the requirements of 10 CFR 20.2002 and in accordance with Appendix F1.4 of NUREG–1620 (ADAMS Accession No. ML032250190) to demonstrate that the discharge of byproduct material containing both radiological and non-radiological constituents did not impact and will not impact members of the public or the environment. In addition, HMC will take immediate action to ensure that the land application areas are not being used to produce crops for human consumption. The land application assessment will be submitted for NRC review and approval within 180 days of issuance of this Confirmatory Order.

15. If the results of HMC's analysis discussed in Condition 14 of this section indicates that radiological doses and non-radiological risks are in excess of the NRC-approved remedial action levels, HMC will propose appropriate measures to control both use and access to the impacted areas, a corrective action plan, if necessary, to achieve the NRC-approved remedial action levels, and final status survey plans to demonstrate that the radiological doses and non-radiological risks are below NRC-approved remedial action levels. If corrective actions are needed, HMC will submit corrective actions (that include completion timeframes), for NRC approval, within 60 days of NRC's approval of HMC's land application assessment.

16. HMC will provide to the NRC an integrated table that sets forth all actions taken pursuant to this Confirmatory Order. An updated integrated table will be provided to the NRC semi-annually, until all license and procedure changes under this Confirmatory Order are completed.

In the event of the transfer of license SUA–1471 to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license.

Unless otherwise specified, all dates are from the date of issuance of the Confirmatory Order. The term ''days'' in the Confirmatory Order means calendar days.

Unless otherwise specified, all documents required to be submitted to the NRC pursuant to this Confirmatory Order prior to NRC approval of the revised groundwater CAP described in Condition 6 of this section will be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, with a copy to the Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Two White Flint North, 11545 Rockville Pike, Rockville, MD 20852–2738.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by HMC or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 2.309, any person adversely affected by this Confirmatory Order, other than HMC, may request a hearing within thirty (30) days of the issuance date of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555,

and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter ''petition''), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended by 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than HMC) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

A REQUEST FOR HEARING SHALL NOT STAY THE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland, this 28th day of March 2017.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,
Director, Office of Enforcement

[FR Doc. 2017–06645 Filed 4–3–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1050]

In the Matter of Waste Control Specialists LLC; Consolidated Interim Storage Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) published a notice in the **Federal Register** of Waste Control Specialists, LLC's (WCS) license application to construct and operate a consolidated interim waste storage facility. The deadline for members of the public to file a request for a hearing and petition for leave to intervene on WCS's application was March 31, 2017. This order is extending the deadline until May 31, 2017.

DATES: Effective Date is March 29, 2017.

ADDRESSES: Please refer to Docket ID 72–1050 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods: *NRC's Electronic Hearing Docket:* You may obtain publicly available documents related to this hearing online at *http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html.*

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 29th day of March, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of, WASTE CONTROL SPECIALISTS LLC, (Consolidated Interim Storage Facility)

Docket No. 72–1050

ORDER

On January 30, 2017, the NRC provided notice in the **Federal Register** of Waste Control Specialists, LLC's (WCS) license application to construct and operate a consolidated interim waste storage facility.[1] The **Federal Register** notice set a deadline of March 31, 2017, for members of the public to file a request for a hearing and petition for leave to intervene on WCS's application

The Sierra Club, the Sustainable Energy and Economic Development (SEED) Coalition, and the Nuclear Information and Resource Service (NIRS) each requested a 120-day extension to file hearing requests.[2] The Sierra Club later withdrew its original request and re-filed a joint motion with WCS requesting a revised schedule that would extend the deadline for filing all hearing requests by 61 days, to May 31, 2017.[3] This joint motion also proposes a briefing schedule for answers to be filed 44 days after the deadline for hearing petitions and for replies to be filed 7 days after the deadline for answers. The joint motion represents that the NRC Staff does not oppose this proposed schedule.

Given that the joint motion is unopposed, and in the interests of efficiency, pursuant to my authority in 10 CFR 2.346(b), I hereby grant *all* petitioners an extension of time until May 31, 2017, to file hearing requests on WCS's license application. The deadline for answers to timely hearing petitions shall be July 14, 2017. And the deadline for any replies shall be July 21, 2017.

It is so ordered.

Dated at Rockville, Maryland, this 29th day of March, 2017.

For the Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

[FR Doc. 2017–06575 Filed 4–3–17; 8:45 am]

BILLING CODE 7590–01–P

[1] Waste Control Specialists LLC's Consolidated Interim Spent Fuel Storage Facility Project, 82 FR 8773 (Jan. 30, 2017).

[2] *Sierra Club's Motion for Extension of Time to Intervene in Licensing Proceeding* (Mar. 2, 2017) (ADAMS accession no. ML17062A897); *Sustainable Energy and Economic Development Coalition (SEED Coalition) Request for Extension of 120 Days for Submission of Hearing Requests and Petitions to Intervene* (Mar. 7, 2017) (ML17080A493); *Nuclear Information and Resource Service and Nineteen other Organization's Request for Extension on Deadline* (Mar. 9, 2017) (ML17069A492). The NRC Staff and WCS oppose the SEED Coalition and NIRS requests. *See Waste Control Specialists LLC's Answer Opposing Nuclear Information and Resource Service's Letter Requesting an Extension of Time and Proposing Approval of Alternative Briefing Schedule* (Mar. 17, 2017) (ML17076A365); *Waste Control Specialists LLC's Answer Opposing Sustainable Energy and Economic Development Coalition's Request for an Extension of Time and Proposing Approval of Alternative Briefing Schedule* (Mar. 23, 2017) (ML17082A426); *NRC Staff's Response to the Nuclear Information and Resource Service's Motion for an Extension of Time to Request a Hearing* (Mar. 20, 2017) (ML17079A534); *NRC Staff's Response to the Sustainable Energy and Economic Development Coalition's Letter Requesting an Extension of Time to Request a Hearing* (Mar. 23, 2017) (ML17082A441).

[3] *Waste Control Specialists LLC and Sierra Club's Joint Motion for Revised Schedule Related to Hearing Requests* (Mar. 13, 2017) (ML17072A498).

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0129]

Information Collection: Licenses, Certifications, and Approvals for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

DATES: Submit comments by June 5, 2017. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0129. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–2 F43, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David 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*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0129 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–2016–0129. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0129 on this Web site.

• *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 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–2016–0129 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. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

2. *OMB approval number:* 3150–0151.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion. Applications are submitted only when licensing action is sought.

6. *Who will be required or asked to respond:* Applicants for early site permits (ESPs), standard design approvals (SDAs) and certifications, manufacturing licenses (MLs), and licenses which combine construction permits (CPs) and conditional operating licenses (OLs), *e.g.* COLs, for commercial nuclear power reactors.

7. *The estimated number of annual responses:* 1,175 (1,150 reporting responses plus 25 recordkeepers).

8. *The estimated number of annual respondents:* 25.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 243,854 hours (22,414 hours reporting plus 23,440 hours recordkeeping).

10. *Abstract:* The licensing processes in part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) provide for issuance of ESPs, SDAs, MLs, CPs, and COLs for commercial nuclear power reactors. The applicants submit updated reports, applications for renewals, exemption requests and maintain records of changes to the facility and records of detailed design related information. These licensing procedures are options to the two-step licensing process in 10 CFR part 50, which provides for a CP and an OL. The part 52 licensing process places procedural requirements in part 52 and technical requirements in part 50. Part 52 reduces the overall paperwork burden borne by applicants for CPs and OLs because part 52 only requires a single application and provides options for referencing standardized designs. The information in 10 CFR part 52 is needed by the agency to assess the adequacy and suitability of an applicant's site, plant design, construction, training and experience, plans and procedures for the protection of public health and safety.

III. Specific Requests for Comment

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated at Rockville, Maryland, this 30th day of March, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–06633 Filed 4–3–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–047; NRC–2016–0119]

Tennessee Valley Authority; Clinch River Nuclear Site Early Site Permit Application and Associated Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of hearing and opportunity to petition for leave to intervene; order imposing procedures.

SUMMARY: On May 12, 2016, the Tennessee Valley Authority (TVA)

submitted an application to the U.S. Nuclear Regulatory Commission (NRC) for an early site permit (ESP) for the Clinch River Nuclear (CRN) Site located in Oak Ridge, Tennessee. A notice of receipt and availability of this application was published in the **Federal Register** on June 23, 2016. The TVA also provided supplemental information in support of the application to the NRC. Notice of the NRC's docketing of the application was published in the **Federal Register** on January 12, 2017. A hearing will be held, at a time and place to be set in the future by the NRC or designated by the Atomic Safety and Licensing Board (Board). The hearing will consider the application dated May 12, 2016.

DATES: A request for hearing or petition for leave to intervene must be filed by June 5, 2017. Any potential party, as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to sensitive unclassified non-safeguards information (SUNSI) and/or safeguards information (SGI) is necessary to respond to this notice must request document access by April 14, 2017.

ADDRESSES: Please refer to Docket ID NRC–2016–0119 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0119. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Allen Fetter, telephone: 301–415–8556, email: *Allen.Fetter@nrc.gov;* or Mallecia Sutton, telephone: 301–415–0673, email: *Mallecia.Sutton@nrc.gov*. Both are staff of the Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), and the regulations in 10 CFR part 2, ''Agency Rules of Practice and Procedure,'' 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities,'' and 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' notice is hereby given that a hearing will be held, at a time and place to be set in the future by the NRC or designated by the Board. The hearing will consider the application dated May 12, 2016 (ADAMS Accession No. ML16153A282), filed by TVA, pursuant to subpart A of 10 CFR part 52, for an early site permit. The application requests approval of an ESP for the CRN Site to be located in Oak Ridge, Tennessee. The notice of the NRC's receipt of the application was published in the **Federal Register** on June 23, 2016 (81 FR 40929). The notice of the NRC's docketing of the application was published in the **Federal Register** on January 12, 2017 (82 FR 3812). The docket number established for this application is 52–047.

The CRN Site ESP application uses technical information from various certified and proposed designs to develop a plant parameter envelope for facility characterization necessary to assess the suitability of the site for any future construction and operation of a nuclear power plant.

The hearing will be conducted by a Board that will be designated by the Chief Judge of the Atomic Safety and Licensing Board Panel or will be conducted by the Commission. Notice as to the membership of the Board would be published in the **Federal Register** at a later date. The NRC staff will complete a detailed technical review of the application and will document its findings in a safety evaluation report (SER). The Commission will refer a copy of the application to the Advisory Committee on Reactor Safeguards (ACRS) in accordance with 10 CFR 52.23, ''Referral to the ACRS,'' and the ACRS will report on those portions of the application that concern safety. The NRC staff will also complete an environmental review of the application and will document its findings in an environmental impact statement (EIS) in accordance with the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in 10 CFR part 51.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the

petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by June 5, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html*. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html*. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html*. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system

may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure Web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–415–3710.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Administrative Services, Mail Services Center, Mail Stop P1–37, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *MAILSVC.Resource@nrc.gov*. The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $324.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, ATTN: Personnel Security Branch, Mail Stop TWFN–03–B46M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.[5]

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 30th of March, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

Day	Event/activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2017–06625 Filed 4–3–17; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a meeting on May 4, 2017 at 10:00 a.m. at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 27th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the assumptions to be used in the 27th Actuarial Valuation. A report containing recommended assumptions and the experience on which the recommendations are based will have been sent by the Chief Actuary to the Committee before the meeting.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

Dated: March 30, 2017.

For the Board.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2017–06623 Filed 4–3–17; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80339]

Order Granting Application by C2 Options Exchange, Incorporated for an Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

March 29, 2017.

C2 Options Exchange, Incorporated (''C2'' or ''Exchange'') has filed with the Securities and Exchange Commission (''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] from the rule filing requirements of Section 19(b) of the Exchange Act [2] with respect to certain rules of the Chicago Board Options Exchange, Incorporated (''CBOE'') that the Exchange seeks to incorporate by reference. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

Both C2 and CBOE are Participants in the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[3] Each Participant in the CAT NMS Plan is required to enforce compliance by its members with the provisions of the Plan by adopting a ''Compliance Rule'' applicable to its members.[4] On January 30, 2017, CBOE filed a proposed rule change with the Commission to adopt new Section F to Chapter VI of its rules to implement the CAT Compliance Rule.[5] On the same day, C2 filed a proposed rule change with the Commission to incorporate by reference, in new Section F of Chapter 6 of its rules, the rules contained in Section F of Chapter VI of CBOE's rules.[6]

C2 has requested, pursuant to Rule 0–12 under the Exchange Act,[7] that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to Section F of Chapter 6 of C2's rules that are effected solely by virtue of a change to Section F of Chapter VI of CBOE's rules. Specifically, C2 requests that it be permitted to incorporate by reference changes made to Section F of Chapter VI of CBOE's rules [8] without the need for C2 to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.[9] By virtue of these incorporations by reference, the requirements applicable to C2 Permit Holders [10] will change when the applicable CBOE rules change, without the need for C2 to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.[11]

The Exchange represents that Section F of Chapter 6 is a category of Exchange rules (rather than individual rules within a category) that are not trading rules, and that the incorporation by reference of CBOE Chapter VI, Section F, which are regulatory rules, is intended to be a comprehensive

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''CAT NMS Plan Approval Order''). All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the CAT NMS Plan or CAT NMS Plan Approval Order.

[4] *Id.* at 84945, 84950.

[5] *See* Securities Exchange Act Release No. 79950 (February 2, 2017), 82 FR 9916 (February 8, 2017).

[6] *See* Securities Exchange Act Release No. 79953 (February 3, 2017), 82 FR 10034 (February 9, 2017). CBOE and C2's proposed rule changes were approved by the Commission on March 15, 2017. *See* Securities Exchange Act Release No. 80256, 82 FR 14526 (March 21, 2017).

[7] 17 CFR 240.0–12.

[8] C2 Chapter 6, Section F states: ''The rules contained in Section F of CBOE Chapter VI relating to the Consolidated Audit Trail (CAT) Compliance Rule, as such rules may be in effect from time to time, shall apply to C2 and are hereby incorporated into this Chapter.''

[9] *See* Letter from Laura G. Dickman, Lead Counsel, CBOE, to Brent J. Fields, Secretary, Commission, dated January 30, 2017 (''C2 Letter'').

[10] ''Permit Holder'' means ''the Exchange recognized holder of a Trading Permit. A Permit Holder is also known as a Trading Permit Holder under the Bylaws. Permit Holders are deemed 'members' under the Exchange Act.'' C2 Rule 1.1.

[11] C2 Letter, *supra* note 8.

integration of the relevant CBOE rules into C2's rules. The Exchange has agreed to provide written notice to its members whenever CBOE proposes a change to a CBOE rule that the Exchange has incorporated by reference.[12]

The Exchange believes this exemption is necessary and appropriate to maintain consistency between C2 rules and the relevant CBOE rules, thus helping to ensure identical regulation of C2 Permit Holders that are also CBOE Trading Permit Holders [13] with respect to the incorporated provisions as well as helping to ensure that C2-only Permit Holders are subject to consistent regulation as CBOE Trading Permit Holders.[14] The Exchange believes that, without such an exemption, such Permit Holders could be subject to two different standards.[15]

The Commission has issued exemptions similar to the Exchange's request.[16] In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other self-regulatory organizations (''SROs''), provided that:

• An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [17]

• The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and

• The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[18]

The Commission believes that the Exchange has satisfied each of these conditions. The Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[19] The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it has incorporated by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its members whenever CBOE changes a rule that the Exchange has incorporated by reference.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[20] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain CBOE rules that are the result of changes to such CBOE rules, provided that the Exchange promptly provides written notice to its members whenever CBOE proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06571 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

[12] The Exchange will provide this notice by posting on its Web site, at the same location as it posts its own rule filings as required by Rule 19b–4(l), a link to the location on CBOE's Web site where the proposed rule change is posted. *Id.*

[13] ''Trading Permit Holder'' means ''any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit . . . A Trading Permit Holder is a 'member' solely for purposes of the [Exchange] Act.'' *See* CBOE Rule 1.1 (citing Section 1.1 of CBOE Bylaws).

[14] C2 Letter, *supra* note 8.

[15] *Id.*

[16] *See, e.g.,* Securities Exchange Act Release Nos. 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order''); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); and 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

[17] *See* 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (''Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule'').

[18] *See* BATS Options Market Order, *supra* note 15 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[19] *See* BATS Options Market Order, *supra* note 15, 75 FR at 8761; *see also* 2004 Order, *supra* note 17, 69 FR at 8502.

[20] 15 U.S.C. 78mm.

[21] 17 CFR 200.30–3(a)(76).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80329; File No. SR–NYSEArca–2017–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving Proposed Rule Change To Amend Rule 6.37B Regarding Market Maker Quotations, Including To Adopt a Market Maker Light Only Quotation

March 29, 2017.

I. Introduction

On February 10, 2017, NYSE Arca, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 6.37B regarding Market Maker Quotations, including to adopt a Market Maker Light Only Quotation. The proposed rule change was published for comment in the **Federal Register** on February 27, 2017.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 6.37B(a), which provides that a Market Maker may enter quotes in the option issues included in its appointment, to define a Market Maker ''quote,'' add a new quote type, and specify how such quotes would be processed when a series is open for trading.

First, the Exchange proposes to define a Market Maker quote to provide that ''[t]he term 'quote' or 'quotation' means a bid or offer entered by a Market Maker

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80072 (February 21, 2017), 82 FR 11964 (''Notice'').

that updates the Market Maker's previous bid or offer, if any.'' [4]

Second, the Exchange proposes to add a Market Maker Light Only Quotation (''MMLO'') to provide Market Makers the option to designate incoming quotes to trade solely with displayed interest on the Consolidated Book.[5] This proposed change would allow Market Makers to designate quotes as MMLO to prevent such quotes from trading with undisplayed liquidity upon arrival. Once an MMLO is added to the Consolidated Book, the MMLO designation would no longer apply and any unexecuted portion could trade with displayed and undisplayed interest.

Finally, the Exchange proposes to modify the processing of Market Maker quotations, including MMLOs, in a manner that aligns with the Options Order Protection And Locked/Crossed Market Plan (''Plan''), to which the Exchange is a party.[6] Specifically, as proposed, an incoming quotation would only trade against contra-side interest in the Consolidated Book at prices that would not trade through interest on another Market Center.[7] Any untraded size of an incoming quote would be added to the Consolidated Book, unless it locks or crosses interest on another Market Center or if the quote is an MMLO and locks or crosses undisplayed interest.[8] The proposed rule would further state that when such quantity of an incoming quote is cancelled (as opposed to being rejected outright), the Exchange would also cancel the Market Maker's current quote on the opposite side of the market. According to the Exchange, this would allow the Market Maker to refresh both its bid and offer simultaneously, as both sides of the Market Maker's quote residing on the Consolidated Book would be cancelled.[9] Additionally, the Exchange would reject an incoming quotation if it locks or crosses interest on another Market Center and if it cannot trade with interest in the Consolidated Book at prices that do not trade through another Market Center.[10] The Exchange also proposes to reject an incoming MMLO if it locks or crosses undisplayed interest and cannot trade with displayed interest in the Consolidated Book at prices that do not trade through another Market Center.[11] The proposed rule would further state that when an incoming quote is rejected outright (as opposed to being cancelled after a partial fill), the Exchange would also cancel the Market Maker's current quote on the same side of the market.[12] According to the Exchange, this treatment recognizes that the Market Maker unsuccessfully attempted to update its bid or offer price, and the cancellation would allow the Market Maker to refresh that side of its quote.[13] The Exchange also proposes to specify that, when a series is open for trading, a quote will trade only against interest in the Consolidated Book and will not route.[14]

According to the Exchange, the implementation of the proposed rule change will be no later than 30 days after its approval, and will be announced by Trader Update.[15]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [16] and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange noted that its proposal to add the definition of Market Maker quotes will provide additional clarity and transparency to Exchange rules.[19] The Exchange further stated that it is difficult for Market Makers to account for undisplayed liquidity in their quoting models. The Exchange believes that its proposal to adopt the MMLO functionality would therefore provide Market Makers with increased control over their exposure, and thus may encourage more aggressive liquidity provision, resulting in more trading opportunities and tighter spreads.[20] According to the Exchange, this would improve overall market quality and improve competition on the Exchange to the benefit of all market participants.[21] Finally, the Exchange stated that its proposal to amend the treatment of Market Maker quotations would assist Market Makers in maintaining a fair and orderly market, would encourage increased liquidity provision on the Exchange, and is consistent with Exchange's obligations under the Plan in that it avoids trading through better prices on other exchanges and is designed to avoid locking and crossing

[4] *See* proposed Rule 6.37B(a)(1). The Exchange notes that its proposed definition is identical or substantially similar to related definitions on other options exchanges. *See, e.g.,* International Securities Exchange, LLC Rule 100(a)(42); BOX Options Exchange LLC Rule 100(a)(55). The Exchange also proposes to modify the current definition of ''Quote with Size'' to include a cross reference to the proposed definition of ''quotation.'' *See* proposed Rule 6.1(b)(33).

[5] *See* proposed Rule 6.37B(a)(2). The Exchange noted that this proposed functionality for Market Maker quotations is comparable to functionality Market Makers may currently employ for orders. *See* Notice, *supra* note 3, at 11964–65, 11964 n.9. *See also* Rule 6.62(v) (defining Post No Preference Light Orders as non-routable orders that are only eligible to execute against displayed liquidity). The Exchange further noted that it previously offered, and later eliminated, a Post No Preference Light Only Quotation (''PNPLO''), which, like the MMLO, allowed Market Makers to designate certain quotations to only interact with displayed liquidity. *See* Notice, *supra* note 3, at 11965 n.10. *See also* Securities Exchange Act Release Nos. 67252 (June 25, 2012), 77 FR 38879 (June 29, 2012) (SR–NYSEArca–2012–05) (order approving adoption of PNPLO for Penny Pilot issues only); 68339 (December 3, 2012), 77 FR 73109 (December 7, 2012) (SR–NYSEArca–2012–130) (extending the PNPLO to non-Penny Pilot issues); 69641 (May 28, 2013), 78 FR 33134 (June 3, 2013) (SR–NYSEArca–2013–51) (eliminating reference to the PNPLO).

[6] *See* Plan, dated April 14, 2009, *available at, http://www.optionsclearing.com/components/docs/clearing/services/options_order_protection_plan.pdf. See also* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (File No. 4–546) (order approving the Plan). The Plan establishes various obligations for participating exchanges, including that Market Makers should ''reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross'' the best bid or offer on another Market Center. *See* Plan, *supra,* at Section 6(c).

[7] *See* proposed Rule 6.37B(a)(3)(A). *See also* Rule 6.1A(6) (defining Market Center as ''a national securities exchange that has qualified for participation in the Options Clearing Corporation pursuant to the provisions of the rules of the Options Clearing Corporation'').

[8] *See* proposed Rule 6.37B(a)(3)(B)(i).

[9] *See* Notice, *supra* note 3, at 11965.

[10] *See* proposed Rule 6.37B(a)(3)(C)(i).

[11] *See* proposed Rule 6.37B(a)(3)(C)(ii).

[12] *See* proposed Rule 6.37B(a)(3)(C).

[13] *See* Notice, *supra* note 3, at 11965.

[14] *See* proposed Rule 6.37B(a)(3)(D).

[15] *See* Notice, *supra* note 3, at 11965.

[16] 15 U.S.C. 78f.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Notice, *supra* note 3, at 11966.

[20] *See id.*

[21] *See id.*

markets.[22] In particular, the Exchange noted that the proposed rules with respect to the treatment of Market Maker quotations would enable Market Makers to simultaneously update both sides of their resting quote when one side of the quote received a partial fill but was subsequently cancelled, and to leave undisturbed valid opposite-side interest where one side of a quote is rejected and not booked.[23] This proposal does not relieve a Market Maker of its continuous quoting, or firm quote, obligations pursuant to Rules 6.37B and 6.86, respectively. For these reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEArca–2017–17) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06564 Filed 4–3–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, April 6, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: March 30, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–06691 Filed 3–31–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80325; File No. SR–ISE–2017–25]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Rename the Exchange as Nasdaq ISE, LLC

March 29, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2017, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Second Amended and Restated Constitution, Third Amended and Restated LLC Agreement, Rule Book and Fee Schedule to rename itself Nasdaq ISE, LLC. In addition this rule change proposes to amend references to the names of certain affiliated markets within the ISE Rulebook.[3]

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to rename the Exchange to reflect its new placement within the Nasdaq, Inc. corporate structure in connection with the March 9, 2016 acquisition by Nasdaq of the capital stock of U.S. Exchange Holdings, and the thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC, ISE Gemini, LLC and ISE Mercury, LLC.[4]

Specifically, all references in the Exchange's Second Amended and Restated Constitution and Third Amended and Restated Limited Liability Company Agreement, Rule Book and Fee Schedule to ''International Securities Exchange, LLC,'' ''ISE, LLC,'' or ''ISE'' shall be amended to ''Nasdaq ISE, LLC'' or ''Nasdaq ISE.'' Moreover, consistent with changes already filed for ISE Gemini, LLC, the rule change proposes to amend references to ''ISE Gemini'' to ''Nasdaq GEMX,'' and references to ''ISE Mercury'' and ''Mercury'' to ''Nasdaq MRX.'' [5] The Exchange also proposes minor grammatical changes which are necessary as a result of the name change, *i.e.,* amending ''a'' to ''an.'' The

[22] *See id.*

[23] *See id.*

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The affiliated markets are ISE Gemini, LLC and ISE Mercury, LLC.

[4] *See* Securities Exchange Act Release No. 78119 (June 27, 2016), 81 FR 41611 (SR–ISE–2016–11; SR–ISE Gemini–2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[5] *See* Securities Exchange Act Release No. 80248 (March 15, 2017) (SR–ISEGemini–2017–13). *See also* SR–ISEMercury–2017–05.

Exchange proposes to amend its name for ISE on April 3, 2017.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by renaming the Exchange and updating the names of certain affiliated markets to reflect its current ownership.

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 the proposed rule change will impact the intense competition that exists in the options market. The name change will reflect the current ownership structure and unify the options markets operated by Nasdaq, Inc.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may amend its name as of April 3, 2017. The Exchange stated that it intends to announce the name change for ISE and certain of its affiliated markets on the same date to reflect the unified ownership of these markets by Nasdaq, Inc.[12] The Exchange believes that changing the names of all three affiliated markets at the same time is consistent with the protection of investors and the public interest because it will avoid any confusion that may arise with respect to the ownership by Nasdaq of the three markets, and will relieve various administrative burdens associated with the name changes.[13] The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–25 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–ISE–2017–25. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided 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.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] ISE Gemini, LLC and ISE Mercury, LLC have proposed in separate rule changes to amend their names as of April 3, 2017. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13) (''Nasdaq GEMX Proposal''). *See also* Securities Exchange Act Release No. 34–80326 (March 29, 2017) (SR–ISEMercury–2017–05) (''Nasdaq MRX Proposal'').

[13] For example, the Exchange states that it is notifying a number of parties of the name change along with members of all three of the markets; the Exchange and members may have to update contractual agreements or forms as a result of the name change; and administrative changes can be accomplished at the same time if the operative dates of all three of the entities are aligned. The Exchange believes that it is in the interest of the members of ISE and the members of other markets, as well as the public, to change the names of the three markets at the same time to avoid additional administrative burdens if it were to change the names of the three markets on different dates. *See* Item 7 of SR–ISE–2017–25, Form 19b–4. The Exchange further states that it will provide notification of the name changes to the members of all three affiliated markets. *Id.*

[14] The Commission notes that it has also waived the operative delay for the proposed rule changes associated with the renaming of ISE Gemini, LLC to Nasdaq GEMX, LLC, and ISE Mercury, LLC to Nasdaq MRX, LLC. *See* Nasdaq GEMX Proposal, *supra* note 12; and Nasdaq MRX Proposal, *supra* note 12. For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

2017–25, and should be submitted on or before April 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06560 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80336; File No. SR–NYSEMKT–2017–04]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to Market Makers Applicable When the Exchange Transitions Trading to Pillar, the Exchange's New Trading Technology Platform

March 29, 2017.

On January 25, 2017, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt the rules relating to market makers that would be applicable when the Exchange transitions trading to Pillar, the Exchange's new trading technology platform. The proposed rule change was published for comment in the **Federal Register** on February 13, 2017.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be approved or disapproved. The 45th day after publication of the notice for this proposed rule change is March 30, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 14, 2017, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEMKT–2017–04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06568 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Equity Market Structure Advisory Committee will hold a public meeting on Wednesday, April 5, 2017, in the Multipurpose Room, LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC.

The meeting will begin at 9:30 a.m. (EDT) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will be open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On March 14, 2017, the Commission published notice of the Committee meeting (Release No. 34–80245), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting. No earlier notice of this Meeting was practicable.

The agenda for the meeting will focus on potential recommendations and updates from the four subcommittees.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: March 30, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–06690 Filed 3–31–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80330; File No. SR–NYSEMKT–2017–08]

Self-Regulatory Organizations; NYSE MKT LLC; Order Approving Proposed Rule Change To Amend Rule 925.1NY Regarding Market Maker Quotations, Including To Adopt a Market Maker Light Only Quotation

March 29, 2017.

I. Introduction

On February 10, 2017, NYSE MKT LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 925.1NY regarding Market Maker Quotations, including to adopt a Market Maker Light Only Quotation. The proposed rule change was published for comment in the **Federal Register** on February 27, 2017.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 925.1NY(a), which provides that a Market Maker may enter quotes in the option issues included in its appointment, to define a Market Maker ''quote,'' add a new quote type, and specify how such quotes would be processed when a series is open for trading.

First, the Exchange proposes to define a Market Maker quote to provide that ''[t]he term 'quote' or 'quotation' means a bid or offer entered by a Market Maker that updates the Market Maker's previous bid or offer, if any.'' [4]

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79982 (Feb. 7, 2017), 82 FR 10508.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80073 (February 21, 2017), 82 FR 11952 (''Notice'').

[4] *See* proposed Rule 925.1NY(a)(1). The Exchange notes that its proposed definition is identical or substantially similar to related definitions on other options exchanges. *See, e.g.,* International Securities Exchange, LLC Rule 100(a)(42); BOX Options Exchange LLC Rule 100(a)(55). The Exchange also proposes to modify the current definition of ''Quote with Size'' to include a cross

Continued

Second, the Exchange proposes to add a Market Maker Light Only Quotation (''MMLO'') to provide Market Makers the option to designate incoming quotes to trade solely with displayed interest on the Consolidated Book.[5] This proposed change would allow Market Makers to designate quotes as MMLO to prevent such quotes from trading with undisplayed liquidity upon arrival. Once an MMLO is added to the Consolidated Book, the MMLO designation would no longer apply and any unexecuted portion could trade with displayed and undisplayed interest.

Finally, the Exchange proposes to modify the processing of Market Maker quotations, including MMLOs, in a manner that aligns with the Options Order Protection And Locked/Crossed Market Plan (''Plan''), to which the Exchange is a party.[6] Specifically, as proposed, an incoming quotation would only trade against contra-side interest in the Consolidated Book at prices that would not trade through interest on another Market Center.[7] Any untraded size of an incoming quote would be added to the Consolidated Book, unless it locks or crosses interest on another Market Center or if the quote is an MMLO and locks or crosses undisplayed interest.[8] The proposed rule would further state that when such quantity of an incoming quote is cancelled (as opposed to being rejected outright), the Exchange would also cancel the Market Maker's current quote on the opposite side of the market. According to the Exchange, this would allow the Market Maker to refresh both its bid and offer simultaneously, as both sides of the Market Maker's quote residing on the Consolidated Book would be cancelled.[9] Additionally, the Exchange would reject an incoming quotation if it locks or crosses interest on another Market Center and if it cannot trade with interest in the Consolidated Book at prices that do not trade through another Market Center.[10] The Exchange also proposes to reject an incoming MMLO if it locks or crosses undisplayed interest and cannot trade with displayed interest in the Consolidated Book at prices that do not trade through another Market Center.[11] The proposed rule would further state that when an incoming quote is rejected outright (as opposed to being cancelled after a partial fill), the Exchange would also cancel the Market Maker's current quote on the same side of the market.[12] According to the Exchange, this treatment recognizes that the Market Maker unsuccessfully attempted to update its bid or offer price, and the cancellation would allow the Market Maker to refresh that side of its quote.[13] The Exchange also proposes to specify that, when a series is open for trading, a quote will trade only against interest in the Consolidated Book and will not route.[14]

According to the Exchange, the implementation of the proposed rule change will be no later than 30 days after its approval, and will be announced by Trader Update.[15]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [16] and the rules and regulations thereunder applicable to a national securities exchange.[17] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[18] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and that the rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange noted that its proposal to add the definition of Market Maker quotes will provide additional clarity and transparency to Exchange rules.[19] The Exchange further stated that it is difficult for Market Makers to account for undisplayed liquidity in their quoting models. The Exchange believes that its proposal to adopt the MMLO functionality would therefore provide Market Makers with increased control over their exposure, and thus may encourage more aggressive liquidity provision, resulting in more trading opportunities and tighter spreads.[20] According to the Exchange, this would improve overall market quality and improve competition on the Exchange to the benefit of all market participants.[21] Finally, the Exchange stated that its proposal to amend the treatment of Market Maker quotations would assist Market Makers in maintaining a fair and orderly market, would encourage increased liquidity provision on the Exchange, and is consistent with Exchange's obligations under the Plan in that it avoids trading through better prices on other exchanges and is designed to avoid locking and crossing markets.[22] In particular, the Exchange noted that the proposed rules with respect to the treatment of Market Maker quotations would enable Market Makers to simultaneously update both sides of their resting quote when one side of the quote received a partial fill but was subsequently cancelled, and to leave

reference to the proposed definition of ''quotation.'' *See* proposed Rule 900.2NY(65).

[5] *See* proposed Rule 925.1NY(a)(2). The Exchange noted that this proposed functionality for Market Maker quotations is comparable to functionality on another options exchange for orders. *See* Notice, *supra* note 3, at 11953 n.9. *See also* NYSE Arca, Inc. (''NYSE Arca'') Rule 6.62(v) (defining Post No Preference Light Orders as non-routable orders that are only eligible to execute against displayed liquidity). The Exchange further noted that NYSE Arca previously offered, and later eliminated, a Post No Preference Light Only Quotation (''PNPLO''), which, like the MMLO, allowed Market Makers to designate certain quotations to only interact with displayed liquidity. *See* Notice, *supra* note 3, at 11953 n.10. *See also* Securities Exchange Act Release Nos. 67252 (June 25, 2012), 77 FR 38879 (June 29, 2012) (SR–NYSEArca–2012–05) (order approving adoption of PNPLO for Penny Pilot issues only); 68339 (December 3, 2012), 77 FR 73109 (December 7, 2012) (SR–NYSEArca–2012–130) (extending the PNPLO to non-Penny Pilot issues); 69641 (May 28, 2013), 78 FR 33134 (June 3, 2013) (SR–NYSEArca–2013–51) (eliminating reference to the PNPLO).

[6] *See* Plan, dated April 14, 2009, *available at, http://www.optionsclearing.com/components/docs/clearing/services/options_order_protection_plan.pdf. See also* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (File No. 4–546) (order approving the Plan). The Plan establishes various obligations for participating exchanges, including that Market Makers should ''reasonably avoid displaying, and shall not engage in a pattern or practice of displaying, any quotations that lock or cross'' the best bid or offer on another Market Center. *See* Plan, *supra,* at Section 6(c).

[7] *See* proposed Rule 925.1NY(a)(3)(A). *See also* Rule 900.2NY(36) (defining Market Center as ''a national securities exchange that has qualified for participation in the Options Clearing Corporation pursuant to the provisions of the rules of the Options Clearing Corporation'').

[8] *See* proposed Rule 925.1NY(a)(3)(B)(i).

[9] *See* Notice, *supra* note 3, at 11953.

[10] *See* proposed Rule 925.1NY(a)(3)(C)(i).

[11] *See* proposed Rule 925.1NY(a)(3)(C)(ii).

[12] *See* proposed Rule 925.1NY(a)(3)(C).

[13] *See* Notice, *supra* note 3, at 11953.

[14] *See* proposed Rule 925.1NY(a)(3)(D).

[15] *See* Notice, *supra* note 3, at 11954.

[16] 15 U.S.C. 78f.

[17] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* Notice, *supra* note 3, at 11954.

[20] *See id.*

[21] *See id.*

[22] *See id.*

undisturbed valid opposite-side interest where one side of a quote is rejected and not booked.[23] This proposal does not relieve a Market Maker of its continuous quoting, or firm quote, obligations pursuant to Rules 925.1NY and 970NY, respectively. For these reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–NYSEMKT–2017–08) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06565 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80327; File No. SR–MSRB–2017–02]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change to Rule G–3, on Professional Qualification Requirements, and Rule G–8, on Books and Records, To Establish Continuing Education Requirements for Municipal Advisors and Accompanying Recordkeeping Requirements

March 29, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2017 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB filed with the Commission a proposed rule change to amend MSRB Rule G–3, on professional qualification requirements, to establish continuing education requirements for municipal advisors; [3] and accompanying amendments to MSRB Rule G–8, on books and records to be made by brokers, dealers and municipal securities dealers (''dealers'') and municipal advisors; and the proposed rule change also makes minor technical changes to Rule G–3 to reflect the renumbering of sections and updates to cross-referenced provisions (collectively the ''proposed rule change''). The MSRB requests that the proposed rule change be approved with an implementation date of January 1, 2018. Municipal advisors would, therefore, have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver the appropriate training to comply with the annual training requirement for calendar year 2018.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2017-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Now that the MSRB has launched the Municipal Advisor Representative Qualification Examination (Series 50),[4] in connection with its statutory mandate,[5] the MSRB seeks to amend Rule G–3(i) to prescribe continuing education requirements for municipal advisors. Section 15B(b) of the Act, as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''), specifically requires the MSRB to provide professional standards and continuing education requirements for municipal advisors. The goal of continuing education is to ensure that certain associated persons of municipal advisors stay abreast of issues that may affect their job responsibilities and of product and regulatory developments. The proposed rule change also would amend Rule G–8 to establish recordkeeping requirements related to the administration of a municipal advisor's continuing education program.

In addition, the proposed rule change would make technical changes to Rule G–3 to reflect the renumbering of sections and updates to cross-referenced provisions.

Background

In May 1993, due to the increasing complexity of the securities industry, a self-regulatory organization (''SRO'') task force [6] was formed by the industry's SROs, to study and develop recommendations regarding continuing education needs in the securities industry. In September 1993, the task force issued a report recommending a formal two-part continuing education program.[7] The task force also recommended that a permanent council on continuing education, composed of broker-dealers and SRO representatives, be formed to develop the content for the continuing education program and provide ongoing maintenance of the program. Pursuant to this recommendation, the Securities Industry/Regulatory Council on Continuing Education (''CE Council'') was formed. [8] The CE Council prepared

[23] *See id.*

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Municipal advisor would have the same meaning as in Section 15B(e)(4) of the Act, 17 CFR 240.15Ba1–1(d)(1)–(4) and other rules and regulations thereunder.

[4] On February 26, 2015, the MSRB received approval from the SEC amending Rule G–3 to establish two new registration classifications for municipal advisors: Municipal advisor representatives and municipal advisor principals; and to require each prospective municipal advisor representative and municipal advisor principal to take and pass the municipal advisor representative qualification examination. *See* Exchange Act Release No. 74384 (February 26, 2015), 80 FR 11706 (March 4, 2015) (SR–MSRB–2014–08).

[5] *See* 15 U.S.C. 78*o*–4(b)(2)(L)(ii) and (iii).

[6] The SROs in the task force included the MSRB, American Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the National Association of Securities Dealers, Inc. (n/k/a the Financial Industry Regulatory Authority), the New York Stock Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

[7] Report and Recommendations of the Securities Industry Task Force on Continuing Education (September 1993).

[8] The CE Council is currently composed of up to 20-industry members from broker-dealers,

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draft rules to implement the continuing education program, which the SROs filed as proposed enabling rules with the Commission.[9]

The MSRB was a member of the CE Council upon its formation and has remained a member since. Consistent with the CE Council's recommendation, the MSRB filed, and the SEC approved, amendments to Rule G–3 establishing a formal two-part continuing education program for registered persons, requiring uniform industry-wide periodic training in regulatory matters, and ongoing training programs conducted by firms to enhance their registered persons' securities knowledge and skills. Hence, continuing education requirements for securities industry participants are not a new regulatory development.

Dealers are currently required, pursuant to Rule G–3(i), to maintain a continuing education program for their ''covered registered persons'' [10] after their initial qualification and registration. Rule G–3(i) also sets out the two-pronged approach to continuing education requirements consisting of a Regulatory Element and a Firm Element component. The Regulatory Element, which is developed by the CE Council, is a computer-based training program that focuses on compliance, regulatory, ethical and sales practice standards with the content derived from common industry rules and regulations, as well as widely accepted standards and practices within the industry. Under Rule G–3(i)(i)(A), covered registered persons are required to complete Regulatory Element training within 120 days of the second anniversary of their registration approval date, and every three years thereafter.[11]

The Firm Element is a firm-administered training program that requires dealers to annually evaluate and prioritize their training needs. The documentation evidencing such annual evaluation is commonly referred to as a needs analysis. A needs analysis generally reflects a firm's assessment of its unique training needs based on various factors, for example, the business activities the firm and its associated persons engage in, the level of industry experience the firm's associated persons have and any changes to applicable rules or regulations. Upon completion of a needs analysis, a dealer is required to develop a written training plan consistent with its analysis of the training priorities identified. Dealers must maintain records documenting the completion of the needs analysis, the content of the training programs and completion of the training by each of the firm's covered registered persons.[12]

Proposed Amendments to Rule G–3: Establishing Continuing Education Requirements for Municipal Advisors

As described in detail below, the MSRB is proposing amendments to Rule G–3 to establish continuing education requirements for municipal advisors. Like the Firm Element component for dealers, municipal advisors would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes their specific training needs, develop a written training plan based on the needs identified in the analysis, and deliver training concerning municipal advisory activities designed to meet those training needs. However, the proposed requirements for municipal advisors would differ from the dealers' Firm Element requirements with respect to identifying those that are subject to the training and the content that must be covered in the training as part of the minimum standards for the annual training.

Under proposed Rule G–3(i)(ii), municipal advisors would be required to implement a continuing education training program for those individuals qualified as either a municipal advisor representative or as a municipal advisor principal (collectively, ''covered persons'').[13] The establishment of continuing education requirements for municipal advisors would assist in ensuring that all firms provide a minimum-level standard of training that is appropriate in the public interest and for the protection of investors and municipal entities or obligated persons.

Pursuant to proposed Rule G–3(i)(ii)(B)(1), a municipal advisor would be required to, at least annually, conduct a needs analysis that evaluates and prioritizes its training needs, develop a written training plan based on the needs analysis, and deliver training applicable to its municipal advisory activities. Additionally, in developing a written training plan, a municipal advisor must take into consideration the firm's size, organizational structure, scope of municipal advisory activities, as well as regulatory developments.

Proposed Rule G–3(i)(ii)(B)(2) would prescribe the minimum standards for continuing education training by requiring that each municipal advisor's training include, at a minimum, training on the applicable regulatory requirements and the fiduciary duty obligations owed to municipal entity clients. The minimum training on the applicable regulatory requirements would require a municipal advisor's continuing education program to include training on the regulatory requirements applicable to the municipal advisory activities its covered persons engage in. However, training on the fiduciary duty obligation owed to municipal entity clients is a minimum component of the continuing education training for all covered persons, even those that may not engage in municipal advisory activities on behalf of a municipal entity client. The fiduciary duty obligation owed to a municipal entity client is a keystone principal of the regulatory framework for municipal advisors that the MSRB believes every covered person engaged in municipal advisory activities should be familiar with. A municipal advisor would, nonetheless, still have the flexibility to determine the appropriate scope of training that its covered persons need on the fiduciary duty obligation based on the municipal advisory activities that its covered persons engage in.

Recognizing that the nature of municipal advisory activities engaged in by municipal advisors can be diverse, the proposed rule change would provide municipal advisors with sufficient flexibility to determine their firm-specific training needs and the content and scope of the training appropriate for their covered persons. For example, a municipal advisor that only provides advice to municipal entities on swap transactions would be permitted to design its annual training plan based upon the rules and practices applicable to its limited business model, so long as such training plan included the applicable regulatory requirements

representing a broad cross section of securities industry firms, and representatives from the MSRB and other SROs, as well as liaisons from the SEC and the North American Securities Administrators Association.

[9] *See* Exchange Act Release No. 35341 (February 8, 1995), 60 FR 8426 (February 14, 1995) (SR–MSRB–94–17, SR–AMEX–94–59, SR–CBOE–94–49, SR–CHX–94–27, SR–NASD–94–72, SR–NYSE–94–43, SR–PSE–94–35, and SR–PHLX–94–52).

[10] Under Rule G–3(i)(ii)(A), a ''covered registered person'' means ''any person registered with a broker, dealer or municipal securities dealer and qualified as a representative or principal in accordance with this rule or as a general securities principal and who regularly engages in or supervises municipal securities activities.''

[11] MSRB Rule G–3(i)(i)(A).

[12] MSRB Rule G–9(b)(viii)(C).

[13] Under Rule G–3(d)(i)(A), ''municipal advisor representative'' means ''a natural person associated with a municipal advisor who engages in municipal advisory activities on the municipal advisor's behalf.'' Under MSRB Rule G–3(e)(i), ''municipal advisor principal'' means ''a natural person associated with a municipal advisor who is qualified as a municipal advisor representative and is directly engaged in the management, direction or supervision of the municipal advisory activities of the municipal advisor and its associated persons.''

applicable to that limited business and a component regarding the fiduciary duty obligation owed to municipal entity clients. Moreover, municipal advisors would be able to determine the method for delivering such training. For example, a municipal advisor could determine that the most effective manner for delivering the training would be to require its covered persons to attend an applicable seminar by subject matter experts and/or to utilize an on-line training resource.

The MSRB notes that the minimum requirements for continuing education training, outlined under the proposed rule change, should not be viewed by municipal advisors as the full scope of the subject matter appropriate for municipal advisors' training programs. The minimum standard for training does not negate the need for each municipal advisor to consider whether, based on its needs analysis, additional training applicable to the municipal advisory activities it conducts are appropriate.

Proposed Rule G–3(i)(ii)(B)(3) would require a municipal advisor to administer its continuing education program in accordance with the annual evaluation and prioritization of its training needs and the written training plan developed as consistent with its needs analysis. Also, pursuant to this provision, a municipal advisor would be required to maintain records documenting the content of its training programs and a record that each of its covered persons identified completed the applicable training.

Under proposed Rule G–3(i)(ii)(C), a municipal advisor's covered persons (those individuals qualified as a municipal advisor representative or municipal advisor principal) would be required to participate in the firm's continuing education training programs. If consistent with its training plan, a municipal advisor could deliver training appropriate for all covered persons. In addition, a municipal advisor may determine that its training needs indicate that it should also deliver particular training for certain covered persons, for example, those covered persons that have been designated with supervisory responsibilities under Rule G–44, or those covered persons that have been engaged in municipal advisory activities for a short period of time.

Under proposed Rule G–3(i)(ii)(D), on specific training requirements, the appropriate examining authority may require a municipal advisor, individually or as part of a larger group, to provide specific training to its covered persons in such areas the appropriate examining authority deems appropriate.[14] Such a requirement may stipulate the class of covered persons for which it is applicable, the time period in which the requirement must be satisfied and, where appropriate, the actual training content.

In an effort to reduce regulatory overlap for dealer-municipal advisors,[15] the proposed rule change would allow a dealer-municipal advisor to deliver continuing education training that would satisfy its training needs for the firm's dealer and municipal advisor activities. More specifically, pursuant to Rule G–3(i)(ii)(E), as proposed, each dealer-municipal advisor would be permitted to develop a single written training plan, if that training plan is consistent with each needs analysis that was conducted of the firm's municipal advisory activities and municipal securities activities. In addition, the proposed rule provision would allow a municipal advisor to conduct training for its covered persons and covered registered persons, which would satisfy the continuing education requirements under Rules G–3(i)(i)(B) and G–3(i)(ii), if such training is consistent with the firm's written training plan(s) and that training meets the minimum standards for the training programs, as required under the rule.

Proposed Amendments to Rule G–8

The proposed amendments to Rule G–8 address the books and records that must be made and maintained by a municipal advisor to show compliance with recordkeeping requirements related to the administration of a municipal advisor's continuing education program. The Board adopted the approach of specifying, in some detail, the information to be reflected in various records. Specifically, the proposed amendments to Rule G–8(h) would require each municipal advisor to make and maintain records regarding the firm's completion of its needs analysis and the development of its corresponding written training plan. Moreover, with respect to each municipal advisor's written training plan, municipal advisors would be required to make and keep records documenting the content of the firm's training programs and a record evidencing completion of the training programs by each covered person.[16] Recordkeeping requirements are an important element of compliance and the proposed amendments to Rule G–8 are appropriately tailored to facilitate the examination of a municipal advisor's compliance with the continuing education requirements.

Technical Amendments

The MSRB is proposing minor technical amendments to add paragraph headers, and renumber and update rule cross-references to Rule G–3(i)(i) and Rule G–3(i)(ii). Rule G–3(i)(i) would be revised by adding the paragraph header ''Continuing Education Requirements for Brokers, Dealers, and Municipal Securities Dealers.'' Rule G–3(i)(i)(D) would be revised by adding the paragraph header ''Reassociation'' and renumbered Rule G–3(i)(i)(A)(4). Rule G–3(i)(i)(E) would be relocated to proposed subparagraph Rule G–3(i)(i)(A)(4). Rule G–3(i)(ii) would be re-lettered Rule G–3(i)(i)(B). Due to these changes, other paragraphs under Rule G–3(i) would be renumbered and re-lettered.

As noted above, the MSRB is seeking an implementation date for the proposed rule change of January 1, 2018. To comply with the annual training requirement for calendar year 2018, a municipal advisor would need to complete a needs analysis, develop a written training plan and deliver the appropriate training by December 31, 2018.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(A) of the Act,[17] which provides that the MSRB's rules shall:

> provide that no municipal securities broker or municipal securities dealer shall effect any transaction in, or induce or attempt to induce the purchase or sale of, any municipal security, and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, unless . . . such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meet such standards of training, experience, competence, and such other qualifications as

[14] For purposes of Rule G–3(i)(ii)(D), ''appropriate examining authority'' means ''a registered securities association with respect to a municipal advisor that is a member of such association, or the Commission, or the Commission's designee, with respect to any other municipal advisor.''

[15] A member of the Financial Industry Regulatory Authority that is a municipal securities dealer and municipal advisor is commonly referred to as a ''dealer-municipal advisor.''

[16] Rule G–9(h) generally requires municipal advisors to preserve the books and records described in Rule G–8(h) for a period of not less than five years for purposes of consistency with SEC Rule 15Ba1–8 of the Act on books and records to be made and maintained by municipal advisors. *See* Exchange Act Release No. 73415 (October 23, 2014), 79 FR 64423 (October 29, 2014) (SR–MSRB–2014–06).

[17] 15 U.S.C. 78*o*–4(b)(2)(A).

the Board finds necessary or appropriate in the public interest or for the protection of investors and municipal entities or obligated persons.

This provision provides the MSRB with authority to establish standards of training, experience, competence and other qualifications as the MSRB finds necessary. The MSRB believes that the proposed rule change is consistent with this provision of the Act in that the proposed rule change would provide for minimum levels of training for persons engaged in municipal advisory activities, which is in the public interest and for the protection of investors, municipal entities and obligated persons. The SEC noted that ''[the] new registration requirements and regulatory standards are intended to mitigate some of the problems observed with the conduct of some municipal advisors, including [. . .] advice rendered by financial advisors without adequate training or qualifications, and failure to place the duty of loyalty to their clients ahead of their own interests.'' [18] Requiring municipal advisors to provide continuing education, including minimum training on the fiduciary duty obligations owed to municipal entities, is consistent with and in furtherance of the stated objectives articulated in the Municipal Advisor Registration Final Rule. In addition, a continuing education requirement provides investors, municipal entities and obligated persons with the confidence that individuals who engage in municipal advisory activities and those who supervise municipal advisory activities are kept informed of regulatory developments that can occur after such individuals pass a qualification examination to engage in municipal advisory activities.

Additionally, the MSRB believes that the proposed rule change is consistent with Section 15B(b)(2)(L) of the Act,[19] which provides that the MSRB's rules shall, with respect to municipal advisors:

(i) Prescribe means reasonably designed to prevent acts, practices, and courses of business as are not consistent with a municipal advisor's fiduciary duty to its clients;

(ii) provide continuing education requirements for municipal advisors;

(iii) provide professional standards; and

(iv) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons, provided that there is robust protection of investors against fraud.

As noted by the SEC in the Municipal Advisor Registration Final Rule, ''the municipal advisor regulatory regime should continue to enhance municipal entity and obligated person protections and incentivize municipal advisors not to engage in misconduct.'' [20] The proposed rule change would establish continuing education program requirements for municipal advisors. By establishing a formal, robust continuing education program, municipal advisors would ensure their covered persons are kept informed of issues that affect their job responsibilities and of regulatory developments, which is in furtherance of the protection of investors against fraud and misconduct.

The MSRB believes that, while the proposed rule change would lead to some associated costs, the costs would be a necessary and appropriate regulatory burden to ensure that individuals engaging in municipal advisory activities are adequately trained and maintain an adequate level of industry knowledge. Specifically, the MSRB believes that requiring municipal advisors to have a continuing education program serves to maintain the integrity of the municipal securities market and, specifically, preserve the public confidence, including the confidence of municipal entities and obligated persons, that those engaged in municipal advisory activities meet minimum standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate. A discussion of the economic analysis of the proposed rule change and its impact on municipal advisors is provided below.

Lastly, the MSRB also believes that the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act,[21] which provides that the MSRB's rules shall prescribe records to be made and kept by municipal securities brokers, municipal securities dealers, and municipal advisors and the periods for which such records shall be preserved.

The proposed amendments to Rule G–8 would assist in ensuring that municipal advisors are complying with proposed Rule G–3 by extending the existing recordkeeping requirements applicable to municipal advisors to include making and maintaining records relating to their continuing education program. Establishing a requirement for municipal advisors to maintain records reflecting their continuing education programs would allow the appropriate examining authority that examines municipal advisors to better monitor and promote compliance with the proposed rule change.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act [22] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB has considered the economic impact associated with the proposed rule change, including a comparison to reasonable alternative regulatory approaches, relative to the baseline. The MSRB does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The MSRB believes that the proposed rule change would produce benefits for users of municipal advisory services by ensuring compliance, by municipal advisors, with existing regulations and applicable laws that protect investors, municipal entities, and obligated persons. The proposed rule change would keep covered persons informed of issues and regulatory developments that affect their job responsibilities with respect to helping protect investors and municipal entities. Such requirements may reduce the risk that users of municipal advisory services would receive advice that results in harm or negative impact. Thus, the proposed rule change would help promote a larger pool of qualified municipal advisor professionals available for selection by users of municipal advisory services, resulting in the possibility of greater meaningful competition between providers of these services.

The MSRB recognizes that municipal advisors would incur programmatic costs associated with developing a continuing education program, delivering training and maintaining records of compliance with the continuing education requirements. These costs are likely to be highest when the rule's requirements are initially being implemented, but should diminish over time after these initial start-up costs are incurred. The effect on competition between municipal advisors may be impacted by these upfront costs as some firms, particularly

[18] *See* Exchange Act Release No. 70462 (September 20, 2013), 78 FR 67467 at 67469 (November 12, 2013) (''Municipal Advisor Registration Final Rule'').

[19] 15 U.S.C. 78*o*–4(b)(2)(L).

[20] *See* Municipal Advisor Registration Final Rule, *supra* note 14, at 67611.

[21] 15 U.S.C. 78*o*–4(b)(2)(G).

[22] 15 U.S.C. 78*o*–4(b)(2)(C).

larger firms, may be better able to bear these costs than other firms.

To mitigate these costs, the proposal was modified, based on public comments, to offer flexibility to municipal advisors in how they implement the requirements of the proposed rule change. The proposed rule change allows flexibility for developing continuing education training based on firm size, organizational structure, and scope of business activities. In addition, the proposed rule change has been modified to also allow for the development of a single training plan that is consistent with each needs analysis conducted by a dealer-municipal advisor. Moreover, dealer-municipal advisors can incorporate identified, firm-specific training needs, with respect to their municipal advisory activities, into their existing training programs, as long as any offered training is consistent with the written training plan(s).

The MSRB understands that most small municipal advisors may not employ full-time staff for the purpose of developing and implementing continuing education training. However, the MSRB believes that the proposed rule change, which provides sufficient flexibility regarding how the requirement is met, does not demand that municipal advisors hire additional staff. Moreover, third parties, including the MSRB, may provide training resources that would be available to municipal advisors at a relatively low cost. To the extent that the costs associated with the proposed rule change may cause some municipal advisors to exit the market or to consolidate with other firms, the MSRB believes these effects are unlikely to materially impact competition for the provision of municipal advisory services.

The MSRB considered alternatives, including the development of a mandatory training program, similar to the Regulatory Element requirement for dealers, and a more prescriptive continuing education requirement.[23] However, at this time, the MSRB does not believe that such proposals are necessary and that the current proposed rule change achieves the proper balance between the likely benefits associated with the proposed rule change and the likely costs associated with implementing the requirements of the proposed rule change.

The MSRB considered the economic impact of the proposed rule change and has addressed comments relevant to the impact in additional sections of the filing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The MSRB solicited comment on establishing continuing education requirements for municipal advisors in a Request for Comment [24] and received 11 comment letters in response to the draft amendments.[25] A copy of MSRB Notice 2016–24 is attached as Exhibit 2a; a list of the comment letters received in response is attached as Exhibit 2b; and copies of the comment letters are attached as Exhibit 2c. Below is a summary of the comments and the MSRB's responses are provided.

Support for the Proposed Rule Change

In response to MSRB Notice 2016–24, commenters generally expressed support for the establishment of continuing education requirements for municipal advisors.[26] PFM commented that they ''[welcome] the implementation of continuing education requirements for municipal advisors because [they] believe there are inherent benefits of ongoing continuing education which would assist municipal advisors in expanding their knowledge and promoting compliance with applicable regulations necessary within the current regulatory environment.'' FSI stated that it supports the proposed rule change because, as proposed, such amendments would ''establish a flexible, principles-based rule that is harmonized with current FINRA [continuing education] requirements.'' FSI also commended the MSRB for ''choosing a flexible and less prescriptive approach to this rule making.'' PRAG commented that ''continuing education is a necessary part of the regulatory framework.'' Similarly, NAMA commented ''[c]ontinuing education requirements are imperative to ensuring that MAs are held to a professional standard that strengthens their professional responsibilities to municipal entities.''

Although supportive, a few commenters suggested the need for clarification on aspects of the proposal and additional guidance with respect to the implementation of any continuing education requirements.[27]

Implementation of the Proposed Rule Change

Certain commenters asserted that the proposal is premature and recommended that the MSRB delay implementing continuing education requirements for municipal advisors.[28] NAMA recommended that the MSRB ''step back and complete an analysis on the impact that the implementation of all of the new rules and qualification standards have on MAs, and then determine the scope of continuing education standards.'' Lamont Financial noted that a phased in implementation period ''would be the only appropriate way to make the rule effective.'' According to PFM, the MSRB should consider ''[t]he institution of a reasonable [phased] in period that considers additional requirements for municipal advisor principals which more likely consists of at least a two-year timeframe for implementing the proposed continuing education requirements.'' PRAG expressed a similar sentiment, stating that the ''implementation of continuing education requirements [should] be delayed until the 'grace period' for the Series 50 exam has passed and implementation of the Series 54 exam has occurred.''

The MSRB is supportive of a delayed implementation period. The MSRB believes that implementing the continuing education requirements after the one-year grace period for the Municipal Advisor Representative Qualification Examination (Series 50) [29]

[23] MSRB Regulatory Notice 2016–24, Request for Comment on Draft Provisions to Establish a Continuing Education Requirement for Municipal Advisors (''draft amendments'') (September 30, 2016)

[24] *See* MSRB Regulatory Notice 2016–24, *supra* note 23.

[25] *See* Email from G. Letti, Breena LLC, dated September 30, 2016 (''Breena''); Email from Garth Schulz, Castle Advisory Company LLC, dated September 30, 2016 (''Castle Advisory''); Letter from Jeff White, Principal, Columbia Capital Management, LLC, dated November 11, 2016 (''Columbia Capital''); Letter from David T. Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated November 14, 2016 (''FSI''); Letter from Robert A. Lamb, President, Lamont Financial Services Corporation, dated October 21, 2016 (''Lamont Financial''); Email from Lawrence Goldberg, dated September 30, 2016(''Goldberg''); Letter from Susan Gaffney, Executive Director, National Association of Municipal Advisors, dated November 14, 2016 (''NAMA''); Letter from Leo Karwejna, Managing Director and Chief Compliance Officer, PFM Group, dated November 14, 2016 (''PFM''); Letter from Marianne F. Edmonds, Senior Managing Director, Public Resources Advisory Group, dated November 14, 2016 (''PRAG''); Email from Jonathan Roberts, Roberts Consulting, LLC, dated October 14, 2016 (''Roberts''); Letter from Donna DiMaria, Chairman of the Board of Directors, Third Party Marketers Association, dated November 17, 2016 (''3PM'').

[26] 3PM, Breena, Castle Advisory, Columbia Capital, FSI, Lamont Financial, NAMA, PFM and PRAG.

[27] NAMA, PFM and PRAG.

[28] Lamont, NAMA and PRAG.

[29] The one-year grace period for the Series 50 examination ends on September 12, 2017. The one-year grace period allows municipal advisor professionals to continue to engage in or supervise

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affords municipal advisors time to continue to more fully digest current regulatory requirements and for municipal advisor professionals to take and pass the Series 50 exam. The MSRB does not believe, however, that it is necessary to delay the implementation of continuing education requirements until the development of the Municipal Advisor Principal Qualification Examination (Series 54), as any municipal advisor must first be qualified as a municipal advisor representative. Moreover, the goal of the continuing education requirement is to enhance the knowledge, skill, and professionalism of covered persons by ensuring that all covered persons receive regular training, and in an acceptable depth, applicable to a firm's municipal advisory activities. As noted earlier in the filing, the MSRB has requested an implementation date of January 1, 2018. As a result, municipal advisors would have until December 31, 2018, to conduct the first required annual training in compliance with the rule.

Commercial Training Materials

Some commenters expressed concerns regarding the lack of commercially available materials specifically designed to use in delivering continuing education training for municipal advisors.[30] Columbia Capital indicated, ''it is not likely that third-parties will develop CE content that is broad enough to encompass the full breadth of the MA's role with respect to governmental issuers and obligated parties.'' Moreover, according to Columbia Capital, ''most MA firms will be left to develop their own CE programs—an outcome that could be onerous for small firms.'' PRAG noted it is ''not confident that [third-party] providers will step into this space and have concern [sic] about both the cost and time required for the development of appropriate materials.'' Lamont Financial stated, ''the Board may be out over its skis in considering [the] rule at this point because the development of commercial training resources for municipal advisors has not been significant to date.''

Conversely, 3PM stated that ''several of the industry's CE providers began offering MA training modules as part of their firm-element product offerings over a year ago.'' Columbia Capital noted, ''[w]e have historically provided ongoing continuing education for our MA professionals in-house using a mix of formal and informal training/education methods. We also leverage free and low-cost resources provided by third-parties—state GFOA conferences, web-based seminars from organizations like the Council of Development Finance Agencies, etc.—to supplement our advisors' continuing education.'' Lamont Financial acknowledged that the MSRB is a resource for training materials and expressed that ''the Board should continue to develop materials that will help educate professionals in the field.'' Lamont Financial also added that ''[c]ertain national associations, such as NAMA, may be a good source for providing continuing education to municipal advisors.''

As proposed, the continuing education requirements for municipal advisors preserve flexibility as to the content and delivery method for continuing education training. The proposed rule change does not prescribe content requirements for the training that municipal advisors must provide, beyond addressing the regulatory requirements and, specifically, the fiduciary duty obligation to a firm's municipal entity clients. Instead, the proposed rule change affords municipal advisors the flexibility to identify and deliver continuing education training in the most convenient and effective manner possible based on their business model. A municipal advisor's training program may utilize multiple methods of delivery, such as seminars, computer-based training, webcasts, or dissemination of information requiring written acknowledgement that the materials have been received and read. Moreover, industry trade associations may be a good source of continuing education training materials, in addition to podcasts, webinars and educational materials developed by the MSRB. Accordingly, the MSRB does not believe the lack of commercially-available content would cause an undue burden on municipal advisors.[31]

Conducting a Needs Analysis and Developing a Written Training Plan

Two commenters noted the proposal would benefit from additional clarity and details regarding completing a needs analysis, including the core subjects to be covered, and on developing a written training plan.[32] NAMA suggested that the MSRB could provide such details and expectations, with respect to the development of a needs analysis, by providing representative sample needs analyses or additional guidance. NAMA also stated, more specifically, further guidance would benefit municipal advisors with respect to:

- How firms should identify and evaluate applicable training needs, including those related to the fiduciary duty standard and regulatory issues that arise with respect to current practices for clients, as well as anticipated or forthcoming responsibilities for clients;
- What content should be included in a written training plan;
- Acceptable delivery mechanisms for meeting continuing education requirements; and
- How to document that training was completed.

PFM requested that the MSRB ''provid[e] more specific guidance on required subjects with further interpretive guidance describing information to be covered on core concepts within the municipal industry.'' Additionally, PFM suggested that the MSRB publish core competency subject requirements on a range of various topics for purposes of ensuring ''a level of consistency in educational information so as to enhance the quality and standard of training received by all municipal advisors.''

The MSRB recognizes that additional guidance on conducting a needs analysis and how to implement a continuing education program may benefit municipal advisors, especially non-dealer municipal advisors. The MSRB intends, before the proposed rule change is implemented,[33] whether in collaboration with industry associations, or otherwise, to provide guidance to assist municipal advisors in understanding their obligations to develop a continuing education program. The guidance would not be designed to promote or establish a uniform training program, but rather to provide a common approach to assist municipal advisors in the development and implementation of a firm-specific training program. Municipal advisors should be aware that any guidance or approaches recommended for consideration would not create a safe harbor and that each municipal advisor would need to decide what measures

municipal advisory activities, without having passed the Series 50 examination, until the expiration of the grace period.

[30] Columbia Capital, Lamont Financial and PRAG.

[31] For example, as suggested by Lamont Financial, continuing education training would most likely occur through attendance at conferences or committee conference calls from membership in organizations like the National Society of Compliance Professionals or participation in organizations related to the business of the advisor.

[32] NAMA and PFM.

[33] The MSRB notes, to assist broker-dealers in complying with their continuing education program requirements, the CE Council publishes a *Guide to Firm Element Needs Analysis and Training Plan Development* that is available at *http://www.cecouncil.com/media/232538/guide_to_firm_element.pdf.*

should be taken in fulfilling its continuing education obligations based on the municipal advisory activities it engages in.

Additional Compliance Burdens and Duplicative Documentation Requirements

3PM expressed concerns that the requirement for dealer-municipal advisors to complete a separate needs analysis and separate written training plan for both its municipal advisory activities and municipal securities activities would be duplicative and did not sufficiently reduce regulatory overlap. 3PM stated, ''by requiring firms to complete separate needs analyses, written training plans and other documentation for its municipal advisory and broker dealer activities, is in fact creating, rather than reducing, regulatory overlap.'' According to 3PM, given that dealer-municipal advisors are examined by FINRA, there is ''[no] benefit to examiners in segregating [the details of a firm's] training that apply to [its] MA business from other areas being evaluated by FINRA.''

The MSRB acknowledges that, in some areas, additional regulatory efficiencies could be achieved for dealer-municipal advisors. With respect to dealer-municipal advisors conducting a separate needs analysis, accounting for both their municipal advisory activities, as well as, their dealer activities, the MSRB notes that, because firms' municipal advisory and municipal securities lines of businesses are subject to separate functions and regulatory regimes, such regulatory burden is appropriate. Dealer-municipal advisors must evidence that a separate needs analysis was conducted, by clearly delineating the needs analysis, for the separate business lines, within the dealer-municipal advisor's written training plan(s). However, the MSRB believes that permitting dealer-municipal advisors to develop a single written training plan that comprehensively details and satisfies the needs analysis for both the firm's municipal advisory activities and dealer activities could further reduce regulatory overlap. To that end, the proposed rule change, which differs slightly from the draft amendments initially proposed in the request for comment, would allow dealer-municipal advisors engaged in diverse lines of business or with complex organizational structures to choose to have separate plans coordinated to cover appropriate areas or incorporate all training requirements into a single plan.

Economic and Administrative Burdens

Some commenters raised the concern that the requirements are likely to be burdensome on small and single-person municipal advisors.[34] Commenters also believe there could be considerable financial cost related to the development of in-house training materials. PRAG stated, ''like other non-broker-dealer MA firms, [the firm] has had to develop compliance procedures, hire compliance personnel and divert time of existing personnel from other duties in order to document compliance with MSRB rules. The transition has been burdensome for us as it has been for all independent MA firms.'' Lamont Financial expressed, ''if each firm then has to develop its own materials, the cost in lost productive work time will be significant and the quality of any training will be dependent on the municipal advisor preparing the materials.'' Goldberg declared, the ''latest Request for Comments suggest overregulation [and] increasing interference with [and] restriction of business conduct.'' Similarly, NAMA stated, ''the MSRB should recognize the multiple roles a principal in a small MA firm or a sole-practitioner MA has to their clients and under the rulemaking regime already imposed by the MSRB.'' NAMA further adds, ''[t]he additional requirements of continuing education for all MAs and especially sole practitioners and smaller firms, should be considered along with the already existing regulatory burdens of the MSRB rulebook, and not create an overwhelming economic or administrative burden on these professionals.''

As an initial matter, the MSRB acknowledges that the proposed rule change would require municipal advisors to devote some level of resources to the development of its continuing education program. However, requiring registration, testing and training of municipal advisors should further strengthen compliance with securities laws, rules and regulations. Moreover, the MSRB has considered whether the regulation is appropriately tailored and needed in furtherance of the protection of investors, municipal entities and the public interests. It is important to note that the proposed rule change does not require a municipal advisor to produce in-house training materials, but rather, provides flexibility recognizing there are less costly alternatives to developing in-house training materials, such as utilizing existing content available or content subsequently developed by third-party resources. Each municipal advisor also has the flexibility to determine its firm-specific training needs and the content of its training for its covered persons. Small municipal advisors and sole proprietorships with a narrowly focused municipal advisory business may find establishing a continuing education program is uniquely different and significantly less complex and narrower in scope than that of full-service firms. As the MSRB has noted in this filing, the content and method for delivery of continuing education training is determined by the municipal advisor.

Other Comments

Roberts noted that the nature of its municipal advisory business does not involve the engagement of municipal entity clients. That is, the municipal advisor only provides municipal advisory services to obligated person clients. Roberts expressed concerns regarding the application of the requirement for municipal advisors to provide continuing education training on a municipal advisor's fiduciary duty obligations. The commenter recommended that the MSRB revise the proposal to allow for an exception to the requirement, if it lacks applicability to the respective municipal advisor. The proposed rule change has been amended to reflect that the training is with respect to the fiduciary duty obligations of municipal advisors to municipal entity clients. The scope of municipal advisory business can be diverse; therefore, a municipal advisor may or may not engage in municipal advisory activities on behalf of a municipal entity client. However, this does not negate the fact that a municipal advisor, at some point, may pursue an undertaking that involves engaging in municipal advisory activities on behalf of a municipal entity client. Therefore, all municipal advisors are subject to the requirement to provide training on the fiduciary duty obligation; however, municipal advisors have the flexibility to determine the extent and scope of that training.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period of up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

[34] Columbia Capital, Lamont Financial, NAMA and PRAG.

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2017–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2017–02. 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 MSRB. 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–MSRB–2017–02 and should be submitted on or before April 25, 2017.

For the Commission, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06562 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80331; File No. SR–IEX–2017–08]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Correct Typographical Errors in SR–IEX–2017–06

March 29, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 17, 2017, the Investors Exchange LLC filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to correct several typographical errors in Rule 11.190(g)(1)(A) and in the Purpose Section of SR–IEX–2017–06 describing the changes to IEX Rule 11.190(g)(1)(A) proposed therein. The Exchange has designated this proposal as non-controversial and has satisfied the requirements of Rule 19b–4(f)(6)(iii) under the Act.[6]

The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently filed with the Commission an immediately effective proposed rule change to amend Rule 11.190(g) to modify the quote instability coefficients and quote instability threshold included in the quote instability calculation specified in subparagraph (g)(1) of Rule 11.190 for purposes of determining whether a crumbling quote exists. The rule filing was published on the Commission Web site on March 10, 2017.[7] Thereafter the Exchange identified that the formula contained in Rule 11.190(g)(1)(A) (the ''formula'') contains several minor typographical errors. First, the numerical references to the Quote Stability Coefficients contained in the formula were each represented as regular text rather than as subscript, as they are specified in subparagraph (a) of Rule 11.190(g)(1)(A). Second, the Quote Stability Variables NC and FC are incorrectly represented as NC–1 and FC–1 respectively in the formula. Exhibit 5 to this filing corrects both of these typographical errors. In addition, Exhibit 5 to SR–IEX–2017–06 contains inconsistent notations on text marked for deletion and retention whereby the same phrase is marked for deletion and also marked as retained and relocated in the following subparagraph. Specifically, the phrase ''the quote instability factor result from the quote stability calculation is greater than the defined quote instability threshold'' is not clearly shown as relocated. Exhibit 5 to this rule filing corrects this typographical error by showing the text of the relocated phrase as new text, notwithstanding that it was previously contained in the text of Rule

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 240.19b–4(f)(6)(iii).

[7] *See* Securities Exchange Act Release No. 34–80202; File No. SR–IEX–2017–06.

1.190(g)(1)(A) [sic] as amended by SR–IEX–2017–06.

In addition, the Purpose Section of the filing contains two sets of typographical errors which the Exchange proposes to correct with this filing. First, numbered paragraph 1, beginning on page 8, which describes one aspect of the proposed amendments to Rule 11.190(g) inadvertently omits the Nasdaq Stock Market in the list of exchanges for which protected quotations are included in the Crumbling Quote determination described in subparagraph (1) of Rule 11.190(g). This paragraph also uses the word ''protection'' rather than ''protected'' in the second sentence. The proposed rule text in Exhibit 5 to the rule filing is correct in this respect. Accordingly, IEX proposes to restate the relevant portion of the Purpose Section to read as follows:

1. Rule 11.190(g) states that the Exchange utilizes real time relative quoting activity of Protected Quotations, not including IEX protected quotations, in the quote instability calculation. As proposed, the Exchange is proposing to include the protected quotations of the following exchanges in the quote instability calculation: New York Stock Exchange, NYSE Arca, Nasdaq Stock Market, Nasdaq BX, Bats BZX Exchange, Bats BYX Exchange, Bats EDGX Exchange, and Bats EDGA Exchange. In connection with our analysis of market data, as described above, the Exchange considered several different permutations of which exchanges to include in the model. The research identified that using the Protected Quotations of these specific eight exchanges in the aggregate resulted in the greatest predictive power of all permutations of exchanges assessed for determining a crumbling quote.

Second, the description in the Purpose Section of the filing in the first and third sentences of numbered paragraph 3 on page 10, which reference the quote stability variables to be retired, incorrectly format N_{-1} and F_{-1} in regular text, when the numeral 1 and preceding minus sign in each should be subscript. Accordingly, IEX proposes to restate the first three sentences of the paragraph to read as follows:

The Exchange proposes to revise the quote stability variables currently specified in subparagraph (1)(D)(i)(b) of Rule 11.190(g) by adding seven (7) new variables (NC, FC, Delta, EPos, ENeg, EPosPrev, and ENegPrev) and retiring four (4) variables (N_{-1}, F_{-1}, E, and D). Specifically, based on our analysis of market data, as described above, the Exchange identified that considering the maximum change over the course of the previous millisecond up to the most recent Protected NBBO change was a more accurate indicator of a crumbling quote than simply looking at the absolute state of the market one millisecond previously. The replacement of N_{-1}, F_{-1}, and D with NC, FC, and Delta, respectively, reflects this finding.'' (internal footnote omitted)

2. Statutory Basis

IEX believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the correction of inadvertent typographical errors in IEX Rule 11.190(g)(1)(A) and in SR–IEX–2017–06 describing the changes to IEX Rule 11.190(g)(1)(A) proposed therein will serve the goals of the Act by having rule text accurately reflect system functionality and avoid the potential for market participant confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX 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. The Exchange believes that the proposed correction does not impact competition in any respect since it is designed to correct typographical errors.

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 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 Act[10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay, noting that the proposal would correct typographical errors in SR–IEX–2017–06, and stating that waiver would allow the Exchange to implement these corrections upon effectiveness of the proposal and avoid potential confusion that otherwise might occur. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change would correct a number of typographical errors contained in IEX's recent SR–IEX–2017–06 filing, but would not result in any substantive changes to that proposal. Waiver of the operative delay will allow IEX to correct these errors without delay, which should reduce the potential for confusion regarding the operation of IEX's quote instability calculation referenced in IEX Rule 11.190. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), IEX provided 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.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 SR–IEX–2017–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2017–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–IEX–2017–08 and should be submitted on or before April 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06566 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80334; File No. SR–NYSE–2017–03]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Amending Rule 98

March 29, 2017.

I. Introduction

On January 26, 2017, New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rule 98. The proposed rule change was published for comment in the **Federal Register** on February 16, 2017.[3] The Commission received no comments on the proposed rule change. The Commission is approving the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Rule 98 to provide that, while on the Trading Floor, DMMs must trade DMM securities at their assigned stock trading post location and may not trade any security that is a related product of their DMM securities.[4]

A. Background

Rule 98 governs the operation of a DMM unit and paragraph (c)(3) of that rule specifies restrictions on trading for member organizations operating a DMM unit. More specifically, Rule 98(c)(3)(B) provides that, while on the Trading Floor of the Exchange,[5] employees of the DMM unit:

(i) Except as provided for in Rule 36.30,[6] may trade only DMM securities only on or through the systems and facilities of the Exchange as permitted by Exchange rules.

(ii) except as provided for in Rule 36.30, may not communicate with individuals or systems responsible for making trading decisions for related products or for away-market trading in their assigned DMM securities.

(iii) shall not have access to customer information or the DMM unit's position in related products.

Accordingly, under current Rule 98, while on the Trading Floor, DMMs may only trade DMM securities and, thus, may not trade any other securities, including securities that are related products to their DMM securities.

B. Proposed Rule Change

The Exchange proposes to amend Rule 98 to remove restrictions on DMM operations on the Trading Floor that are unrelated to the role of DMMs at the Exchange. Specifically, as described in Rule 104, DMMs have specified obligations with respect to their DMM securities and have access to specified non-public order information regarding their DMM securities.[7] However, the Exchange states that DMMs do not have a unique role or access to any non-public order information with respect to securities that are not assigned to them under Rule 103B. The Exchange therefore believes that the current Rule 98 restrictions are unnecessarily broad.

Accordingly, the Exchange proposes to amend Rule 98(c)(3)(B)(i) to provide that, while on the Trading Floor, employees of the DMM unit may trade DMM securities only on or through the systems and facilities of the Exchange at the DMM unit's assigned stock trading post location and as permitted by Exchange rules. Because the proposed rule would no longer specify the only securities that a DMM is permitted to trade, the Exchange proposes to delete

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80019 (Feb. 10, 2017), 82 FR 10942 (Feb. 16, 2017).

[4] As defined in Rule 2(i), the term ''DMM'' means an individual member, officer, partner, employee or associated person of a Designated Market Maker Unit who is approved by the Exchange to act in the capacity of a DMM. The term ''DMM securities'' is defined in Rule 98(a)(2) to mean any securities allocated to the DMM unit pursuant to Rule 103B or other applicable rules. The term ''related products'' is defined in Rule 98(a)(7) to mean any derivative instrument that is related to a DMM security, including options, warrants, hybrid securities, single-stock futures, security-based swap agreement, a forward contract, or any other instrument that is exercisable into or whose price is based upon or derived from a security traded at the Exchange.

[5] As defined in Rule 6A, the term ''Trading Floor'' means the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the ''Main Room'' and the ''Buttonwood Room'' and does not include (i) the areas in the ''Buttonwood Room'' designated by the Exchange where NYSE Amex-listed options are traded, which, for the purposes of the Exchange's Rules, is referred to as the ''NYSE Amex Options Trading Floor'' or (ii) the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor.

[6] Rule 36.30 permits a DMM unit that is registered in an Investment Company Unit (as defined in Section 703.16 of the Listed Company Manual) or a Trust Issued Receipt (as that term is defined in Rule 1200) to use a telephone connection or order entry terminal at the DMM unit's post to enter proprietary orders in the Unit or receipt in another market center, in a Component Security of such a Unit or receipt, or an options or futures contract related to such Unit or receipt, and may use the post telephone to obtain market information with respect to such Units, receipts, options, futures or Component Securities.

[7] *See, e.g.,* Rule 104(a) and (j).

the clause ''except as provided for in Rule 36.30.'' The Exchange also proposes to add new Rule 98(c)(3)(B)(ii) to provide that while on the Trading Floor of the Exchange, employees of the DMM unit may not trade any security that is a related product of its DMM securities. The Exchange would renumber current Rules 98(c)(3)(B)(ii) and (iii) as new Rules 98(c)(3)(B)(iii) and (iv).

As a result of these proposed changes, DMMs would no longer be restricted from trading securities that are unrelated to DMM securities while on the Trading Floor. However, the proposed amendments would continue to require that, while on the Trading Floor, DMMs would not be able to trade any securities that are related products to DMM securities. The proposed amendment would also add a new requirement that DMMs may only trade their DMM securities at their assigned stock trading post.

The proposed rule change would allow Exchange DMMs that are also NYSE MKT LLC (''NYSE MKT'') DMMs to continue to operate. Currently, NYSE MKT's cash equities trading operations share a Floor with the Exchange. DMMs who are also approved as NYSE MKT DMMs currently trade in both NYSE-listed DMM securities and NYSE MKT-listed DMM securities from the same physical location on the exchanges' respective Trading Floors.[8] NYSE MKT has proposed to transition from a Floor-based trading model to a fully automated trading model.[9] After this transition, NYSE MKT would continue to have electronic-access DMMs that would be the same member organizations that are currently operating as Floor-based NYSE MKT DMMs. The proposed amendment to Rule 98 would permit NYSE DMMs to continue to support their electronic NYSE MKT DMM functions in the same physical location where they are currently operating.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Under the proposal, DMMs would be permitted to trade securities that are unrelated to DMM securities while on the Trading Floor. The Exchange represents that DMMs do not have a unique role or access to any non-public order information with respect to securities that are not assigned to them under Rule 103B. The Commission notes that, while on the Trading Floor, DMMs would continue to be prohibited from trading securities that are related products to DMM securities. In addition, the Commission notes that, while on the Trading Floor, employees of the DMM unit would be permitted to trade DMM securities only on or through the systems and facilities of the Exchange at the DMM unit's assigned stock trading post location and as permitted by Exchange rules.

For the above reasons, the Commission finds that the proposal is consistent with the requirements of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (NYSEMKT–2017–03) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06567 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

[8] NYSE MKT DMMs operate under the NYSE MKT Rule 98—Equities.

[9] *See* Securities Exchange Act Release No. 79993 (Feb. 9, 2017), 82 FR 10814 (Feb. 15, 2017) (notice of filing of SR–NYSEMKT–2017–1 (''NYSE MKT Trading Rules Filing'')). Subject to rule approval, NYSE MKT anticipates transitioning off of its Floor in the second quarter of 2017.

[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *Id.*

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80337; File No. SR–NYSEMKT–2017–01]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt New Equities Trading Rules To Transition Trading on the Exchange From a Floor Based Market With a Parity Allocation Model to Fully Automated Price-Time Priority Model on the Exchange's New Trading Technology Platform, Pillar

March 29, 2017.

On January 25, 2017, NYSE MKT LLC (''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to transition trading on the Exchange to Pillar, the Exchange's new trading technology platform, and to operate as a fully automated cash equities market. The proposed rule change was published for comment in the **Federal Register** on February 15, 2017.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be approved or disapproved. The 45th day after publication of the notice for this proposed rule change is April 1, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates May 16, 2017, as the date by which the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79993 (Feb. 9, 2017), 82 FR 10814.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEMKT–2017–01).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06569 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80326; File No. SR–ISEMercury–2017–05]

Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Rename the Exchange as Nasdaq MRX, LLC

March 29, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 17, 2017, ISE Mercury, LLC (''ISE Mercury'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Constitution, Limited Liability Company Agreement, Rule Book and Fee Schedule to rename itself Nasdaq MRX, LLC. In addition this rule change proposes to amend references to the names of certain affiliated markets within the ISE Mercury Rulebook.[3]

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to rename the Exchange to reflect its new placement within the Nasdaq, Inc. corporate structure in connection with the March 9, 2016 acquisition by Nasdaq of the capital stock of U.S. Exchange Holdings, and the thereby indirectly acquiring all of the interests of the International Securities Exchange, LLC, ISE Gemini, LLC, and ISE Mercury, LLC.[4]

Specifically, all references in the Exchange's Constitution, Limited Liability Company Agreement, Rule Book and Fee Schedule to ''ISE Mercury, LLC'' or references to ''Mercury'' shall be amended to ''Nasdaq MRX, LLC'' or ''Nasdaq MRX.'' Moreover, consistent with changes already filed for ISE Gemini, LLC, the rule change proposes to amend references to ''ISE Gemini'' to ''Nasdaq GEMX,'' and references to the ''International Securities Exchange'' and ''ISE'' to ''Nasdaq ISE.''[5] The Exchange also proposes minor grammatical changes which are necessary as a result of the name change, *i.e.,* amending ''a'' to ''an.'' The Exchange proposes to amend its name for ISE Mercury on April 3, 2017.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by renaming the Exchange and updating the names of certain affiliated markets to reflect its current ownership.

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 the proposed rule change will impact the intense competition that exists in the options market. The name change will reflect the current ownership structure and unify the options markets operated by Nasdaq, Inc.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 Act[8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[10] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The affiliated markets are the International Securities Exchange, LLC and ISE Gemini, LLC.

[4] *See* Securities Exchange Act Release No. 78119 (June 27, 2016), 81 FR 41611 (SR–ISE–2016–11; SR–ISE Gemini-2016–05; SR–ISE Mercury–2016–10) (Order Granting Accelerated Approval of Proposed Rule Changes, Each as Modified by Amendment No. 1 Thereto, Relating to a Corporate Transaction in Which Nasdaq, Inc. Will Become the Indirect Parent of ISE, ISE Gemini, and ISE Mercury).

[5] *See* Securities Exchange Act Release No. 80248 (March 15, 2017) (SR–ISEGemini–2017–13). *See also* SR–ISE–2017–25.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided 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.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may amend its name as of April 3, 2017. The Exchange stated that it intends to announce the name change for ISE Mercury and certain of its affiliated markets on the same date to reflect the unified ownership of these markets by Nasdaq, Inc.[12] The Exchange believes that changing the names of all three affiliated markets at the same time is consistent with the protection of investors and the public interest because it will avoid any confusion that may arise with respect to the ownership by Nasdaq of the three markets, and will relieve various administrative burdens associated with the name changes.[13] The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–ISEMercury–2017–05 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–ISEMercury–2017–05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISEMercury–2017–05, and should be submitted on or before April 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06561 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

[12] The International Securities Exchange, LLC and ISE Gemini, LLC have proposed in separate rule changes to amend their names as of April 3, 2017. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017) (SR–ISEGemini–2017–13) (''Nasdaq GEMX Proposal''). *See also* Securities Exchange Act Release No. 34–80325 (March 29, 2017) (SR–ISE–2017–25) (''Nasdaq ISE Proposal'').

[13] For example, the Exchange states that it is notifying a number of parties of the name change along with members of all three of the markets; the Exchange and members may have to update contractual agreements or forms as a result of the name change; and administrative changes can be accomplished at the same time if the operative dates of all three of the entities are aligned. The Exchange believes that it is in the interest of the members of ISE and the members of other markets, as well as the public, to change the names of the three markets at the same time to avoid additional administrative burdens if it were to change the names of the three markets on different dates. *See* Item 7 of SR–ISEMercury–2017–05, Form 19b–4. The Exchange further states that it will provide notification of the name changes to the members of all three affiliated markets. *Id.*

[14] The Commission notes that it has also waived the operative delay for the proposed rule changes associated with the renaming of ISE Gemini, LLC to Nasdaq GEMX, LLC, and ISE Mercury, LLC to Nasdaq MRX, LLC. *See* Nasdaq GEMX Proposal, *supra* note 12; and Nasdaq MRX Proposal, *supra* note 12. For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80328; File No. SR–CBOE–2017–024]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Relating to Reporting Duties

March 29, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Rules to provide guidance on Trading Permit Holder (''TPH'') reporting duties when certain required reporting information is unknown. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 6.51 related to trade (or ''transaction'') reporting to provide guidance on TPH reporting duties when certain required reporting information is unknown at the time a TPH systematizes orders pursuant to Rule 6.24 or reports a trade pursuant to Rule 6.51. The Exchange is also proposing to delete outdated language in Rule 6.51. Finally, the Exchange is proposing to amend Rule 6.67 to reference any trade record updates that may occur as a result of the changes to Rule 6.51.

Background

Rule 6.24

Pursuant to Rule 6.24, each order, cancellation of, or change to an order transmitted to the Exchange must be ''systematized'', in a format approved by the Exchange, either before it is sent to the Exchange or upon receipt on the floor of the Exchange. An order is systematized if an order is sent electronically to the Exchange; or if an order sent to the Exchange non-electronically, is input electronically into the Exchange's systems contemporaneously upon receipt on the Exchange, and prior to representation of an order. With respect to non-electronic, market and marketable orders sent to the Exchange, the TPH responsible for systematizing the order is required to input into the Exchange's systems at least the following specific information with respect to the order prior to representation of the order: (1) The option symbol; (2) the expiration month; (3) the expiration year; (4) the strike price; (5) buy or sell; (6) call or put; (7) the number of contracts; and (8) the Clearing Trading Permit Holder. Rule 6.24 further provides that any additional information with respect to the order shall be input into the Exchange's systems contemporaneously upon receipt, which may occur after the representation and execution of the order.

Rule 6.51

In addition to the order reporting requirements of Rule 6.24, the Exchange requires trades to be reported after execution. Pursuant to Rule 6.51(a), ''[a] participant in each transaction, to be designated by the Exchange, must report or ensure the transaction is reported to the Exchange within 90 seconds of the execution in a form and manner prescribed by the Exchange so that trade information may be reported to time and sales reports'' (or what is often referred to as ''the tape''). Pursuant to Rule 6.51(b), a TPH is also required to report trades, as promptly as possible, to the TPH for whom such transaction was made and/or the TPH that will clear such a transaction in a form and manner prescribed by the exchange. Rule 6.51.01 establishes procedures for reporting trades pursuant to Rule 6.51(a) and (b). The procedures include the submission of an account origin code for any agency record to be included in the transaction record. Typical origin codes include customer (C), broker-dealer (B) and market-maker (M).

Pursuant to Rule 6.51(d), the Exchange outlines certain trade information that must be reported to the Exchange in order for the Exchange to properly match and clear trades. The trade information required in Rule 6.51(d) includes the submission of whether the transaction was an opening or closing transaction (hereinafter referred to as ''opening or closing status''). Rule 6.51.03, establishes procedures for reporting trades pursuant to Rule 6.51(d). Rule 6.51.03 states, in part, ''For trades not executed on an electronic data storage medium, or electronic system, trade information shall be immediately recorded on a card or ticket and submitted as soon as reasonably possible, but not later than the maximum time period stated in Rule 2.30.''

Rule 6.67

Rule 6.67 is related to the CBOE Trade Match System (''CTM'') and specifies certain information on trade records that may be updated. The Rule states, in part, ''The CBOE Trade Match System (''CTM'') is a system in which authorized Trading Permit Holders may add and/or update trade records. CTM may be used to enter and report transactions that have been effected on the Exchange in accordance with the Exchange's rules or to correct certain bona fide errors.''

Among the fields that can be changed by a TPH pursuant to Rule 6.67, are (1) opening or closing status and (2) the account origin code (subject to Exchange notification if the TPH is changing the origin code from customer (C) to any other origin code).

Operational Requirements Related to Rule 6.24 and 6.51

As noted above, Rule 6.24 provides that any additional information with respect to the order shall be input into the Exchange's systems contemporaneously upon receipt, which may occur after the representation and execution of the order. The Exchange, at an operational-level, currently requires certain data fields that must be entered into an Exchange-approved system before an order can be represented on the Exchange's trading floor. Those data fields include, not only those required by Rule 6.24, but also certain fields required by Rule 6.51 for trade reporting purposes and additional information, not related to Rule 6.24 or 6.51 that may be used to process an order. Though not required by Rule 6.24, those data fields the Exchange operationally requires of TPHs, at the time of systemization, include (1) account origin code, (2) opening or closing status and (3) time-in-force (*i.e.* an indication of how long an order will remain active before it is executed or expires).[3]

Proposed Changes

Rule 6.51

The Exchange is proposing to add Interpretation and Policy .04 to Rule 6.51. The proposed Rule 6.51.04 will specify what TPHs may enter in the event account origin code, opening or closing status, or time-in-force is not known at the time a TPH systematizes an order or reports a trade. In the event the information entered needs to be changed, the proposed rule specifies that it will be done via the CBOE Trade Match System (''CTM''). Proposed Rule 6.51.04 states:

If a Trading Permit Holder has no knowledge of the account origin code, opening or closing status or time-in-force of an order when the Trading Permit Holder systematizes the order pursuant to Rule 6.24 or reports a trade pursuant to Rule 6.51, as applicable, the Trading Permit Holder may use the following values when systematizing the order through an Exchange-approved device or reporting a transaction, respectively: (a) Either open or close, in the Trading Permit Holder's discretion (for opening or closing status); (b) broker-dealer (for account origin code); and (c) day (for time-in-force). The Trading Permit Holder may change any of these initial values via CTM, and must maintain records of any changes, pursuant to Rule 6.67.

[3] Time-in-force is not rule required order or transaction information but it is a data field that can be adjusted via CTM.

Pursuant to Rule 4.22, it remains the responsibility of the Trading Permit Holder to provide accurate trade information necessary for the reporting of a trade to time and sales reports or to allow the Exchange to properly match and clear trades. Any actions taken by the Exchange pursuant to this Interpretation and Policy .04 do not constitute a determination by the Exchange that an order was systematized or a trade was effected in conformity with the requirements of the Rules. Nothing in this Rule is intended to define or limit the ability of the Exchange to sanction or take other remedial action pursuant to other Rules for rule violations or other activity for which remedial measures may be imposed.

In addition to proposed Rule 6.51.04, the Exchange is eliminating outdated language in Rule 6.51.03 referencing Rule 2.30. Rule 2.30 was deleted in 2005.[4]

Rule 6.67

The Exchange is also proposing changes to Rule 6.67 to reference that transaction records may be updated via CTM pursuant to proposed Rule 6.51.04.

Analysis

As stated in proposed Rule 6.51.04, it will remain the responsibility of the Trading Permit Holder to provide accurate trade information necessary for the reporting of a trade to the Clearing Corporation. Any changes to be made to account origin code, opening or closing status, or time-in-force will have to be entered via post trade adjustment in CTM in accordance with Rule 6.67. The Exchange is not changing any current requirement of Rule 6.24, 6.51, or any of the transaction reporting procedures outlined therein (other than the aforementioned removal of outdated language). The purpose of the proposed rule change is only to specify what may be done in the event account origin code, opening or closing status, or time-in-force is not known at the time an order is systematized or a transaction is reported. The additional guidance is necessary due to the fact that operationally, account origin code, opening or closing status, or time-in-force cannot be left blank when an order is systematized pursuant to Rule 6.24 or a transaction is reported pursuant to Rule 6.51. Furthermore, the Exchange has always allowed post-trade updates to transaction records via CTM or otherwise. The proposed rule change will have no effect on how transaction records are updated or maintained.

Neither the Exchange's audit trail nor its ability to properly match and clear trades will be adversely effected. Furthermore, account origin code, opening or closing status and time-in-force do not appear on time and sales reports, so any near real-time transaction information publically disseminated by the Exchange will not be effected. Finally, because order information related to account origin code will be defaulted to broker-dealer, orders entered pursuant to proposed Rule 6.51.04 will not be afforded any undue priority over any other resting order pursuant to Rule 6.45, Rule 6.45A or 6.45B.

In connection with this filing, the Exchange reviewed December 2016 order data from the Exchange floor. Of the 48,599 orders that traded on the exchange floor in December 2016, the Exchange noted that 17 (.03%) appeared to have had the origin code changed post-trade. Accordingly, the Exchange believes that it is rare today for an order to change from broker-dealer to customer. Furthermore, the Exchange believes that most Exchange brokers know when an order they handling is for a customer and they mark it accordingly. Finally, the Exchange notes that customers are able to choose their brokers and to the extent any customer feels that it did not get a good order fill as the result of a broker's actions, including the origin-code marking of an order, such customer may have recourse through their broker.

The proposed Rule also states that TPHs remain responsible for reporting accurate trade information and that any actions taken by the Exchange pursuant to Rule 6.51.04 do not constitute a determination that an order was otherwise systematized or reported in accordance with the Rules. For example, CBOE's action to allow TPHs to initially enter default values and make a later change via CTM, as necessary, should not be construed as a determination by the Exchange that the associated order or any resulting transaction proposed is in conformity with Exchange Rules. The proposed rule is not intended to be a form of regulatory relief and specifically notes it will not define or limit the Exchange's ability to sanction TPH for violations of Exchange rules.

The Exchange is basing this rule change on order entry requirements already in place on the NYSE Amex Options Floor (''NYSE Amex''). Pursuant to a Regulatory Floor Bulletin issued in 2013, NYSE Amex allows ''default values'' to be used for account origin code, opening or closing status and time-in-force when entering an order.[5] While the NYSE Amex has used close as a default value for opening or closing status, the proposed rule use of either open or close, in the Trading Permit Holder's discretion. This alternative is used because some Exchange TPHs prefer to use the close default value that is also used on the AMEX Floor (where some TPHs are also a member or participant), while other TPHs prefer to use the open default value because their order entry systems are programed to reject opening orders that violate Exchange Rules.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that giving TPHs clarity on how account origin code, opening or closing status, or time-in-force should be entered at the time orders are systematized or trades are reported (and in the event that information is unknown) will help remove impediments to and perfect the mechanism of a free and open market in that it will allow for faster and more efficient processing of orders for both TPHs and their customers. The Exchange has always allowed updates to trade records, and any record updates that occur as a result of the proposed rule will not have a negative impact on the Exchange's audit trail or the near

[4] *See* Securities Exchange Act Release No. 52824 (November 22, 2005), 70 FR 72318 (December 2, 2005) (SR–CBOE–2005–69).

[5] *See* Regulatory Floor Bulletin RBO–AMEX–13–02, April 2, 2013.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

real-time trade information disseminated publically.

In addition, the Exchange believes the proposed rule is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposed Rule states that TPHs remain responsible for reporting accurate trade information and that any actions taken by the Exchange pursuant to Rule 6.51.04 do not constitute a determination that an order was otherwise systematized or reported in accordance with the Rules. The proposed rule is not intended to be a form of regulatory relief and specifically notes it will not define or limit the Exchange's ability to sanction TPHs for violations of Exchange rules. The Exchange itself does not set any of the default values outlined in the proposed rule and the entry of order information remains the responsibility of TPHs. The Exchange monitors and surveils TPHs to ensure compliance with Exchange Rules, including Rule 6.51.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not have any impact on intramarket competition as it applies equally to all TPH who are currently subject to requirements of Rule 6.51. Additionally, the propose rule change outlines a voluntary method of handling orders and will not subject any individual TPH to additional burden.

Furthermore, the proposed rule is meant to ensure Exchange TPH's are able to handle and process orders in the same manner as members or participants of the NYSE Amex. As such, the proposed rule change will promote intermarket competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–CBOE–2017–024 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–CBOE–2017–024. 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–CBOE–2017–024, and should be submitted on or before April 25, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06563 Filed 4–3–17; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80338]

Order Granting Application by MIAX PEARL, LLC for an Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

March 29, 2017.

MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') has filed with the Securities and Exchange Commission (''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] from the rule filing requirements of Section 19(b) of the Exchange Act [2] with respect to certain rules of the Miami International Securities Exchange, LLC (''MIAX Options'' [3]) that the Exchange seeks to incorporate by reference. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person,

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] The Commission notes that MIAX PEARL referred to the Miami International Securities Exchange, LLC as ''MIAX Options'' in its application for an exemption under Section 36(a)(1) of the Exchange Act. *See* Letter from Deborah L. Carroll, Associate General Counsel, MIAX PEARL, to Brent J. Fields, Secretary, Commission, dated February 17, 2017 (''Exemptive Request''). References herein to the rules of MIAX Options are to the rules of the Miami International Securities Exchange, LLC.

security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

Both MIAX PEARL and MIAX Options are Participants in the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'').[4] Each Participant in the CAT NMS Plan is required to enforce compliance by its members with the provisions of the Plan by adopting a ''Compliance Rule'' applicable to its members.[5] On January 30, 2017, MIAX Options filed a proposed rule change with the Commission to adopt new Chapter XVII comprising MIAX Options Rules 1701–1712 (''MIAX Options Compliance Rule'').[6] On February 1, 2017, MIAX PEARL filed a proposed rule change with the Commission to incorporate by reference, in new Chapter XVII of the MIAX PEARL rulebook, the rules contained in MIAX Options Chapter XVII.[7]

MIAX PEARL has requested, pursuant to Rule 0–12 under the Exchange Act,[8] that the Commission grant the Exchange an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to MIAX PEARL Chapter XVII that are effected solely by virtue of a change to Chapter XVII of the MIAX Options rules. Specifically, MIAX PEARL requests that it be permitted to incorporate by reference changes made to each MIAX Options Compliance Rule that is cross-referenced in the MIAX PEARL Chapter XVII rules,[9] without the need for the Exchange to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.[10] By virtue of these incorporations by reference, MIAX PEARL members will comply with the Compliance Rule by complying with the MIAX Options rules referenced in the MIAX PEARL Chapter XVII rules.[11] MIAX PEARL does not intend to incorporate by reference any trading rules. The Exchange states that in each instance, the Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are regulatory rules. MIAX PEARL will, as a condition of this exemption, provide written notice to its members whenever MIAX Options proposes a change to Chapter XVII of its rules.[12] Such notice will alert MIAX PEARL members to the proposed rule change and give them an opportunity to comment on the proposal. MIAX PEARL states that it will also inform members in writing when the Commission approves any such proposed changes.[13]

The Exchange believes this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of the Exchange's and the Commission's resources by avoiding duplicative rule filings based on simultaneous changes to identical rules sought by more than one self-regulatory organization (''SRO''),[14] and because it will result in the Exchange's rules being consistent with the relevant cross-referenced MIAX Options rules at all times, thus ensuring identical regulation of joint members of MIAX PEARL and MIAX Options with respect to the incorporated rules.[15] The Exchange believes that, without such an exemption, joint members could be subject to two different standards.[16]

The Commission has issued exemptions similar to the Exchange's request.[17] In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [18]
- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[19]

The Commission believes that the Exchange has satisfied each of these conditions. The Commission also believes that granting the Exchange an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and Exchange resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[20] The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt the Exchange from the rule filing requirements under Section 19(b) of the

[4] *See* Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''CAT NMS Plan Approval Order''). All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the CAT NMS Plan or CAT NMS Plan Approval Order.

[5] *Id.* at 84945, 84950.

[6] *See* Securities Exchange Act Release No. 79937 (February 2, 2017), 82 FR 9790 (February 8, 2017).

[7] *See* Securities Exchange Act Release No. 79938 (February 2, 2017), 82 FR 9929 (February 8, 2017). MIAX PEARL and MIAX Options' proposed rule changes were approved by the Commission on March 15, 2017. *See* Securities Exchange Act Release No. 80256, 82 FR 14526 (March 21, 2017).

[8] 17 CFR 240.0–12.

[9] MIAX PEARL Chapter XVII states ''the rules contained in MIAX Options Exchange Chapter XVII, as such rules may be in effect from time to time (the 'Chapter XVII Rules'), are hereby incorporated by reference into this MIAX PEARL Chapter XVII, and are thus MIAX PEARL Rules and thereby applicable to MIAX PEARL Members.''

[10] *See* Exemptive Request, *supra* note 3, at 2–3.

[11] *Id.* at 3.

[12] The Exchange states that it will provide such notice on its Web site in the same section it uses to post its own proposed rule change filings pursuant to Rule 19b-4(l). In addition, the Exchange states that its Web site will also include a link to the MIAX Options Web site where the proposed rule change filings are located. *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *See, e.g.,* Securities Exchange Act Release Nos. 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.'s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order''); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); and 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

[18] *See* 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (''Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule'').

[19] *See* BATS Options Market Order, *supra* note 17 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[20] *See* BATS Options Market Order, *supra* note 17, 75 FR at 8761; *see also* 2004 Order, *supra* note 19, 69 FR at 8502.

Exchange Act with respect to the above-described rules it has incorporated by reference. This exemption is conditioned upon the Exchange promptly providing written notice to its members whenever MIAX Options changes a rule that the Exchange has incorporated by reference.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[21] that the Exchange is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain MIAX Options rules that are the result of changes to such MIAX Options' rules, provided that the Exchange promptly provides written notice to its members whenever MIAX Options proposes to change a rule that the Exchange has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–06570 Filed 4–3–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before May 4, 2017.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov.*

COPIES: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Reporting and recordkeeping requirements, Investment companies, Finance, Business/Industry, Small Business. Conduct standards.

Title: Financing Eligibility Statement—Social Disadvantage/ Economic: Disadvantage.

Frequency: On Occasion.

SBA Form Numbers: 1941 A, B, C.

Description of Respondents: Small Business Investment Companies and Small Businesses.

Responses: 10.

Annual Burden: 15.

Curtis B. Rich, Sr.,

Management Analyst.

[FR Doc. 2017–06635 Filed 4–3–17; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15098 and #15099]

Nevada Disaster #NV–00048

AGENCY: U.S. Small Business Administration.

ACTION: Notice

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nevada (FEMA–4307–DR), dated 03/27/2017.

Incident: Severe Winter Storms, Flooding, and Mudslides.

Incident Period: 02/05/2017 through 02/22/2017.

Effective Date: 03/27/2017.

Physical Loan Application Deadline Date: 05/26/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 12/27/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/27/2017, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: The counties of Douglas (including the Washoe Tribe of Nevada and California within the State of Nevada), Elko (including the South Fork Band of Te-Moak Tribe of Western Shoshone), Humboldt, and Washoe and the independent city of Carson City.

The Interest Rates are:

	Percent
For Physical Damage:	
Non–Profit Organizations With Credit Available Elsewhere ...	2.500
Non–Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non–Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 150986 and for economic injury is 150996.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2017–06580 Filed 4–3–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 9944]

E.O. 13224 Designation of Shane Dominic Crawford, aka Asadullah, aka Abu Sa'd at-Trinidadi, aka Shane Asadullah Crawford, aka Asad, as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Shane Dominic Crawford, aka Asadullah, aka Abu Sa'd at-Trinidadi, aka Shane Asadullah Crawford, aka Asad, poses a significant risk of committing acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

[21] 15 U.S.C. 78mm.

[22] 17 CFR 200.30–3(a)(76).

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: February 28, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06648 Filed 4–3–17; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 9947]

E.O. 13224 Designation of Mark John Taylor, aka Mark Taylor, aka Mohammad Daniel, aka Muhammad Daniel, aka Abu Abdul Rahman, aka Mark John al-Rahman as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the person known as Mark John Taylor, also known as Mark Taylor, also known as Mohammad Daniel, also known as Muhammad Daniel, also known as Abu Abdul Rahman, also known as Mark John al-Rahman, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously, I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: March 14, 2017.

Rex W. Tillerson,

Secretary of State.

[FR Doc. 2017–06652 Filed 4–3–17; 8:45 am]

BILLING CODE 4710–AD–P

DEPARTMENT OF STATE

[Public Notice 9941]

Notice of Issuance of a Presidential Permit to TransCanada Keystone Pipeline, L.P.

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Under Secretary of State for Political Affairs issued a Presidential permit to TransCanada Keystone Pipeline, L.P. (''Keystone'') on March 23, 2017, authorizing Keystone to construct, connect, operate, and maintain pipeline facilities at the U.S.-Canada border in Phillips County, Montana for the importation of crude oil. In accordance with Executive Order 13337 (April 30, 2004) and the January 24, 2017 Presidential Memorandum Regarding Construction of the Keystone XL Pipeline, the Under Secretary determined that issuance of this permit would serve the national interest.

FOR FURTHER INFORMATION CONTACT: Director, Energy Resources Bureau, Energy Governance and Access, Policy Analysis and Public Diplomacy (ENR/EGA/PAPD), U.S. Department of State, 2201 C St. NW., Suite 4422, Washington, DC 20520.

SUPPLEMENTARY INFORMATION: Additional information concerning the Keystone pipeline facilities and documents related to the Department of State's review of the application for a Presidential permit can be found at *https://keystonepipeline-xl.state.gov/*. Following is the text of the permit, as issued:

Presidential Permit

Authorizing TransCanada Keystone Pipeline, L.P. (''Keystone'') To Construct, Connect, Operate and Maintain Pipeline Facilities at the International Boundary Between the United States and Canada

By virtue of the authority vested in me as Under Secretary of State for Political Affairs, including those authorities under Executive Order 13337, 69 FR 25299 (2004), the January 24, 2017 Presidential Memorandum Regarding Construction of the Keystone XL Pipeline, and Department of State Delegation of Authority 118–2 of January 26, 2006; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 *et seq.*), Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), and other statutes relating to environmental concerns; having considered the proposed action consistent with the National Historic Preservation Act of 1966 (80 Stat. 917, 16 U.S.C. 470f *et seq.*); and having requested and received the views of members of the public, various federal and state agencies, and various Indian tribes; I hereby grant permission, subject to the conditions herein set forth, to TransCanada Keystone Pipeline, L.P. (hereinafter referred to as the ''permittee''), a limited partnership organized under the laws of the state of Delaware, owned by affiliates of TransCanada Corporation, a Canadian public company organized under the laws of Canada, to construct, connect, operate, and maintain pipeline facilities at the international border of the United States and Canada at Morgan, Montana, for the import of crude oil from Canada to the United States.

The term ''facilities'' as used in this permit means the relevant portion of the pipeline and any land, structures, installations or equipment appurtenant thereto.

The term ''United States facilities'' as used in this permit means those parts of the facilities located in the United States. The United States facilities consist of a 36-inch diameter pipeline extending from the international border between the United States and Canada at a point near Morgan in Phillips Country, Montana, to the first mainline shut-off valve in the United States located approximately 1.2 miles from the international border. The United States facilities also include certain appurtenant facilities.

This permit is subject to the following conditions:

Article 1. (1) The United States facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit and any amendment thereof. This permit may be terminated or amended at any time at the discretion of the Secretary of State or the Secretary's delegate or upon proper application therefor. The permittee shall make no substantial change in the United States facilities, the location of the United States facilities, or in the operation authorized by this permit until such changes have

been approved by the Secretary of State or the Secretary's delegate.

(2) The construction, operation, and maintenance of the United States facilities shall be in all material respects as described in the permittee's application for a Presidential permit under Executive Order 13337, filed on May 4, 2012 and resubmitted on January 26, 2017, the Final Supplemental Environmental Impact Statement (SEIS) dated January 31, 2014 including all Appendices as supplemented, and any construction, mitigation, and reclamation measures included in the Construction, Mitigation, and Reclamation Plan (CMRP), Emergency Response Plan (ERP), Oil Spill Response Plan (SRP), and other mitigation and control plans that are already approved or that are approved in the future by the Department of State or other relevant federal agencies. In the event of any discrepancy among these documents, construction, connection, operation and maintenance of the United States facilities shall be in all material respects as described in the most recent approved document unless otherwise determined by the Department of State.

Article 2. The standards for, and the manner of, construction, connection, operation, and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of appropriate federal, state and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, local, and tribal laws and regulations regarding the construction, connection, operation, and maintenance of the United States facilities and with all applicable industrial codes. The permittee shall obtain requisite permits from relevant state and local governmental entities, and relevant federal agencies.

Article 4. All construction, connection, operation, and maintenance of the United States facilities under this permit shall be subject to the limitations, terms, and conditions issued by any competent agency of the U.S. Government. The permittee shall continue the operations hereby authorized and conduct maintenance in accordance with such limitations, terms, and conditions. Such limitations, terms, and conditions could address, for example, environmental protection and mitigation measures, safety requirements, export or import and customs regulations, measurement capabilities and procedures, requirements pertaining to the pipeline's capacity, and other pipeline regulations. This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 5. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to, this portion of the United States facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession, removal, or other action.

Article 6. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such United States facilities upon the basis of a reasonable profit in normal conditions, and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 7. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified in writing to the Department of State, including the submission of information identifying the transferee. This permit shall remain in force subject to all the conditions, permissions and requirements of this permit and any amendments thereto unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 8. (1) The permittee is responsible for acquiring any right-of-way grants or easements, permits, and other authorizations as may become necessary and appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of construction, connection, operation, or maintenance of the facilities, including but not limited to environmental contamination from the release or threatened release or discharge of hazardous substances and hazardous waste.

(3) The permittee shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

Article 9. The permittee shall take all necessary measures to prevent or mitigate adverse impacts on or disruption of the human environment in connection with the construction, connection, operation, and maintenance of the United States facilities. Such measures will include the actions and obligations agreed to by permittee in the CMRP and other mitigation, control plans, and special conditions found in the Final SEIS, including all Appendices as supplemented, all of which are appended to and made part of this permit, or that are approved in the future by the Department or other relevant federal or state agencies, and any other measures deemed prudent by the permittee.

Article 10. The permittee shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or permittee's activities and operations in connection therewith, as are now, or may hereafter, be required under any laws or regulations of the United States Government or its agencies. The permittee shall file electronic Export Information where required.

Article 11. The permittee shall provide information upon request to the Department of State with regard to the United States facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation, or maintenance of the U.S. facilities.

Article 12. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun, at such time as construction is completed, interrupted, or discontinued, and at other times as may

be designated by the Department of State.

Article 13. This permit shall expire five years from the date of issuance in the event that the permittee has not commenced construction of the United States facilities by that deadline.

In witness whereof, I, Under Secretary of State for Political Affairs, have hereunto set my hand this 23rd day of March 2017 in the City of Washington, District of Columbia.

Thomas A. Shannon, Jr.

Under Secretary of State for Political Affairs.

End of permit text.

Dated: March 23, 2017.

Richard W. Westerdale II,

Director, Energy Resources Bureau, Energy Governance and Access, Policy Analysis and Public Diplomacy.

[FR Doc. 2017–06646 Filed 4–3–17; 8:45 am]

BILLING CODE 4710–AE–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 390X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Dayton, Montgomery County, Ohio

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon approximately 6.5 miles of rail line: (a) between milepost ZX 12.1 and milepost ZX 15.4; and (b) between milepost ZQ 0.0 and milepost ZQ 3.2 in Dayton, Montgomery County, Ohio (the Line). The Line traverses United States Postal Service Zip Codes 45402, 45403, 45410, 45432, and 45420.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on May 4, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by April 14, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 24, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by April 7, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by filing of a notice of consummation by April 4, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*WWW.STB.GOV*.''

Decided: March 30, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2017–06636 Filed 4–3–17; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Electronic Logging Device Technical Specification Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: FMCSA announces a public meeting to discuss the technical specifications in Appendix A to Subpart B of part 395, Functional Specifications for All Electronic Logging Devices (ELDs), as published in the ''Electronic Logging Devices and Hours of Service Supporting Documents'' Final Rule (ELD Rule). This meeting will be a forum for discussion of the minimum requirements for ELDs and is being held to help manufacturers produce ELDs that will comply with the ELD Rule.

DATES: The public meeting will take place on Tuesday, May 9, 2017, from 9:30 a.m. to 1:30 p.m., Eastern Time (E.T.). A copy of the agenda for the meeting will be available in advance of the meeting at *https://www.regonline.com/builder/site/?eventid=1953139.*

ADDRESSES: The meeting will be held at the U.S. DOT Headquarters Building, 1200 New Jersey Avenue SE., Washington, DC 20590. Those interested in attending this public meeting must register at: *https://www.regonline.com/builder/site/?eventid=1953139* by April 25, 2017. Attendees should arrive at the U.S. DOT Headquarters Building by 8:30 a.m. to allow sufficient time to clear security. FMCSA requests that questions

be submitted in advance to *ELD@dot.gov.*

FOR FURTHER INFORMATION CONTACT: LaTonya Mimms, Transportation Specialist, Enforcement Division, FMCSA. Ms. Mimms may be reached at 202–366–0991 and by email at *eld@dot.gov.*

Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. LaTonya Mimms at 202–366–0991 or by email at *LaTonya.Mimms@dot.gov,* by April 25, 2017.

SUPPLEMENTARY INFORMATION:

Background

On December 16, 2015, FMCSA published a final rule concerning ELDs (80 FR 78292). The final rule included detailed performance and design requirements for ELDs to ensure the devices produce accurate, tamper-resistant records with a uniform file format and consistent displays. The ELD technical specifications from the ELD Rule are codified in Appendix A to Subpart B of part 395 of Chapter 49 of the Code of Federal Regulations. ELD manufacturers are required to self-certify that their devices comply with the ELD Rule and register the devices with FMCSA. Motor carriers subject to the ELD Rule are required to operate registered ELDs by the compliance date of December 18, 2017. Motor carriers that operate with automatic onboard recording devices (AOBRDs) prior to December 18, 2017 and are subject to the ELD Rule, have until December 16, 2019 to transition from AOBRDs to ELDs. A list of self-certified and registered ELDs can be found at *https://3pdp.fmcsa.dot.gov/ELD/ELDList.aspx.*

Meeting Information

This meeting is intended to address questions received from ELD manufacturers and to review the required standardized output and standardized data sets. The meeting agenda is available on the registration site.

Issued on: March 27, 2017.

Daphne Y. Jefferson,

Deputy Administrator.

[FR Doc. 2017–06618 Filed 4–3–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number DOT–OST–2014–0031]

Agency Information Collection; Activity Under OMB Review; Report of Passengers Denied Confirmed Space—BTS Form 251

AGENCY: Office of the Assistant Secretary for Research and Technology (OST–R), Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting reports on the number of passengers holding confirmed reservations that voluntarily or involuntarily give up their seats when the airline oversells the flight. Comments are requested concerning whether (a) the collection is still needed by the Department of Transportation, (b) BTS accurately estimated the reporting burden; (c) there are other ways to enhance the quality, utility and clarity of the information collected; and (d) there are ways to minimize reporting burden, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted by June 5, 2017.

FOR FURTHER INFORMATION CONTACT: Cecelia Robinson, Office of Airline Information, RTS–42, Room E34–410, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–4405, Fax Number (202) 366–3383 or EMAIL *cecelia.robinson@dot.gov.*

COMMENTS: Comments should identify the associated OMB approval # 2138–0018 and Docket ID Number DOT–OST–2014–0031. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB # 2138–0018, Docket—DOT–OST–2014–0031. The postcard will be date/time stamped and returned.

ADDRESSES: You may submit comments identified by DOT Docket ID Number DOT–OST–2014–0031 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail: Docket Services: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Fax: 202–366–3383.

Instructions: Identify docket number, DOT–OST–2014–0031, at the beginning of your comments, and send two copies. To receive confirmation that DOT received your comments, include a self-addressed stamped postcard. Internet users may access all comments received by DOT at *http://www.regulations.gov.* All comments are posted electronically without charge or edits, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketInfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* or the street address listed above. Follow the online instructions for accessing the dockets.

Electronic Access

You may access comments received for this notice at *http://www.regulations.gov,* by searching docket DOT–OST–2014–0031.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0018.

Title: Report of Passengers Denied Confirmed Space.

Form No. BTS Form 251.

Type of Review: Extension of approved collection.

Respondents: Large certificated air carriers.

Number of Respondents: 18.

Number of Responses: 72.

Number of Hours per Response: 10.

Total Annual Burden: 720 hours.

Needs and Uses: BTS Form 251 is a one-page report submitted four times per year, on the number of passengers denied seats either voluntarily or involuntarily, whether these bumped passengers were provided alternate transportation and/or compensation, and the amount of the payment. On

November 3, 2016 the Department published a Final Rule (see 81 FR 76800) that changed the number of U.S. air carriers that account for at least 1 percent to .5 percent of domestic scheduled-service passenger revenues who must report oversales on all operations with 30 seats or larger aircraft that depart a U.S. airport.

Carriers do not report data from inbound international flights to the United States because the protections of 14 CFR part 250 *Oversales* do not apply to these flights. The report allows the Department to monitor the effectiveness of its oversales rule and take enforcement action when necessary. The involuntarily denied-boarding rate has decreased from 4.38 per 10,000 passengers in 1980 to 0.72 for the quarter ended December 2015. Without Form 251, determining the effectiveness of the Department's oversales rule would be impossible. The publishing of the carriers' individual denied boarding rates has diminished the need for more intrusive regulation. The rate of denied boarding can be examined as a continuing fitness factor. This rate provides an insight into a carrier's customer service practices. A rapid sustained increase in the rate of denied boarding may indicate operational difficulties. Because the rate of denied boarding is released quarterly, travelers and travel agents can select carriers with lower incidences of bumping passengers. This information is available in the *Air Travel Consumer Report* at: *http://airconsumer.ost.dot.gov/reports/index.htm.* The *Air Travel Consumer Report* is also sent to newspapers, magazines, and trade journals. The public availability of this information deters carriers from setting unreasonable overbooking rates—a market-based mechanism that is more efficient than direct regulation of those rates.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note) requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis, and possible use in regulatory and other administrative matters.

Issued in Washington, DC, on March 28, 2017.

William A. Chadwick, Jr.,

Director, Office of Airline Information, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology.

[FR Doc. 2017–06599 Filed 4–3–17; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2017–0003]

Proposed Information Collections; Comment Request (No. 63)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB); Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

DATES: We must receive your written comments on or before June 5, 2017.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''*Regulations.gov*'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *http://www.regulations.gov:* Use the comment form for this document posted within Docket No. TTB–2017–0003 on ''*Regulations.gov*,'' the Federal e-rulemaking portal, to submit comments via the Internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2017–0003 at *https://www.regulations.gov.* A link to that docket is posted on the TTB Web site at *https://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on this notice to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of a continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in comments.

For each information collection listed below, we invite comments on: (a) Whether the information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following information collections (forms, recordkeeping requirements, or questionnaires):

Title: Notice of Release of Tobacco Products, Cigarette Papers, or Cigarette Tubes.

OMB Number: 1513–0025.

TTB Form Number: F 5200.11.

Abstract: The Internal Revenue Code (IRC) at 26 U.S.C. 5704 provides for the release of imported or returned tobacco products and cigarette papers and tubes from customs custody, without pay of tax, for delivery to an export warehouse proprietor or a manufacturer of tobacco products or cigarette papers and tubes, in accordance with regulations issued by the Secretary of the Treasury. The TTB F 5200.11 is used at importation to document the release of such articles to a proprietor or manufacturer authorized to receive such articles. TTB F 5200.11 is used by industry members who are not filing their entry information electronically through the U.S. Customs and Border Protection Automated Commercial Environment (ACE), since those filing electronically submit the relevant information as data elements through ACE. (The submission of information through ACE is captured under OMB Number 1513–0064.)

Current Actions: TTB is submitting this collection as a revision. The information collected on TTB F 5200.11 generally remains the same, however new data fields have been added for the Employer Identification Number of the recipient manufacturer or proprietor and the TTB permit number of the importer. TTB is also clarifying the titles of certain data fields and the form's instructions to improve the accuracy of the information reported by the recipient of the imported or returned articles. As for the collection's burden, TTB is decreasing the estimated number of annual respondents and burden hours. TTB now receives fewer of these forms due to a decrease in the overall number of tobacco industry members and changes in industry practice such as the increased use of the electronic ACE system.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 10.

Estimated Total Annual Burden Hours: 18.

Title: Signing Authority for Corporate and LLC Officials.

OMB Number: 1513–0036.

TTB Form Number: F 5100.1.

Abstract: A corporation or limited liability company (LLC) uses TTB F 5100.1 to identify specific corporate or LLC officials or employees, by name or by position title, authorized by the corporation's or LLC's articles of incorporation, bylaws, or governing officials to act on behalf of, or sign documents for, the entity in TTB matters.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 2,200.

Estimated Total Annual Burden Hours: 502.

Title: Notice of Change in Status of Plant.

OMB Number: 1513–0044.

TTB Form Number: None.

Abstract: Under the Internal Revenue Code at 26 U.S.C. 5178(a), a distilled spirits plant (DSP) is a delineated place on which only certain authorized activities may be conducted. However, under 26 U.S.C. 5178(b), the Secretary of the Treasury may authorize other businesses on a DSP's premises upon application. The TTB regulations at 27 CFR 19.141 through 19.144 require DSP proprietors to notify TTB when a DSP or part of a DSP is to be alternated between different proprietors or when a DSP or part of a DSP is to be alternated between different types of operations, such as bonded wine cellar, taxpaid wine bottling house, general premises, manufacturer of eligible flavors, and volatile fruit flavor concentrate premises. To protect the revenue and ensure compliance with relevant laws and regulations, the letterhead notices and records required under this information collection alert TTB to these DSP alternations.

Current Actions: TTB is submitting this collection as a revision. The information collection remains unchanged. However, TTB is increasing the estimated number of annual respondents and burden hours due to an increase in the number of DSPs regulated by TTB.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 200.

Estimated Total Annual Burden Hours: 1000.

Title: Special Tax Renewal Registration and Return/Special Tax Location Registration Listing.

OMB Number: 1513–0113.

TTB Form Number: F 5630.5R.

Abstract: The Internal Revenue Code at 26 U.S.C. 5731 requires manufacturers of tobacco products, manufacturers of cigarette papers and tubes, and export warehouse proprietors to pay an annual occupational tax. The IRC at 26 U.S.C. 5732 requires that this tax be ''paid on the basis on a return'' under regulations issued by the Secretary of the Treasury. The TTB F 5630.5R, which TTB sends out annually to these occupational taxpayers, meets this purpose. The information collected on the form is essential to TTB's collecting, processing, and accounting for these occupational taxes.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 400.

Estimated Total Annual Burden Hours: 100.

Title: Records to Support Tax Free and Tax Overpayment and Sales of Firearms and Ammunition.

OMB Number: 1513–0128.

TTB Form Numbers: F 5600.33, 5600.34, 5600.35, 5600.36, and 5600.37.

Abstract: The Internal Revenue Code (IRC) at 26 U.S.C. 4181 imposes a tax on the sale of firearms and ammunition. However, under the IRC at 26 U.S.C. 4221(a), certain sales may be made tax-free, including sales made for further manufacture, export, or use as supplies on vessels or aircraft, or sales made to a State or local government for its exclusive use. In addition, for such sales where the tax has been paid, the tax is considered an overpayment under the IRC at 26 U.S.C. 6416(b)(2) and (3). In order to protect the revenue, the TTB regulations in 27 CFR part 53 prescribe that manufacturers must maintain records containing specified information supporting such tax-free or tax-overpaid sales. TTB provides these forms which, when completed, provide the required information. The forms are maintained by the respondent at their business premises, and TTB may examine these forms during audits in order to protect the revenue.

Current Actions: TTB is submitting this information collection for extension purposes only. The information collection, estimated number of respondents, and estimated number of burden hours remain unchanged.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits; State, local, and tribal governments.

Estimated Number of Respondents: 7,000.

Estimated Total Annual Burden Hours: 52,500.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1513–0132.

TTB Form Number: None.

Abstract: TTB uses the surveys and focus groups approved under this collection of information to gather customer and stakeholder feedback on TTB programs in an efficient, timely manner. TTB uses the collected information to help improve service delivery and to help ensure that its customers and stakeholders have effective, efficient, and satisfactory experiences with the bureau's programs.

Current Actions: TTB is submitting this collection as a revision. The information collection remains unchanged. However, TTB is increasing the estimated number of annual respondents and burden hours in order to account for its planned increased use of customer feedback surveys.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits; Individuals.

Estimated Number of Respondents: 25,000.

Estimated Total Annual Burden Hours: 25,000.

Dated: March 29, 2017.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2017–06549 Filed 4–3–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Assessment of Fees

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of its information collection titled, ''Assessment of Fees.''

DATES: You should submit written comments by June 5, 2017.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0223, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.tress.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 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, the OCC is publishing notice of the proposed collection of information set forth in this document.

The OCC is proposing to extend OMB approval of the following information collection:

Title: Assessment of Fees.

OMB Control No.: 1557–0223.

Affected Public: Business or other for-profit.

Type of Review: Regular review.

Abstract: The OCC is requesting comment on its proposed extension, without change, of the information collection titled, ''Assessment of Fees—12 CFR part 8.'' The OCC is authorized by the National Bank Act (for national banks) and the Home Owners Loan Act (for Federal savings associations) to collect assessments, fees, and other charges as necessary or appropriate to carry out the responsibilities of the OCC. 12 U.S.C. 482 and 1467(a), respectively; 12 U.S.C. 16 (for national banks and Federal savings associations). The OCC requires independent credit card banks and independent credit card Federal savings associations (collectively, independent credit card institutions) to pay an additional assessment based on receivables attributable to accounts owned by the bank or Federal savings association. Independent credit card institutions are national banks or Federal savings associations that primarily engage in credit card operations and are not affiliated with a full service national bank or Federal savings association. Under 12 CFR 8.2(c)(2), the OCC also has the authority to assess an independent credit card institution that is affiliated with a full-service national bank or full-service Federal savings association if the OCC concludes that the affiliation is intended to evade 12 CFR part 8.

The OCC requires independent credit card institutions to provide the OCC with ''receivables attributable'' data. ''Receivables attributable'' refers to the total amount of outstanding balances due on credit card accounts owned by independent credit card institutions (the receivables attributable to those accounts) on the last day of an assessment period, minus receivables

retained on the bank or Federal savings association's balance sheet as of that day. The OCC will use the information to verify the accuracy of each national bank's and Federal savings association's assessment computation and to adjust the assessment rate for independent credit card institutions over time.

Estimated Number of Respondents: 12.

Estimated Total Annual Burden: 24 hours.

Comments submitted in response to this notice will be summarized and 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 OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

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

(d) Ways to minimize the burden of the collection 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.

Dated: March 29, 2017.

Karen Solomon,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017–06643 Filed 4–3–17; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions 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 the names of 2 individuals 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 were effective on March 30, 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 March 30, 2017, OFAC blocked the property and interests in property of the following 2 individuals pursuant to E.O. 13224, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'':

Individuals

1. TAMTOMO, Muhammad Bahrun Naim Anggih (a.k.a. NAIM, Bahrun; a.k.a. TAMTOMO, Anggih; a.k.a. ''AISYAH, Abu''; a.k.a. ''RAYAN, Abu''; a.k.a. ''RAYYAN, Abu''), Aleppo, Syria; Raqqa, Syria; DOB 06 Sep 1983; POB Surakarta, Indonesia; alt. POB Pekalongan, Indonesia; nationality Indonesia; Gender Male (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

2. JEDI, Muhammad Wanndy Bin Mohamed (a.k.a. JEDI, Muhamad Wanndy bin Muhamad; a.k.a. JEDI, Muhamad Wanndy Mohamad; a.k.a. JEDI, Muhamad Wanndy Muhamad; a.k.a. WANNDY, Muhamad; a.k.a. ''AL–FATEH, Abu Hamzah''; a.k.a. ''AL–MALIZI, Abu Sayyaf''), Syria; DOB 16 Nov 1990; alt. DOB 1989 to 1991; POB Durian Tunggal, Malacca, Malaysia; nationality Malaysia; Gender Male; Passport A33373751 (Malaysia); National ID No. 90116–04–5293 (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT).

Dated: March 30, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–06598 Filed 4–3–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity Under OMB Review: Income Verification

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration (VHA), 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 May 4, 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 *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–NEW'' 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–NEW.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Mailed with Veterans' Initial Letters—HEC Form 200–1A

b. Mailed with Spouses' Initial Letters—HEC Form 220–1

c. Mailed to Veterans When Necessary—HEC Form 340–1

d. Mailed to Veterans When Necessary—Checklist

OMB Control Number: 2900–NEW.

Type of Review: New collection.

Abstract:

The HEC, IVD uses HEC Form 200–1A (Veteran's Income Verification Response) to collect income verification information, as applicable, from the Veteran by requesting the Veteran to verify the listed income on the form as reported to IVD by IRS/SSA, to select the appropriate option on the form

relating to the household income, attest to out of pocket medical expenses, attest to sale of primary home real estate and attest to separation from spouse for the income year under the Income Verification Division's review. The Veteran's signature is required on page 2 of HEC Form 200–1A. If the Veteran has medical/health limitations that does not enable the Veteran to physically sign the form with a wet signature, the Veteran must mark an ''X'' to designate a signature; two witnesses must verify the ''X'' as the Veteran's signature. HEC, IVD will use the completed HEC Form 200–1A to assist in verifying the Veteran's correct gross household income to ensure the Veteran is placed in the correct priority group for health care.

The HEC, IVD uses HEC Form 220–1 (Spouse's Income Verification Response) to collect income verification information, as applicable, from the Veteran's spouse by requesting the spouse to verify the listed income on the form as reported to IVD by IRS/SSA, report any additional income not reported by IRS/SSA and sign and date the form. If the spouse has medical/health limitations that does not enable the spouse to physically sign the form with a wet signature, the spouse must mark an ''X'' to designate a signature; two witnesses must verify the ''X'' as the Veteran's signature. HEC, IVD will use the completed HEC Form 220–1 to assist in verifying the Veteran's correct gross household income to ensure the Veteran is placed in the correct priority group for health care.

The HEC, IVD uses the HEC Form 340–1 (Declaration of Representative) for the Veteran and the spouse (if applicable) to appoint a representative, authorizing HEC, IVD to release information to a designated appointee for a specific income year. Such information includes confidential federal tax information, other income, and medical benefits eligibility related information. The Veteran and spouse (if applicable) must sign and date the form.

The HEC, IVD uses the HEC Income Verification—Additional Information Checklist to request from the Veteran any additional information needed to adjudicate the Income Verification case. The Veteran providing the requested information usually results in the best interest to the Veteran.

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 at 82 FRN 8566–8567 on January 26, 2017.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. Mailed with Veterans' Initial Letters—HEC Form 200–1A—89,001 hours
b. Mailed with Spouses' Initial Letters—HEC Form 220–1—28,530 hours
c. Mailed to Veterans When Necessary—HEC Form 340–1—1,701 hours
d. Mailed to Veterans When Necessary—Checklist—761 hours

Estimated Average Burden Per Respondent:

a. Mailed with Veterans' Initial Letters—HEC Form 200–1A—30 minutes
b. Mailed with Spouses' Initial Letters—HEC Form 220–1—20 minutes
c. Mailed to Veterans When Necessary—HEC Form 340–1—15 minutes
d. Mailed to Veterans When Necessary—Checklist—761—15 minutes

Frequency of Response: Annually.

Estimated Annual Responses:

a. Mailed with Veterans' Initial Letters—HEC Form 200–1A—178,002
b. Mailed with Spouses' Initial Letters—HEC Form 220–1—85,590
c. Mailed to Veterans When Necessary—HEC Form 340–1—6,805
d. Mailed to Veterans When Necessary—Checklist—761—3,044

Authority: 44 U.S.C. 3501–3521

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06573 Filed 4–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0657]

Conflicting Interests Certification for Proprietary Schools Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice; correction.

SUMMARY: The Department of Veterans Affairs (VA) published a collection of information notice in a **Federal Register** on Wednesday, March 8, 2017 that contained an error. The intent was to publish a 60-day Public Comment notice.

However, the notice incorrectly stated an insert date 30 days after date of publication in the **Federal Register** in the **DATES** section. This document corrects the error by updating the public comment date.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at 202–461–5870.

CORRECTION

In FR Doc. FR Doc. 2017–04559, published on Wednesday, March 8, 2017 at 82FR44, make the following correction. On page 13056, in the third column, in second paragraph section, titled *DATES,* replace ''**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before April 7, 2017,'' to read as follows:

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 7, 2017.

Dated: March 29, 2017.

By direction of the Secretary:

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06572 Filed 4–3–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0567]

Agency Information Collection Activity Under OMB Review: Presidential Memorial Certificate Form

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the National Cemetery Administration (NCA), 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 May 4, 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 *oira_submission@*

omb.eop.gov. Please refer to ''OMB Control No. 2900–0567'' 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. 2900–0567'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Presidential Memorial Certificate Form VA Form 40–0247.

OMB Control Number: 2900–0567.

Type of Review: Revision of a currently approved collection.

Abstract: The National Cemetery Administration (NCA) made updates to its current VA Form 40–0247. The original VA Form 40–0247 is for requests for initial copies of a Presidential Memorial Certificates (PMC's). The updates to the form would include the following changes with no additional respondent burden:

- Format changes
- SSN or Military Service Number from discharge Documents
- Mailing address, email address, telephone and fax number updates
- Wording changed to allow the public to also use the form for first time requests

Upon appropriate approval, the NCA Web site will display the updated version of the VA Form 40–0247 for public use.

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 at 82 FRN 06728 on January 19, 2017.

Affected Public: 125,000.

Estimated Annual Burden: 6,250 hours.

Estimated Average Burden Per Respondent: 3 minutes each.

Frequency of Response: One-time.

Estimated Number of Respondents: 125,000.

Authority: 44 U.S.C. 3501–3521.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017–06574 Filed 4–3–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 635

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Final Amendment 5b; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 635

[Docket No. 130417378–7331–02]

RIN 0648–BD22

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; Final Amendment 5b

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

ACTION: Final rule.

SUMMARY: NMFS is amending the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) based on the results of the 2016 stock assessment update for Atlantic dusky sharks. Based on this assessment, NMFS determined that the dusky shark stock remains overfished and is experiencing overfishing. Consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is implementing management measures that will reduce fishing mortality on dusky sharks to end overfishing and rebuild the dusky shark population consistent with legal requirements. The final measures could affect HMS-permitted commercial and recreational fishermen who harvest sharks or whose fishing vessels interact with sharks in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea.

DATES: This final rule is effective on June 5, 2017, except for the amendments to § 635.4 (b), (c), and (j); § 635.19 (d); § 635.21(d)(4), (f), and (k); § 635.22 (c); § 635.71 (d)(21), (d)(22), (d)(23), and (d)(26), which will be effective on January 1, 2018.

ADDRESSES: Copies of the Final Amendment 5b to the 2006 Consolidated HMS FMP, including the Final Environmental Impact Statement (FEIS) containing a list of references used in this document, the dusky shark stock assessments, and other documents relevant to this rule are available from the HMS Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to the HMS Management Division and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis at 978–281–9273 or Karyl Brewster-Geisz at 301–427–8503.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed primarily under the authority of the Magnuson-Stevens Act. The authority to issue regulations under the Magnuson-Stevens Act has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA). On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the FMP for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). On October 2, 2006, NMFS published in the **Federal Register** (71 FR 58058) final regulations, effective November 1, 2006, implementing the 2006 Consolidated HMS FMP, which consolidated the 1999 FMP management measures and other regulatory requirements, and details the management measures for Atlantic HMS fisheries, including the Atlantic shark fisheries. The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

Background

A brief summary of the background of this final action is provided below. Complete details of what was proposed and the alternatives considered are described in Final Environmental Impact Statement (FEIS) for Amendment 5b to the 2006 Consolidated HMS FMP and the proposed rule for Amendment 5b (81 FR 71672, October 18, 2016). Those documents are referenced in this preamble and their full description of management and conservation measures considered are not repeated here. Additional information regarding Atlantic HMS management can be found in the FEIS for Amendment 5b to the 2006 Consolidated HMS FMP, the 2006 Consolidated HMS FMP and its amendments, the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Reports, and online at *http://www.nmfs.noaa.gov/sfa/hms/.* The comments received on Draft Amendment 5b and the proposed rule and our responses to those comments are summarized below in the section labeled ''Response to Comments.''

On October 7, 2011 (76 FR 62331), NMFS made the determination that dusky sharks continued to be overfished and were experiencing overfishing. Initially, NMFS proposed to implement management measures through Amendment 5 to the 2006 Atlantic Consolidated HMS FMP, however, NMFS received substantial public comment disputing the basis for the proposed Amendment 5 dusky shark measures and suggesting significantly different measures be analyzed within the range of alternatives. Thus, NMFS decided further analysis was necessary and that dusky shark measures would be considered in a separate FMP amendment, EIS, and proposed rule, labeled ''Amendment 5b.''

NMFS prepared a Predraft for Amendment 5b in March 2014 that considered the feedback received on Draft Amendment 5. NMFS solicited additional public input and consulted with its Advisory Panel on the Predraft at the Spring 2014 Advisory Panel meeting. In response to two petitions from environmental groups regarding listing dusky sharks under the Endangered Species Act (ESA), NMFS simultaneously was conducting an ESA Status Review for the Northwest Atlantic population of dusky sharks which was completed in October 2014. That status review concluded that, based on the most recent stock assessment as well as abundance projections, updated analyses, and the potential threats and risks to population extinction, the dusky shark population in the Northwest Atlantic and Gulf of Mexico has a low risk of extinction currently and in the foreseeable future, and relative abundance generally appeared to be increasing across the examined time series. On December 16, 2014, NMFS announced a 12-month finding that determined that the Northwest Atlantic and Gulf of Mexico population of dusky sharks did not warrant listing under the ESA (79 FR 74954).

In light of this updated information, including indications of abundance increases, NMFS prioritized an update of the SouthEast Data, Assessment and Review (SEDAR) 21 dusky shark stock assessment using data through 2015, to be completed in summer 2016. It was determined that further action on Amendment 5b should wait until after the completion of the 2016 assessment update to ensure that it was based on the best available scientific information.

On October 27, 2015, the environmental advocacy organization Oceana filed a complaint against NMFS in Federal district court alleging violations of the Magnuson-Stevens Act and Administrative Procedure Act with respect to the timing of NMFS's action to rebuild and end overfishing of dusky sharks. A settlement agreement was reached in *Oceana* v. *Pritzker* (Case No. 1:15–cv–01824–CRC) (D.D.C.), between NMFS and the Plaintiffs on May 18,

2016, regarding the timing of the pending agency action. This settlement acknowledged that NMFS was in the process of developing an action to address overfishing and rebuild dusky sharks and that an assessment update was ongoing and stipulated that, based upon the results of the assessment update, NMFS would submit a proposed rule to the **Federal Register** no later than October 14, 2016, and a final rule by March 31, 2017.

In August 2016, the update to the SEDAR 21 dusky shark stock assessment was completed, and on October 4, 2016 (81 FR 69043), NMFS made the stock status determination that dusky sharks are still overfished and still experiencing overfishing, although the level of overfishing is not high. Based on the 2016 assessment update, as well as the rationale summarized below and fully described in the preamble of the Proposed Rule (81 FR 71672, October 18, 2016) and in Section 1.2 of the Amendment 5b FEIS (see **ADDRESSES**), NMFS determined that it needs to reduce dusky shark fishing mortality by approximately 35 percent relative to 2015 levels to rebuild the stock by the year 2107. According to the outcomes of five model runs, Spawning Stock Fecundity (SSF) relative to SSF_{MSY} (proxy biomass target) ranged from 0.41 to 0.64 (*i.e.,* overfished) (median = 0.53). The fishing mortality rate (F) in 2015 relative to F_{MSY} was estimated to be 1.08–2.92 (median = 1.18) (values >1 indicate overfishing). The updated projections estimated that the target rebuilding years range from 2084–2204, with a median of 2107. In order to achieve rebuilding by 2107 with a 50% probability, the final models projected that F on the stock would have to be reduced 24–80% (median = 35%) from 2015 levels. While NMFS typically uses a 70-percent probability of rebuilding by the deadline for Atlantic highly migratory shark species, the 2016 update has a higher level of uncertainty than other shark assessments and presents a more pessimistic view of stock status than was expected based on review of all available information (as detailed in the proposed rule and Section 1.2 of the FEIS). Thus, for the purposes of this Amendment, management measures were developed that would achieve the mortality reductions associated with the median assessment model run and a 50-percent probability of rebuilding by the deadline (*i.e.,* 35-percent mortality reduction). A detailed discussion of the stock assessment can be found in the Amendment 5b FEIS (see **ADDRESSES**) and the final SEDAR 21 stock assessment update report, available on the SEDAR Web site (*http://sedarweb.org/sedar-21*).

The proposed rule for Amendment 5b to the 2006 Consolidated HMS FMP and the Notice of Availability of the DEIS for Amendment 5b published in the **Federal Register** on October 18, 2016 (81 FR 71672) and October 21, 2016 (81 FR 72803), respectively.

Draft Amendment 5b included management measures that would reduce dusky shark mortality in the recreational shark, commercial pelagic longline, bottom longline, and shark gillnet fisheries. Draft Amendment 5b also clarified annual catch limits (ACLs) and accountability measures (AMs) for the prohibited shark complex, including dusky sharks. Detailed descriptions of the proposed management measures and ACL and AM clarifications are available in the Amendment 5b DEIS and proposed rule. The public comment period ended on December 22, 2016.

This final rule implements the measures preferred and analyzed in the FEIS for Amendment 5b to the 2006 Consolidated HMS FMP in order to end overfishing and rebuild dusky sharks. The FEIS analyzed the direct, indirect, and cumulative impacts on the quality of the human environment as a result of the preferred management measures. The FEIS, including the preferred management measures, was made available on February 24, 2017 (82 FR 11574). On March 28, 2017, the Assistant Administrator for NOAA signed a Record of Decision (ROD) adopting these measures as Final Amendment 5b to the 2006 Consolidated HMS FMP. A copy of the FEIS, including Final Amendment 5b to the 2006 Consolidated HMS FMP, is available from the HMS Management Division (see **ADDRESSES**). In brief, the final management measures implemented in this rule are: Shark endorsement and circle hook requirements in the recreational Atlantic shark fisheries; shark release protocols in the pelagic longline fishery; dusky shark identification and safe handling training in the HMS pelagic longline, bottom longline, and shark gillnet fisheries; outreach and fleet communication protocol in the HMS pelagic longline, bottom longline, and shark gillnet fisheries; and, a circle hook requirement in the directed shark bottom longline fishery. Additionally, Amendment 5b clarifies ACLs and AMs for the prohibited shark complex, including dusky sharks. As described in the Responses to Comments below, NMFS made several changes to the preferred alternatives between the proposed and final rule, based in part on public comments. The specific changes are described below in the section titled ''Changes from the Proposed Rule.''

Response to Comments

We received a total of 76 individual written comments on the proposed rule from fishermen, states, and other interested parties during the public comment period, including one comment from EarthJustice that included signatures from 19,716 individuals and another comment from Oceana that included signatures from 13,144 individuals. We also received comments from fishermen, states, and other interested parties during six public hearings, five regional fishery management council meetings, one Atlantic States Marine Fisheries Commission meeting, and one HMS Advisory Panel meeting. All written comments can be found at *http://www.regulations.gov/.*

A. Miscellaneous Comments

Comment 1: NMFS received a wide range of comments expressing general support for the proposed conservation and management measures. Commenters' support was based upon their concerns about the current status of the dusky shark stock and the need to end overfishing and conserve the species in combination with their understanding that the proposed measures would have minimal negative impacts on the recreational and commercial fisheries. Some commenters agreed that the measures would end overfishing and rebuild the stock within the rebuilding timeframe. Most commenters supported the establishment of a shark endorsement requirement for HMS permit holders fishing for sharks recreationally, and shark identification and regulations course for commercial permit holders (HMS pelagic longline, bottom longline, and shark gillnet) as a requirement to target, land, and retain sharks in Federal waters. Many commenters generally supported requiring the use of circle hooks in the recreational and bottom longline fisheries although there were many comments requesting modifications to the wording and implementation of the alternatives, as discussed in more detailed comment responses below.

Commercial fishermen and other groups expressed general support for the commercial alternatives, including the establishment of a dusky shark avoidance and relocation protocol, requiring the use of dehookers or cutting the line within three feet of the shark to release them, and adding a shark

identification section to the protected species and safe handling workshop required of commercial fishermen. The Environmental Protection Agency (EPA) rated the DEIS as ''lack of objections,'' per its EIS rating criteria, and noted its support for the overall efforts by NMFS to further protect dusky sharks.

Response: As detailed in Chapter 4's environmental effects analyses, NMFS agrees that the Amendment 5b measures will reduce fishing mortality below the level needed to end overfishing and rebuild the dusky shark stock consistent with the SEDAR 21 dusky shark stock assessment update and the Magnuson-Stevens Act, while minimizing effects on the commercial and recreational fisheries.

Comment 2: Some commenters stated that additional regulations to protect dusky sharks were not warranted as their retention is already prohibited. These commenters felt NMFS should instead focus on the enforcement of existing regulations prohibiting the harvest of dusky sharks, and that additional regulations on the fishery would result in reduced compliance. The State of Mississippi opposed the measures to protect dusky sharks because it felt the measures could interfere with the fisheries for other, healthy stocks of sharks.

Response: Although a prohibition on retention at times provides adequate protection for species that are experiencing overfishing, the latest dusky shark stock assessment update shows that dusky sharks are still experiencing overfishing despite their prohibited status. A detailed description of the dusky shark stock assessment update results is available in Chapter 1 of the FEIS. Because dusky sharks are still overfished and experiencing overfishing, the Magnuson-Stevens Act requires NMFS to implement management measures to stop overfishing and rebuild the stock.

Comment 3: Commenters stated that additional management measures to conserve dusky sharks should be implemented in all fisheries that interact with dusky sharks, and not just the HMS fisheries that do so. Fisheries not covered under Amendment 5b that were identified by various commenters as interacting with dusky sharks included state water recreational and commercial fisheries, the Gulf of Mexico reef fish bottom longline fishery, the South Atlantic snapper-grouper bottom longline fishery, and the South Atlantic dolphin/wahoo fishery.

Response: Based on the best scientific information available, the majority of dusky shark interactions occur in commercial and recreational HMS fisheries, as described in Section 1.2 of the FEIS. Specifically, the available observer data for the Southeast dolphin/wahoo, reef fish, and snapper-grouper longline fisheries indicate that dusky shark bycatch is rare, averaging only a few observed mortalities per year. The commenters rely heavily on the extrapolated estimates of the first National Bycatch Report, 1st Edition Update 1 (2011), but as detailed in Chapter 1 of the FEIS and the response to Comment 13, NMFS generally does not rely on that Report for management purposes. Further, NMFS has determined that these estimates are inappropriate for use in developing conservation and management measures for this specific stock. These bycatch estimates were not accepted for use in the SEDAR 21 stock assessment and update by the data workshop working group, further highlighting their inadequacy for HMS management purposes. Dusky shark mortality does occur in state waters. However, NMFS does not manage the state water fisheries; as described in the FEIS and Appendix II, NMFS will coordinate with the states and the Atlantic States Marine Fisheries Commission on the measures implemented by this action. If the states also adopt measures commensurate with those included in Amendment 5b, as they often do with HMS actions, it will increase the mortality reduction benefits for dusky sharks. However, the measures in Amendment 5b, building on the existing Federal conservation and management measures, are sufficient to meet the Magnuson-Stevens Act requirements in the absence of state and/or Atlantic State Marine Fisheries Commission (ASMFC) action. The conservation and management measures that are components of the rebuilding plan are still in effect and include: A continued prohibition on retention of dusky sharks (§§ 635.22(c)(4) and 635.24(a)(5)), time/area closures (§ 635.21(d)), and the prohibition of landing sandbar sharks (the historic target species for the large coastal shark fishery and responsible for a significant portion of dusky interactions) outside of a limited shark research fishery, along with significant large coastal shark (LCS) retention limit reductions in the bottom longline fishery where interactions were commonly occurring (§§ 635.24(a)(1), (2), and (3)). The measures in Amendment 5b will build upon these existing rebuilding plan elements.

Comment 4: The EPA and some commenters expressed their concern that the proposed measures only appear to reduce mortalities as opposed to reducing interactions. They found this particularly concerning in the commercial longline fisheries where they suggest that many dusky sharks are already dead upon haulback (*i.e.,* high at-vessel mortality). One commenter stated that sharks caught on longline gear that are still alive at haulback face significant post-release mortality. Some commenters felt NMFS should further consider alternatives that prohibit fishing during the areas/times that dusky sharks are most vulnerable to capture, reduce overall effort, or require the use of more selective fishing gear. Some commenters stated that the non-preferred alternative to implement hot spot closures is the only effective way to reduce dusky shark mortality. Some commenters advocated for the alternative that would impose a bycatch cap on the fisheries that interact with dusky sharks in hotspot areas. These commenters said that once a bycatch cap is reached, that should trigger hotspot closures in areas where dusky shark bycatch is known to be high for the corresponding fishery. Some commenters stated that the hotspot closure measures were the only alternatives that provided a quantifiable and objective reduction in dusky mortality.

Response: NMFS agrees that there is evidence that dusky sharks experience high at-vessel and post-release mortality rates in some fisheries, including the longline fisheries. That is why the approach taken in Amendment 5b to reduce dusky shark mortality relies, in part, on bycatch reduction (Alternative B6), gear modifications (Alternatives A6d, B9), safe release requirements (Alternative B3), and education and training on handling techniques (Alternatives A2, B5, B6) to reduce at-vessel and post-release mortality rates. NMFS analyzed a series of bycatch ''hotspot'' time/area closures in Alternative B4, but these alternatives were not preferred because similar or greater reductions could be achieved with other measures that would have fewer negative socioeconomic impacts. Additionally, the hotspot closure analyses only quantified the mortality reductions that could be achieved within the pelagic longline fishery (only one source of mortality), not across the whole stock. NMFS analyzed alternatives that would reduce fishing effort by making the recreational shark fishery catch-and-release only (Alternative A7), limiting the number of hooks on pelagic longline sets (Alternative B2), and entirely closing the pelagic longline fishery (Alternative B8). The analyses in Chapter 4 of the

FEIS support the determination that the Amendment 5b measures will achieve the necessary mortality reductions without the negative socioeconomic impacts associated with the hotspot closure and bycatch cap alternatives.

Comment 5: One commenter stated that the overarching goal of Amendment 5b should be to effectively ''count, cap, and control'' dusky mortality in all fisheries that interact with the species.

Response: NMFS disagrees that this general management approach would be feasible or necessary in Amendment 5b. The objectives of Amendment 5b are to end overfishing and rebuild dusky sharks, which must be achieved through reductions in mortality. A ''count, cap, and control'' approach is used in a number of other fisheries, and can reduce mortality in cases where appropriate bases exist to specify and monitor catch limits that are correlated with fishing mortality rates, but there are numerous other acceptable ways to reduce fishing mortality. In the case of the dusky shark, there are insufficient data to count or cap catches. Measures were taken in Amendment 2 to significantly reduce interactions with dusky sharks by, for example, severely reducing allowable catch in the bottom longline fishery for sandbar sharks (the primary source of dusky bycatch), and the dusky shark fishery remains closed by designating the species as a prohibited shark species and setting the catch limit at zero. These measures continue to be in effect. The same commenter acknowledges this fact, stating ''[i]n order to reduce bycatch, the Service must first determine how much bycatch is occurring, when, and where,'' and ''[t]he Fisheries Service cannot enforce bycatch caps if the amount of bycatch is unknown.'' NMFS agrees with these statements, which highlight the impracticality of the proposed ''count, cap, and control'' management approach in the absence of the fundamentally necessary bycatch data. As described in Section 1.2 of the FEIS and in the stock assessment update, total catch data do not exist, thus the SEDAR21 assessment update used a catch-free modeling approach, and the total allowable catch (TAC) estimates provided by the 2016 stock assessment update were not recommended as valid for use in management. For the above reasons, there is no rational basis in this situation for establishing an appropriate cap for dusky shark catches in any individual fishery or across fisheries that interact with them, or to know what level of catch would effectively and appropriately constrain fishing mortality. Consequently, the amended rebuilding plan does not contain measures that would rely upon absolute catch or discard estimates, such as a quota or sector ACLs. Instead, the measures in Amendment 5b focus on reducing the rates and relative levels of mortality. The measures in this action will achieve the necessary mortality reductions through other means, including bycatch reduction, safe release requirements, gear modifications and training that reduce at-vessel and post-release mortality rates, and outreach and education to improve compliance rates and data collection, in addition to the measures adopted in the 2008 rebuilding plan. Additionally, with improved species identification training, data collection on recreational dusky shark catches should improve by reducing the occurrence of ''unidentified'' sharks in catch reports and surveys and increasing confidence in the reported catch of dusky sharks. As data collection improves, catch-based assessments and management measures may become feasible in the future.

Comment 6: NMFS should establish bycatch caps between fishery sectors within the Consolidated HMS FMP, as well as between non-HMS FMPs as a ''preferred alternative'' in the final Amendment 5b. At a minimum, NMFS should coordinate bycatch caps among the HMS fisheries, Gulf of Mexico reef fish bottom longline fishery, and South Atlantic snapper-grouper bottom longline fishery, as well as other fisheries responsible for dusky shark bycatch and mortality.

Response: NMFS disagrees that bycatch caps are appropriate for further limiting dusky shark mortality. Under Alternatives Considered but Not Further Analyzed in Chapter 2 of the FEIS, NMFS includes a detailed explanation of why bycatch caps, while helpful for some species, are not appropriate for the current situation with the available data for dusky sharks. The response to Comment 5 also addresses scientific concerns related to establishing dusky shark bycatch caps.

Comment 7: The EPA noted that the 2014 Northwest Atlantic Dusky Shark Status Review Report identified hook time, correlated with soak time, as a significant factor in predicting at vessel dusky shark mortality. As such, the EPA recommended that NMFS consider providing more detail in the FEIS concerning the appropriateness of addressing hook soak time as a means of reducing dusky shark mortality in the longline fisheries.

Response: NMFS agrees that there is considerable scientific information indicating that shorter hook soak times on bottom longlines are correlated with reduced at-vessel and post-release mortality rates on many shark species, including dusky sharks. However, as described in Section 2.3 of the FEIS (Alternatives Considered but Not Further Analyzed), an alternative that would limit soak time is not considered to be reasonable at this time because of safety, enforcement, and safe-handling concerns. During the public comment period of the Amendment 5b Predraft, NMFS heard comment from industry that limiting soak time could rush fishing operations, particularly on sets with high numbers of large fish. In these instances, the crew may need to rush to meet soak time restrictions, compromising safety at sea and possibly rushing through protected resource safe handling requirements. From an enforcement perspective, concerns were raised about effectively monitoring such a measure fleetwide absent high levels of observer coverage and more general concerns were noted about the enforceability of soak times.

Comment 8: NMFS received a wide range of comments regarding the need for a quantitative analysis explaining how the proposed measures would achieve the 35-percent reduction in dusky shark mortality. EPA and other commenters noted that it was difficult from the analyses in the DEIS to clearly evaluate the effectiveness of the different alternatives as contributing to the necessary mortality reduction. As such, the EPA recommended providing additional information in the FEIS to help quantify the impacts of the alternatives and facilitate comparisons of alternatives. Another commenter questioned whether the qualitative analyses of the proposed alternatives meet the standards required by NEPA. Several commenters called upon NMFS to conduct a more quantitative analysis of the proposed alternatives in the FEIS to demonstrate how they would achieve the targeted 35-percent reduction in mortality.

Response: NMFS has been responsive to these comments in the FEIS, which includes more quantitative analysis of the expected impacts of the alternatives, to the extent possible using the best available scientific information. However, as described in Chapter 4 of the FEIS, it is not possible to specifically quantify the projected effect of most of the preferred alternatives on the overall dusky shark population because total catch and population size are unknown. The alternatives in the FEIS include more quantitative discussion than the DEIS included for the expected effects on mortality rates of individual sharks caught within the affected fisheries, but qualitative

inferences are still necessary due to the lack of data. Qualitative analyses are acceptable within NEPA analyses when quantitative resources are lacking. Therefore, while it is not possible to calculate the precise mortality reduction of the alternatives, individually or cumulatively, NMFS has determined that the best available scientific information indicates that the measures in Amendment 5b will end overfishing and rebuild the dusky shark stock as required.

Comment 9: Two commenters suggested that NMFS had not fully analyzed a reasonable range of alternatives to end overfishing and rebuild the dusky shark stock consistent with NEPA requirements. These commenters stated that bycatch caps are within the reasonable range of alternatives and are one of the few measures that can objectively reduce dusky shark mortality. The commenters believe that by not analyzing bycatch caps, NMFS has not analyzed a full range of alternatives. These commenters also stated that to comply with NEPA requirements, a range of alternatives considering ACLs other than zero and additional AMs should be analyzed. Furthermore, it was stated that to comply with NEPA, a range of alternatives analyzing the impacts of using different probabilities of achieving rebuilding success (*i.e.,* 50 percent, 70 percent, or 90 percent probability) should have been developed.

Response: The alternatives analyzed in Amendment 5b represent the reasonable range of alternatives, consistent with the purpose, need, and objectives of the rulemaking, as required by NEPA. Although some commenters have identified measures that they believe would better meet the objectives of Amendment 5b, not all of them are reasonable. Bycatch caps were not considered a reasonable alternative, as detailed in the Alternatives Considered but Not Further Analyzed section in Chapter 2 of the FEIS. See also responses to Comments 5 and 6.

Regarding the probability of rebuilding, NMFS made a scientifically-based determination about the appropriate level of risk, given the circumstances here. As discussed in Section 1.2 of the FEIS, NMFS has explained the scientific justification for using the 50 percent probability and explained why 70 percent was not feasible due to poor data, uncertainty, and other concerns. The determination of which probability to use was not based on ecological, social, or economic impacts; rather, it was based on the stock assessment output estimates, overfishing risk tolerance, and the level of confidence in the output. A more detailed explanation of NMFS' determinations regarding the probability of rebuilding is available in the response to Comment 25.

Comment 10: One commenter stated that Amendment 5b is inconsistent with National Standard 9 because the action does not provide a means to quantify dusky bycatch.

Response: National Standard 9 of the Magnuson-Stevens Act states that ''[c]onservation and management measures shall, to the extent practicable: (1) Minimize bycatch; and (2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch.'' Consistent with this national standard, over the years, NMFS has implemented conservation and management measures to minimize bycatch and bycatch mortality of dusky sharks. See Chapter 1 of the FEIS. The Amendment 5b measures build upon those bycatch measures, as they are specifically designed to reduce at-vessel and post-release mortality rates of dusky sharks. In addition, the education and outreach measures will improve species identification and accurate reporting of catches of dusky sharks and other prohibited species. For an explanation of bycatch reporting methodologies for HMS fisheries, see Chapter 3 of the FEIS.

Comment 11: One commenter stated that state water fishermen are interacting with dusky sharks during certain times of the year and that those fishermen often misidentify shark species. The commenter stated that dealers that purchase the sharks typically take the fisherman's word on species identification.

Response: An important part of Amendment 5b's outreach effort to rebuild dusky sharks is working with the ASMFC and the Atlantic states to encourage them to reduce dusky shark mortality and implement measures that complement NMFS' effort within their jurisdictions. All shark dealers in Atlantic states (Maine through Florida) are required to obtain a Federal shark dealer permit, per the ASMFC Interstate FMP for Coastal Sharks, and must attend a shark identification workshop as a condition of their permit. Other members of the public, including state dealers in the Gulf of Mexico can attend these workshops and states have the option to set up their own workshops for state dealers to attend. Any Atlantic shark dealers misreporting shark species identification will continue to be referred for enforcement action as appropriate.

Comment 12: Some commenters, including the EPA, suggested that NMFS consider extending the requirement to use dehookers or to cut the leader close to the hook to recreational shark anglers as well.

Response: This final rule requires that commercial fishermen release all sharks that are not being boarded or retained by using a dehooker, or by cutting the gangion no more than three feet from the hook as safely as practicable. NMFS does not extend the same requirement to the recreational fishery. NMFS already requires recreational anglers to release sharks in a manner that maximizes the chance of survival, and many anglers do so by using dehookers or by cutting leaders close to the hook. At-vessel and post-release mortality of dusky sharks in recreational fisheries already appears to be low according to the available recreational data in the FEIS (Section 1.2). Thus, NMFS will continue to maintain the requirement as written in the recreational fisheries without specifying the required method of release, because the requirement is already effectively implemented.

Comment 13: One commenter stated that Amendment 5b is not consistent with National Standard 2 because the action does not use the best available science. This commenter contends that, although highly uncertain, the TAC provided in the 2016 dusky shark stock assessment update is the best available science and should be used to provide a cap on fishing mortality. Furthermore, this commenter stated that the dusky shark bycatch estimates in the National Bycatch Report are the best available science and should be used, consistent with National Standard 2.

Response: Amendment 5b is consistent with National Standard 2 and uses the best available science, including the 2016 SEDAR 21 stock assessment update for dusky sharks. It also relies on scientific advice regarding the value or advisability of using certain data as the basis for management measures. While certain data were deemed not reliable enough to form the basis of management measures, the development of the conservation and management measures and impact analyses drew heavily from several up-to-date data sources, including logbooks, observer reports, fishery-independent surveys, Marine Recreational Information Program (MRIP) estimates, and recent scientific research. Results from the stock assessment update and the other data sources represent the best available science. In acceptance of the 2016 stock assessment update as the best available science, NMFS has also accepted its recommendation to *not* use the calculated TACs, as described in

Section 1.2 of the FEIS and stock assessment update report. While the commenter recommended that we use ''the TAC'' in the stock assessment, the final 2016 stock assessment update had five different TAC estimates ranging from 7,117 to 47,400 lb (3.2 to 21.5 mt) dressed weight (median = 27,346 lb (12.4 mt) dressed weight), and NMFS has no scientific basis to select one TAC over another, and none of them are considered acceptable for management purposes.

Because the stock assessment uses a catch-free model, it does not calculate projected levels of catch. Therefore, these estimates were not recommended for use in management according to the stock assessment documents. Specifically, the preliminary 2016 stock assessment update report stated that, ''[w]e also provided an estimate of the total weight of removals associated with different reductions in total F, but caution that these are estimates only, and subject to considerable uncertainty.'' Additionally, the final 2016 stock assessment update recommended that ''projections based on catch-based removals should not be considered.'' Therefore, NMFS accepts the recommendations of the stock assessment update, and will not use those TAC estimates as a basis for any management measures.

As detailed in Section 1.2 of the FEIS, the values estimated in the National Bycatch Report, 1st Edition Update 1 for 2006–2010, used a methodology that tended to overestimate dusky shark bycatch in these non-HMS fisheries, which was corrected in the subsequent National Bycatch Report update for 2011–2013 (Table 1.6). Specifically, because there were so few observed dusky shark interactions in the reef fish and snapper-grouper BLL fisheries (as supported by Table 1.5), the National Bycatch Report (1st Edition Update 1) initially used dusky shark catch-per-unit-effort (CPUE) from the shark BLL fishery observer program, including the shark research fishery data, and expanded that catch rate to the total effort in the BLL fisheries for reef fish and snapper-grouper. BLL sets for sharks and reef fish/snapper-grouper are different (different gear configurations, soak times, etc.) and are not directly comparable. Additionally, because sets for both sharks and reef fish/snapper-grouper can occur on the same trip, estimates that treated these fisheries completely separately would have resulted in double counting of some sharks. The shark research fishery trips target sandbar sharks and have a comparatively high interaction frequency with dusky sharks, which resulted in artificially inflated values for dusky shark bycatch in the non-HMS BLL fisheries. Similar artificially inflated estimates were made in the vertical line and troll fisheries, where observed dusky shark interactions are near zero. Therefore, the dusky shark estimates provided in the National Bycatch Report, 1st Edition Update 1 (using 2006–2010 data) are considered invalid for use in management. The methodology used to estimate dusky shark bycatch in the National Bycatch Report, 1st Edition Update 1 was not used in the subsequent National Bycatch Report updates due to these issues. Additionally, these extrapolated catch estimates were not accepted for use in the SEDAR 21 stock assessment and update, which used catch-free models, further supporting NMFS' determination that these estimates are not acceptable for use in management.

Comment 14: The EPA submitted a comment recommending additional environmental justice information in the EIS. Specifically, the EPA recommended that NMFS include the evaluation of environmental justice populations within the geographic scope of the projects. The EPA recommended that NMFS substantiate and include in the EIS whether the proposed alternatives have any potential for disproportionate adverse impacts to minority and low-income populations. The EPA also recommended that the EIS include the approaches used to foster public participation by these populations and describe outreach conducted to all other communities that could be affected by the project, because rural communities may be among the most vulnerable to health risks associated with the project.

Response: NMFS appreciates these recommendations from the EPA and has added additional information in the environmental justice discussion in Section 9.4 of the FEIS.

Comment 15: The EPA recommended providing summaries of any studies or other scientifically-supportable information that supports the assumption that recreational and commercial shark identification training will reduce dusky shark mortality through decreased misidentification and increased understanding of regulations.

Response: The Alternative A2 ecological impacts section of Chapter 4 of the FEIS details how species identification outreach can reduce mortality of elasmobranchs. Research on other U.S. Atlantic prohibited elasmobranch species has demonstrated that focused outreach and species identification training can improve compliance rates with prohibited species regulations to over 98 percent, including reducing illegal landings by 95 percent (Curtis and Sosebee 2016). Additionally, angler education programs that train recreational fishermen in safe fishing, handling, and release techniques result in reduced post-release mortality rates (Poisson et al. 2016).

Comment 16: The EPA submitted a comment questioning the effectiveness of dusky shark species identification training, specifically with respect to Galapagos sharks. Galapagos sharks are very difficult to differentiate from dusky sharks. The EPA stated that while U.S. fishermen likely fish in areas overlapping with dusky shark distribution rather than Galapagos shark distribution, it is very difficult to tell the two species apart. The EPA contends that dusky sharks are morphologically very similar to, and genetically indistinguishable from, Galapagos sharks. Vertebral counts and subtle dorsal fin differences are characteristics used to distinguish the two species and are unlikely to be used without lethally exposing the vertebral column or comparing side-by-side specimens of the two species. The EPA stated that it is unclear how better species identification would resolve species identification difficulties.

Response: NMFS is aware of the difficulty in differentiating between dusky and Galapagos sharks and the emerging research examining genetic differences. However, both species are prohibited from retention and landings, thus, both would be released by any fishermen catching and confusing the species. Because both species are prohibited, NMFS does not see an immediate sustainability threat to dusky sharks due to misidentification between the two species.

Comment 17: The EPA submitted a comment stating that juvenile dusky sharks look very similar to juvenile sandbar, Galapagos, and silky sharks, even if adults are more readily identifiable. They were concerned that misidentification among the four species could reduce the effectiveness of efforts to reduce dusky shark mortality.

Response: NMFS acknowledges the species identification challenges with juvenile dusky sharks and similar-looking species, which has been a chronic hindrance to estimating catches and assessing the stock with catch-based methods. However, the measures in Amendment 5b will reduce mortality rates on all sharks in the affected fisheries, and improve species identification. Because all four of the species mentioned in the EPA's comment are prohibited in the recreational fishery and cannot be

retained by pelagic longline fishermen, NMFS does not see an immediate sustainability threat to dusky sharks due to misidentification among these four species.

B. Annual Catch Limits (ACLs) and Accountability Measures (AMs)

Comment 18: One commenter stated that NMFS should not set the dusky shark ACL equal to zero. Instead, the commenter felt the Agency must use the best scientific information currently available to set a precautionary ACL that accounts for bycatch interactions of dusky sharks in each fishery that catches dusky sharks and propose AMs to ensure adherence to the ACL (including the current prohibition on retaining dusky sharks). Another commenter stated that dusky sharks should not be grouped with the other prohibited sharks under the same ACL.

Response: Amendment 3 to the HMS FMP (2010) implemented a mechanism for establishing ACLs and AMs for each of the shark management groups. For sharks in the prohibited shark complex, this methodology was not applied because the fisheries were closed and landings were prohibited. Therefore, the ACL was considered to be zero, as clarified in this Amendment. Recent revisions to the NS 1 guidelines (81 FR 71858; October 18, 2016), specify that if an ACL is set equal to zero and the AM for the fishery is a closure that prohibits fishing for a stock, additional AMs are not required if only small amounts of catch (including bycatch) occur and the catch is unlikely to result in overfishing. See 50 CFR 600.310(g)(3).

Here, the ACL for the prohibited shark complex continues to be set equal to zero, and the existing AM for all of the stocks in the prohibited shark fishery is a closure that prohibits fishing for the stocks. Inclusion of a species in the prohibited stock complex means that all commercial and recreational retention is prohibited and the fishery is closed (see § 635.28(b)(1)(iv)). Thus, AMs in addition to the closure are not required if only small amounts of catch occur and the catch is unlikely to result in overfishing. There is no information suggesting that overfishing is occurring on species in the prohibited shark complex, except for dusky sharks, and the Amendment 5b rulemaking is undertaking AMs to end that overfishing.

NMFS notes that there would be policy and scientific/data concerns if we were to specify an ACL other than zero for the prohibited shark complex, including dusky sharks. As noted in the response to Comment 13, there was a high level of uncertainty in the 2016 assessment update, given limited data on dusky sharks, multiple data sources, and five plausible model scenarios. The update had five different TAC estimates, and these estimates were so uncertain and wide-ranging as to be inappropriate for management use according to the SEDAR 21 stock assessment. NMFS does not have a basis for picking one model scenario over another and is concerned that setting an ACL based on the highly uncertain TAC estimates could encourage increased catch. Furthermore, allowing catch or landings, even at low levels, could send a message to fishermen that interactions are permissible at some level and could disincentivize avoidance of interactions, which is one of the goals of the measures adopted in this Amendment. Thus, dusky sharks remain in the prohibited shark complex, with an ACL set at zero. The measures adopted through Amendment 5b, in addition to the continuation of measures adopted as part of the dusky shark rebuilding plan, are AMs.

Regarding the comment that dusky sharks should be removed from the prohibited shark group and managed separately, separating dusky sharks and the other prohibited sharks under separate ACLs, each equal to zero, would not provide any meaningful advantage for any prohibited species over the approach being used. Catch and bycatch estimates, to the extent they are available, will still be tracked individually for each species and in any future assessments for prohibited sharks. Grouping all prohibited sharks under a single ACL does not preclude NMFS from considering management measures to address any sustainability concerns for any single stock, as evidenced by the actions in Amendment 5b. In summary, NMFS has determined that specifying an ACL of zero for the prohibited shark complex, which includes dusky sharks, is appropriate and consistent with the NS1 guidelines and requirements of the MSA.

Comment 19: Another commenter stated that NMFS has essentially operated under an ACL of zero since retention of dusky sharks was prohibited in 2000, has failed to track or limit bycatch of dusky sharks or enforce any limit of bycatch mortality with accountability measures, and in doing so has failed to end overfishing of the stock.

Response: NMFS disagrees. Dusky sharks have been prohibited since 2000, but ACLs were not established for HMS-managed sharks until Amendment 3 (2010). As clarified in this Amendment, the ACL for the stocks in the prohibited shark complex, including dusky sharks, is zero. The recreational and commercial fisheries for dusky sharks are closed, and the measures adopted in this amendment will ensure that only small levels of bycatch will occur and will not lead to overfishing. Contrary to the commenter's assertions, NMFS has taken significant management actions to address dusky shark overfishing since the prohibition for dusky sharks went into effect and has continuously monitored bycatch levels using all available data sources (see Section 1.2 of the FEIS). The first dusky shark stock assessment was completed in 2006. As a result of that assessment, in 2008, NMFS established a rebuilding plan for dusky sharks and implemented major changes in the shark fisheries that changed how all directed shark fishermen conduct their business (*e.g.,* creation of the shark research fishery, severe reduction of sandbar shark quota to reduce dusky shark bycatch, reduction in the trip limit, etc.). Since that time, there have been other actions in HMS fisheries, such as the implementation of Amendment 7, that have resulted in significant changes throughout HMS fisheries, not just shark fisheries. According to the SEDAR 21 dusky shark stock assessment update, NMFS' management of dusky sharks has significantly reduced fishing mortality on dusky sharks, but not yet completely ended overfishing. Dusky sharks have experienced improvements in their stock status outlook as described in the 2016 stock assessment update and Section 1.2 of the FEIS. Overfishing has been reduced substantially (median F_{2015}/F_{MSY} ratio of five scenarios = 1.18, compared to F_{2009}/F_{MSY} = 1.59 in the previous assessment). As detailed in the ecological impacts section of Chapter 4 of the FEIS, the management measures in Amendment 5b, which are AMs, will build on the success of past measures by further reducing bycatch mortality and ending overfishing. Additionally, NMFS has continually tracked dusky shark bycatch over time through numerous fishery-dependent monitoring programs (observers, logbooks, recreational surveys, etc.), as detailed in Section 1.2 of the FEIS.

Comment 20: One commenter stated that the National Standard 1 provision at 50 CFR 600.310(g)(3) should not apply to the dusky shark fishery. See response to Comment 18 for explanation of the provision. The commenter contends that (1) the dusky shark fishery is not closed as several fisheries that are known to interact with dusky sharks are still open; (2) overfishing is still occurring in the dusky shark fishery; and (3) bycatch is not small

considering the average annual number of dusky sharks caught as bycatch (529 per year according to the DEIS) is more than double the highest estimated TAC of adult dusky sharks (which the commenter calculated would be 249 dusky sharks by dividing the estimated TAC in the assessment by a potential average dressed weight of a mature dusky shark) that would provide a 70-percent chance of rebuilding by 2107, according to the recent SEDAR 21 update. The commenter also stated that the DEIS did not specify a threshold for determining what level of bycatch is ''small.''

Response: As discussed in Section 1.2 of the FEIS, the ACL/AM provisions for dusky sharks in Amendment 5b meet the conditions set forth in the NS 1 guidelines. First, the dusky shark fishery is closed, as explained in response to Comment 18. Second, measures under Amendment 5b and this rule will end overfishing for dusky sharks and ensure that the small levels of bycatch are unlikely to lead to overfishing. NMFS notes that the estimated level of overfishing for dusky sharks in the current stock assessment update is not high (median of five plausible model scenarios is F_{2015}/F_{MSY} is 1.18; values >1 indicate overfishing).

Third, for all sharks in the prohibited shark complex, only small amounts of catch (including bycatch) occur. The NS1 guidelines do not provide a definition or detailed guidance on what constitutes a ''small'' amount of bycatch. However, the available data show that prohibited shark species—including dusky sharks—are not commonly caught as bycatch in HMS or other fisheries. Prohibited sharks as a group have observed bycatch amounts in the 10s and 100s of individuals. By comparison, many fish stocks have observed bycatch amounts estimated in the hundreds and thousands of metric tons, and prohibited shark species collectively represent a small portion of total shark bycatch across all fisheries (U.S. National Bycatch Report, First Edition Update 2, 2016). With regard to the commenter's TAC calculation, as detailed in the response to Comment 13, the TACs estimated in the 2016 stock assessment update are not considered acceptable for management. Thus, direct comparisons of the observed mortalities summarized in Section 1.2 of the FEIS against the TACs estimated in the stock assessment update are not appropriate.

In addition to requiring that the bycatch be ''small,'' the NS1 guidelines specify that catch be unlikely to lead to overfishing. According to the available analyses, certain prohibited shark species—basking sharks (Campana, 2008), night sharks (Carlson et al., 2008), sand tiger sharks (Carlson et al., 2009), white sharks (Curtis et al., 2014), and bigeye thresher sharks (Young et al., 2016)—are not experiencing overfishing. While such analyses have not been completed for all of the prohibited shark species, there is no information suggesting that overfishing is occurring on species in this complex, except for dusky sharks, and the Amendment 5b rulemaking is undertaking AMs to end that overfishing.

Comment 21: One commenter stated that the 50 CFR 600.310(g)(3) provision does not exist in the Magnuson-Stevens Act, and the Supreme Court has held that Federal agencies cannot create exemptions to a statute that Congress did not already include.

Response: Section 50 CFR 600.310(g)(3) from the National Standard 1 guidelines is consistent with, and not an exemption to, the Magnuson-Stevens Act. The Act requires that FMPs establish ACL/AM mechanisms with the goal of preventing overfishing from occurring, 16 U.S.C. 1853(a)(15). Section 600.310(g)(3) explicitly provides that its provisions may be invoked if there is an ACL of zero, an AM that is a closure, and ''catch is unlikely to result in overfishing.'' Response to comment 46 in the final National Standard 1 guidelines revisions (81 FR 71858; October 18, 2016) explains that § 600.310(g)(3) is an optional tool that will only apply to a limited set of cases where there is no way to account for the small amounts of bycatch occurring and, therefore, it is not pragmatic to establish AMs to try to account for such small amounts of bycatch that are unlikely to result in overfishing. NMFS notes that, as a statutory matter, the national standard guidelines do not have the force and effect of law, 16 U.S.C. 1851(b). Consistent with Magnuson-Stevens Act requirements, as detailed in Chapter 4 of the FEIS, there is an ACL/AM mechanism for prohibited shark species, and bycatch of dusky sharks is unlikely to result in overfishing under the Amendment 5b management measures.

Comment 22: A few commenters objected to setting the dusky shark ACL to zero on the grounds that it will lead to further restrictions in fisheries that interact with dusky sharks as the population recovers and interactions with the species increase accordingly due to their increasing abundance. With an ACL set equal to zero, NMFS would have no way to measure success, and dusky shark will inevitably become another choke species that will lead to unnecessary fisheries closures that the commercial and recreational fisheries cannot afford.

Response: The Magnuson-Stevens Act requires fishery management measures to end and prevent overfishing and to rebuild overfished stocks. An ACL of zero for the prohibited shark complex, including dusky sharks, in conjunction with the continuation of measures adopted in the dusky shark rebuilding plan thus far (*e.g.,* Amendment 2) and the new AMs outlined in Amendment 5b, will prevent overfishing. NMFS agrees that as the population recovers and the dusky shark stock increases, an increase in interactions could occur. NMFS will continue to monitor dusky sharks through the available fishery-dependent and -independent data sources, and future stock assessments, and consider additional management measures in the future if necessary.

Comment 23: One commenter stated that, while NMFS' intention to monitor bycatch levels of prohibited sharks is necessary, there are no means to determine if bycatch mortality falls within safe ranges because nearly all the prohibited shark species have not undergone a stock assessment. Furthermore, the commenter stated that each of the prohibited shark species is unique with different life history traits, different bycatch levels, and different vulnerabilities. To address this concern, the commenter suggested creating four subgroups of prohibited shark species reflecting high and low levels of fishery interactions and high and low vulnerability based on life history traits. The commenter felt these subgroups could provide a way to prioritize monitoring and stock assessments, and those species with a high vulnerability and high fishery interactions could be prioritized over those with a low vulnerability and low fishery interactions. The commenter noted that this process could occur outside of the Amendment 5b rulemaking process.

Response: Many of the prohibited sharks do not have stock assessments. Stock assessments for prohibited species are often complicated by a near or complete lack of data. However, as this commenter noted, there are ways to prioritize monitoring and stock assessments among the prohibited sharks. NMFS has used methods to prioritize monitoring and stock assessments of prohibited sharks since first beginning management of Atlantic sharks with the 1993 FMP. Based on this prioritization, an initial analysis was performed of sharks that have more vulnerable life history traits and presumably higher levels of fishery interaction. Based on this information, retention of dusky sharks was

prohibited through the 1999 FMP, effective in 2000.

The Brief Management History section of Chapter 1 has more detail and final rule references for this action. NMFS later created a Vulnerability Evaluation Working Group in 2008 to provide a methodology to determine vulnerability (a function of both biological productivity and susceptibility to fisheries) of a wide range of U.S. fish stocks (Patrick et al. 2009, 2010). Atlantic HMS sharks, including prohibited species, were part of this Productivity and Susceptibility Analysis (PSA), which found that the vast majority of prohibited species fell in the same region of the PSA plot (see Figure 5 in Patrick et al. 2009) indicating similar vulnerability. It was noted in the document that 12 of the 14 prohibited species had some of the lowest susceptibility scores of all HMS Atlantic sharks. NMFS welcomes comments on ways to improve the stock assessment prioritization process, and may consider such changes in the future. However, this comment remains beyond the scope of Amendment 5b.

C. Dusky Shark Stock Assessment and Mortality Reduction Targets

Comment 24: One commenter noted that the dusky shark assessment update may not be accurate because it did not consider several issues, including fishermen avoidance of the species since 2000; the potential non-reporting of dusky shark catches; flaws in some fishery independent surveys to account for range shifts due to climate change and other factors; and continuing problems in species identification. That commenter felt the next assessment should be a benchmark assessment that considers these issues. Another commenter noted the need to conduct a benchmark assessment for dusky sharks to address these and straddling stock (trans-international boundary) issues. Commenters also stated that future dusky shark stock assessments should include data from Mexican and Cuban water fisheries that also interact with dusky sharks.

Response: Both the SEDAR 21 dusky shark stock assessment and stock assessment update acknowledge the uncertainties in all of the input data sources. However, these uncertainties were characterized to the extent possible and accounted for within the assessment model runs. NMFS has not yet scheduled the next dusky shark stock assessment, and agrees that the next dusky shark assessment should include a review of all available data sources, and should also investigate methods for addressing changes in management and fishing behavior, the validity of fishery-independent sources, environmental factors, potential data from neighboring nations that may catch dusky sharks, and other relevant information to improve the assessment.

Comment 25: Some commenters were opposed to NMFS' decision to use mortality reduction targets estimated to provide a 50-percent probability of rebuilding the dusky shark stock by 2107. They contend that previous actions involving Atlantic HMS sharks have generally used the 70-percent probability for other sharks and that NMFS, in the Predraft for Amendment 5b, stated that the 70-percent probability is the most appropriate. The commenters stated that the necessary mortality reductions should reflect the 70-percent probability threshold given the fact that previous measures have failed to end overfishing over the last 10 years. One commenter stated that NMFS' rationale for using the 50-percent probability is incorrect. The commenter stated that while NMFS chose the 50-percent probability because the dusky shark assessment was highly uncertain, it was no more uncertain than the last dusky assessment and assessments for other shark species. The commenter also stated that NMFS chose the 50-percent probability because the assessment results were more pessimistic than expected, so NMFS changed the mortality reduction objective rather than properly addressing the results of the assessment. One commenter who supported the use of a 50-percent probability threshold noted that 50-percent is a commonly used standard that has been judicially-approved for ending overfishing and the 50-percent threshold makes sense given the higher level of uncertainty associated with the update compared to past stock assessments.

Response: NMFS' determination to use the fishing mortality reduction associated with a 50-percent probability of rebuilding by 2107 is a standard approach in many NMFS stock rebuilding plans, is consistent with the Consolidated HMS FMP, and is scientifically justified as detailed in Section 1.2 of the FEIS. While NMFS typically uses a 70-percent probability for Atlantic highly migratory shark species, the 2016 update has a higher level of uncertainty than other shark assessments and presents a more pessimistic view of stock status than was expected based on a preliminary review of similar information and other available information. Such information includes the information reviewed in the ESA Status Review, reductions in U.S. fleet fishing effort due to management actions not reflected in the 2016 stock assessment update, and improved age and growth information indicating that dusky sharks have faster age and growth dynamics than previously thought, which likely results in higher productivity than that considered in most of the model scenarios of the 2016 stock assessment update (Natanson et al., 2014). It is possible that the ''high productivity'' model scenario encompassed the effects of this new life history information, while also reducing the plausibility of the ''low productivity'' scenario. This information could not be directly used in the 2016 assessment update, because assessment updates only incorporate data inputs (*e.g.,* time series, life history parameters, etc.) that were previously vetted through the SEDAR process and approved as part of the most recent benchmark assessment. Here, that was the 2011 benchmark stock assessment (SEDAR 21). Based on its review of the 2016 update, understanding about the operation of the HMS fisheries under current management measures, and other available information, the F estimate associated with the 50-percent probability more accurately reflects current fishing pressure and accounts for the new information on dusky shark productivity than the F estimate associated with the 70-percent probability. Because of these issues, NMFS decided it was appropriate from a scientific perspective to use the F reduction associated with the 50-percent probability of rebuilding by the deadline in Amendment 5b. Using the F reduction associated with a 50-percent probability, rather than a 70-percent probability, appropriately reflects this change in risk tolerance while remaining sufficiently precautionary and is consistent with the standard used in rebuilding plans for most NMFS-managed stocks.

From a statistical perspective, the wider confidence band in the projections results in the F estimate associated with a 70-percent probability being substantially lower than the apical value (the value at the peak of the distribution of F estimates). Thus, the F reduction associated with 70-percent goes well beyond what NMFS would consider appropriately precautionary even for species with relatively slow life history such as sharks. NMFS also notes that the rebuilding year (*i.e.,* length of time the species could rebuild with no fishing mortality plus one mean generation time) was calculated using a 70-percent probability, as is typically done in assessments, which additionally

increases the likelihood of achieving rebuilding within the mandated time period. Furthermore, while the probability of rebuilding the dusky shark stock by 2107 with a 35-percent mortality reduction is 50 percent, the probability of this mortality reduction immediately ending overfishing is approximately 77 percent according to the results of the final 2016 stock assessment update.

Comment 26: One commenter specifically called for an ACL that will achieve at least a 50-percent reduction in dusky shark fishing mortality across all fisheries to ensure a 70-percent probability of successfully rebuilding by 2107, as designated by the U-Shaped mortality scenario described in the DEIS and the recent SEDAR 21 stock assessment update. Another commenter suggested that only an 8-percent reduction in fishing mortality is necessary because the U-shaped mortality scenario F/F_{MSY} is only 1.08.

Response: NMFS acknowledges that the 2016 stock assessment update provided five different model runs, all of which represent plausible states of nature for the dusky shark stock, consistent with the SEDAR 21 benchmark assessment. However, as described in the assessment documents and Section 1.2 of the FEIS, there is no scientific basis to select one model run over another. Therefore, consistent with the approach used in comparable situations in other stock assessments, a multi-model inference was made using the results of the median model. In this case, the U-shaped Natural Mortality model run recommends a 53-percent reduction in mortality to achieve a 70-percent probability of rebuilding by 2107. As described in the response to Comment 25 above, use of a 50-percent probability of rebuilding is warranted in this case. Therefore, NMFS has determined that the best available scientific information supports the use of the median model and a mortality reduction associated with a 50-percent probability of rebuilding by the deadline (*i.e.,* 35 percent). Furthermore, there is no acceptable ACL associated with achieving any of the mortality reductions presented in the stock assessment update, as described in Section 1.2 of the FEIS. The ACL for the prohibited shark complex is zero, and this action is reducing mortality on dusky sharks using other measures since there are insufficient data to quantify catch or TACs with any certainty. Finally, NMFS disagrees that under the U-shaped mortality scenario, only an 8 percent mortality reduction is needed. An 8-percent mortality reduction may end overfishing, but would not rebuild the stock as required. A 35-percent mortality reduction is needed to end overfishing with a 50 percent probability and will be achieved by the measures adopted in this Amendment.

Comment 27: The EPA suggested clarifying why it is appropriate to set a 35-percent mortality reduction target for dusky sharks when the 2011 stock assessment recommended a 58-percent decrease relative to 2009 levels.

Response: The mortality reduction targets changed after the 2016 assessment update and, as described in the response to Comment 25, NMFS has determined that Amendment 5b measures should reduce dusky shark mortality by 35 percent to end overfishing and rebuild the stock consistent with the most recent assessment update.

As detailed in Chapter 1, the 2011 SEDAR 21 dusky shark stock assessment used data through 2009. After finalizing that stock assessment and beginning rulemaking to implement a rebuilding plan for dusky sharks, it became apparent that management measures implemented after 2008 in HMS fisheries (*e.g.,* measures in Amendment 2) had reduced dusky shark interactions and mortality. Furthermore, fishery-independent abundance indices prepared for the ESA status review showed increasing dusky shark population trends. Consequently, the Agency prioritized an update to the SEDAR 21 dusky shark stock assessment, using data through 2015, to incorporate recent management changes and updated fishery-independent indices. The SEDAR 21 dusky shark stock assessment update found that while the stock is still overfished and experiencing overfishing, the stock status was healthier than shown in the original SEDAR 21 assessment.

D. Shark Endorsement, Training, Species Identification, and Outreach

Comment 28: NMFS received numerous comments in support of the shark endorsement (Alternative A2), including from the South Atlantic Fishery Management Council (SAFMC), and the States of North Carolina, South Carolina, and Texas. NMFS received comments expressing concerns and recommendations regarding the shark identification and training quiz. The State of Mississippi commented that shark species misidentification is not a problem in Mississippi waters. One comment stated that a test to obtain a permit was unheard of in salt and freshwater fishing and many fishermen may decide simply not to fish for sharks to avoid the burden of the online course. Another commenter noted that because hunters need to take a safety class with bird identification in the State of Florida to get a hunting license, an online class such as what is proposed and another for all HMS species, particularly in regard to reporting requirements, in order to receive a vessel permit is reasonable. Another comment indicated that misidentification and lack of data are the underlying issues facing the rebuilding of dusky sharks, and both of these can be properly and sufficiently addressed through a comprehensive HMS shark endorsement program (as outlined in Alternative A2) with online education modules during issuance and renewal of the endorsement. The commenter suggested that the quiz should focus on prohibited species identification (specifically dusky, sandbar, or ridgeback sharks), best practices for safe handling interaction, and a cooperative data collection initiative through reporting requirements. The commenter felt that cooperatively increasing fisherman knowledge and understanding of resource interactions allows for responsible management while also creating a sense of responsibility and stewardship of the resource. Lastly, another commenter noted that most anglers who have the time, resources, and knowledge to fish offshore already know how to properly identify a fish before harvesting it.

Response: NMFS recognizes that the shark identification and regulations quiz accompanying the proposed shark endorsement represents a novel measure in the realm of marine recreational fisheries; however, it is by no means unprecedented in the realm of conservation management. As one of the supporting commenters noted, hunters in the State of Florida are required to take hunter safety classes that include a bird identification section, and similar hunter safety courses are required in almost all states. Compared to hunter safety courses, which historically could last an entire day or more, the proposed shark identification and regulations training course and quiz will place minimal burden on recreational anglers as it is intended to take only a few minutes to complete, while still conveying the necessary information in an efficient manner. The quiz will focus on dusky shark conservation to more effectively meet sustainability goals. Additionally, many commercial fishermen that pursue HMS fisheries have long been required to take extensive training workshops on the identification and safe release of protected species that can take a full day to complete. NMFS has identified

accidental landings due to misidentification as one of the primary sources of dusky shark mortality in the recreational fishery. NMFS considered several alternatives to address this problem including drastically increasing the minimum size for sharks and making the recreational shark fishery catch-and-release only. Both of these alternatives will have been assured to largely end accidental landings of dusky sharks in Federal waters, but will have had a far greater impact on the recreational fishery while doing far less to target the underlying issue of misidentification. As such, NMFS decided to prefer the more targeted approach of education and communication that could be provided by the shark identification and regulation training course and quiz. NMFS realizes that many recreational HMS anglers already know how to identify HMS species, including dusky sharks, and are familiar with HMS regulations. However, NMFS cannot be assured of getting the necessary information to those anglers who need it without requiring it of all Federal water anglers that wish to target and land sharks.

Comment 29: NMFS received a comment from the State of South Carolina which noted that they do not oppose the requirement for the shark endorsement for HMS permit holders fishing in Federal waters, but stated that NMFS needs to remove the phrase ''fishing for sharks recreationally'' to make it clear that the endorsement is needed to land sharks caught in Federal waters whether the angler in question was targeting sharks or not. The State of South Carolina Department of Natural Resources (South Carolina DNR) also stated that the proposed shark endorsement is in direct conflict with South Carolina law Section 50–5–2725 because permits are not required for the possession of sharks in South Carolina state waters. South Carolina DNR stated that, therefore, South Carolina would not enforce this final rule in its state waters.

Response: This final rule does not conflict with or preempt any state regulations, nor does it place any enforcement requirements on states. Recreational shark anglers fishing exclusively in state waters will not be required to obtain the shark endorsement just as they are not required to obtain an Atlantic HMS Angling or Charter/Headboat permit, and states need not enforce Federal regulations against shark anglers who do not hold Federal permits. However, those recreational shark anglers that wish to target, retain, and land sharks in Federal waters will be required to obtain a shark endorsement along with their Atlantic HMS Angling or Charter/Headboat permit. Once the angler has a Federal permit, as a condition of that permit, the angler must abide by the Federal regulations, regardless of where they are fishing, including in state waters, unless the state has more restrictive regulations, as specified in the Final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (64 FR 29090; May 28, 1999). HMS permit holders have been required to follow federal requirements in state waters as a condition of obtaining a federal permit since 1999 for commercial permit holders and since 2006 for recreational permit holders. As explained in the FEIS for the 2006 Consolidated HMS Fishery Management Plan, the previous differing requirements between state and Federal regulations and the inability to verify whether or not a particular fish onboard a vessel was caught in state waters or Federal waters generated confusion for the federal permit holders. The states have been previously consulted on these Federal permit conditions, and are regularly consulted on all HMS management plan amendments.

Comment 30: NMFS received a comment that supported the shark endorsement and suggested that NMFS implement the shark endorsement in non-HMS recreational fisheries that interact with sharks as well.

Response: NMFS only has authority to manage shark fisheries in Federal waters, and any recreational angler fishing in Federal waters of the Atlantic, Gulf of Mexico, or Caribbean that wishes to retain sharks must possess an Atlantic HMS Angling or Charter/Headboat permit. As such, all recreational anglers that fish in Federal waters of the Atlantic will be required to obtain the shark endorsement to retain sharks. Individual states and the Regional Fisheries Management Commissions and Councils have the option to require Atlantic HMS permits of anglers fishing in state waters or for non-HMS, but the authority to do so lies with them and not NMFS. As stated above, once the angler has a Federal permit, as a condition of that permit, the angler must abide by the Federal regulations, regardless of where they are fishing, including in state waters, unless the state has more restrictive regulations.

Comment 31: Commenters stated that NMFS should include a reporting requirement as part of the shark endorsement for all shark landing or develop a sampling protocol to survey shark populations to improve data reliability in the recreational sector.

Response: As described in Chapter 2 (under Alternatives Considered but Not Further Analyzed), NMFS is not planning to include reporting requirements as part of the initial implementation of the shark endorsement, which could result in duplicative data collection efforts in recreational fisheries (*e.g.,* MRIP, the Large Pelagics Survey (LPS)). However, NMFS is hopeful that the endorsement can serve as a framework for improving the sampling of recreational anglers that target sharks for surveys like those conducted by MRIP. How well this works will depend on what percentage of HMS anglers acquire the endorsement. The more HMS permit holders that acquire the endorsement, the less of a targeted sample it would provide compared to the existing HMS Angling and Charter/Headboat permits. However, this is counterbalanced by the fact that the more anglers getting the endorsement means the more anglers that will be receiving the targeted outreach and education materials on shark identification, safe handling, and shark fishing regulations, and the more anglers would then provide the correct shark identification when responding to surveys.

As for the suggestion to include a reporting requirement in conjunction with the shark endorsement, HMS permit holders are already required to report their catches and landings when intercepted by NMFS catch and effort surveys like MRIP and the LPS. At this time, NMFS is not planning to require any additional reporting requirements similar to the requirements for billfish, bluefin tuna, and swordfish. The mandatory reporting requirement for most of these species is only to report fish that are landed (bluefin tuna reporting also includes dead discards), and because landing dusky sharks is prohibited, any similar reporting requirement for sharks should not provide data on dusky catches. NMFS is also reluctant to require reporting on released sharks as the agency does not have the authority to extend the requirement to state water anglers who are responsible for a significant portion of recreational catches and landings for most shark species. This is not a concern with other HMS with mandatory reporting requirements as NMFS manages bluefin tuna to the shore, and billfish and swordfish are very rarely caught in state waters. NMFS is also in the process of reviewing the needs of MRIP and the LPS as part of the Regional MRIP Implementation Plan. As part of that review, NMFS is

considering what, if any changes, are needed to improve recreational estimates of shark harvest.

Comment 32: NMFS received comments requesting an option to cancel the shark endorsement for fishermen when they are not fishing for sharks or sharks are not in their area. Other commenters expressed concern that providing an option for cancelling the shark endorsement throughout the year would create confusion as to who and when fishermen could retain/land sharks during a given year.

Response: NMFS believes the demand for the option to drop the shark endorsement will be largely negated by the new circle hook alternative (A6d) that requires endorsement holders to use circle hooks only when fishing for sharks, as opposed to the previously preferred alternative (A6a), which required the use of circle hooks whenever fishing with wire or heavy monofilament or fluorocarbon leader, as the new preferred alternative removes any potential conflicts with non-shark fisheries. If sharks are to be retained, circle hooks must be used, regardless of bait or gear configuration (with the exception of artificial lures and flies). NMFS will still provide the option for anglers to drop the shark endorsement if they so desire.

Comment 33: NMFS received a comment from the SAFMC suggesting that NMFS include a small fee for the shark endorsement to provide a minor barrier to entry. The comment noted that the fee would assist with defining the universe of fishermen actually targeting sharks, and thus improve the ability of the shark endorsement to provide a targeted sampling frame for shark anglers. Other commenters stated that there should not be an extra fee for the shark endorsement because the HMS Angling Permit already has a fee.

Response: NMFS has considered the possibility of charging a separate fee for the shark endorsement, but has opted not to take that direction at this time as it does not represent a standalone permit. Additionally, NMFS does not want to unduly discourage permit holders from receiving the endorsement as the primary goal of the endorsement is to facilitate education and outreach on shark identification, safe handling, and fishing regulations while using the endorsement as a sample frame for data collection is only a secondary benefit. Furthermore, it is generally agreed that those anglers and charter/headboat captains that do not regularly target sharks, and are more likely to only interact with a sharks incidentally, are the ones that will most benefit from the educational aspects of the shark endorsement while also being the ones most likely to opt not to obtain it if it required paying an additional fee. As such, NMFS believes the benefits of the shark endorsement to dusky shark conservation will be maximized if a fee is not charged. Furthermore, NMFS does not see a need to limit entry into the recreational shark fishery to promote dusky shark conservation as they are not a target species, but are only caught incidentally.

Comment 34: NMFS received numerous comments regarding the online shark identification and training course. One commenter noted that the online quiz should be short and quick, and specifically address dusky sharks. Another commenter felt that the shark identification quiz should focus on prohibited species identification, and best practices for safe handling. To improve and evaluate the effectiveness of the shark endorsement, one commenter recommended that implementation of the endorsement and online training course follow key principles for effective e-learning, and include an evaluation component to assess its effectiveness at educating permit holders. This commenter submitted detailed information on how to approach and evaluate adult learning in online training.

Response: In the interest of minimizing burden to the angling public, NMFS intends to keep the shark endorsement short and targeted. It will focus on key recreational shark fishing regulations (minimum size limits, bag limits, and circle hooks), and key identifying characteristics of prohibited shark species such as the interdorsal ridge. More detailed information on shark identification and safe handling techniques will be distributed to shark endorsement holders through targeted outreach materials that the angler can keep on hand for future reference. NMFS greatly appreciates the information and literature one commenter provided on adult learning and online training. NMFS will strive to apply adult learning principles in the design of the shark endorsement training and quiz. NMFS intends the shark endorsement quiz to be an adaptive tool that will be evaluated on a regular basis to determine which questions provide the most educational benefit, what topics require the most targeted outreach, and how the training course can be improved.

Comment 35: NMFS received a comment requesting that all applicants applying for the shark endorsement be asked to provide an estimated number of sharks caught in the previous year. The comment noted that many fishermen may choose to get the shark endorsement regardless of whether they intend to target sharks ''just in case.'' Providing information on the number of sharks caught in the previous year would allow NMFS to have a more accurate representation of the universe of fishermen targeting sharks in any given year.

Response: Asking shark anglers to recall the number sharks they have caught in the previous year as part of the shark endorsement would result in highly inaccurate responses given the long length of the recall period (12 months). None of the current MRIP surveys use recall periods of anywhere near this length with most using recall periods of only two months. This measure is not considered reasonable because it would be duplicative with existing recreational fishery data collection efforts (*e.g.,* MRIP, LPS) and would not meet the primary objectives of this amendment (*i.e.,* ending overfishing and rebuilding dusky sharks). Furthermore, the collection of such data would likely be inaccurate and difficult, if not impossible, to verify as anglers would need to remember all trips and catches from the previous year. Existing data collection efforts, while still flawed, produce better catch and effort estimates than collection of such information once a year when someone is applying for a permit. Additionally, creation of this type of data collection would likely be costly in terms of the data management infrastructure needed, and the data management clearances required for the collection could delay implementation of this action, which is needed to end overfishing on dusky sharks. NMFS is currently looking at ways to improve MRIP and LPS data collection surveys for all HMS as part of its regional MRIP implementation plan. Any changes as a result of those data collection methods would result in more reliable recreational data than a once-a-year collection of information when people are applying for the shark endorsement.

Comment 36: NMFS received a comment from the SAFMC which noted that when applying for the shark endorsement, NMFS should make it clear that those fishermen holding the endorsement would need to use circle hooks in certain situations and that sharks caught incidentally on J-hooks would need to be released. Additionally, the SAFMC noted, when presented with the option to apply for the endorsement, NMFS should clearly inform fishermen that, without the endorsement, sharks cannot be retained.

Response: NMFS agrees with the SAFMC's comment that it is important

to make it clear to anglers applying for the shark endorsement that circle hooks will be required when fishing for sharks, that sharks incidentally caught on J-hooks will need to be released, and that the shark endorsement will be required to retain sharks caught in Federal waters. All of these issues will be highlighted during the permit application process and shark endorsement quiz.

Comment 37: NMFS received comments suggesting shark fishermen or all HMS permitted vessels be required to carry a shark identification placard (Alternative A3) instead of taking the online quiz to receive the shark endorsement.

Response: NMFS considered requiring HMS permitted vessels to carry a shark identification placard in alternative A3. NMFS did not prefer this alternative because while anglers could be required to carry a placard that, if used, might help identify dusky and other sharks, ensuring that anglers reference the material would be difficult. NMFS feels that Alternative A3 will provide for a more passive learning experience and does not provide feedback to the angler like the online shark endorsement quiz in Alternative A2. However, as part of the outreach and education campaign described in Alternative A2, NMFS intends to provide additional outreach materials, in addition to the placard, that anglers could use as a reference after taking the quiz.

Comment 38: NMFS received a comment requesting that NMFS require all HMS recreational permit applicants participate in a broader training course encompassing regulations on all HMS recreational fisheries including sharks. The comment noted that the HMS permit should be issued on completion of the training course.

Response: The purpose of this action is to address the specific issue of ending overfishing of dusky sharks in the Atlantic, and no additional benefit to dusky sharks would likely occur as a result of the broader training course suggested by the commenter. Rather, the commenter's suggestion was aimed at improving angler knowledge of all HMS identification and recreational fishing regulations, which has not proven to be a significant issue. Using this action to require all anglers applying for an HMS permit to take a broad training course on HMS fisheries regulations and species identification to address a minor issue that is not targeted exclusively toward ending overfishing of and rebuilding dusky sharks is beyond the scope of this action. While such a training course might be beneficial, issues of species misidentification have not proven to be a consistent problem and driver of overfishing in non-shark HMS fisheries. As such, NMFS believes that a more targeted course on shark identification and regulations will be more likely to achieve the goals of this action.

Comment 39: NMFS received numerous comments from recreational fishermen regarding the impact of the shark endorsement on data collection. One commenter noted the shark endorsement would provide a better estimate of recreational shark fishermen and increase the confidence in MRIP shark catch estimates. Other commenters were concerned that the shark endorsement would lead to inflated shark catch estimates, further noting that most HMS anglers would choose to get the endorsement, regardless of whether they plan to target sharks in order to keep the option for shark fishing open. Additionally, one commenter felt that the shark endorsement benefit would be minimized by the fact that HMS permits are vessel-based; therefore, the permit holder, rather than the individuals fishing, would be reporting.

Response: NMFS expects that the endorsement can serve as a framework for improving the sampling of recreational anglers that target sharks for MRIP surveys like the LPS. NMFS recognizes that the more HMS permit holders that acquire the endorsement, the less of a targeted sample it would provide compared to the existing HMS Angling and Charter/Headboat permits; however, this should not result in inflated estimates of sharks caught in Federal waters. The HMS Angling and Charter/Headboat permit lists are already used as sampling frames for the LPS and the For-Hire Survey, which provide estimates of shark fishing effort and landings by HMS permit holders. If all HMS permit holders obtain the shark endorsement, then the survey sampling frames would remain the same, and the resulting estimates should be largely unchanged. However, the fact that HMS permits, and thus the shark endorsement, are vessel-based permits will limit its usefulness as a sampling frame for other MRIP surveys that are not vessel based, but instead target individual anglers.

Comment 40: NMFS received comments suggesting that NMFS update the shark identification placard to include information for dusky sharks. Other commenters felt that a dusky shark identification guide should be printed directly on the HMS Angling permit.

Response: In addition to the shark endorsement, NMFS will be conducting an extensive outreach and education campaign on shark identification and fishing regulations. This will include updating the existing shark identification placard, and developing dusky shark specific educational materials that will be distributed at locations that anglers frequent, such as tournaments or bait shops, and to individuals that acquire the shark endorsement. NMFS does not plan to print the shark identification guide directly on the HMS Angling permit at this time as this would substantially increase the size of the permit. Furthermore, NMFS has received numerous anecdotal accounts that anglers rarely read their permits and disseminating information through permits may not be effective.

Comment 41: NMFS received a comment expressing concern regarding the impact the proposed dusky measures will have on charter or recreational fishing vessels that fish for both sharks and tuna on the same trip. In New England, most sharks are caught incidentally when fishing for other pelagic species, particularly tuna. The comment noted that combined tuna and shark trips are critical for charter fishing businesses and anglers should be allowed to fish for both species in the same day with the same permit.

Response: None of the provisions in Amendment 5b are intended to prohibit anglers from pursuing sharks and other HMS during the same fishing trip. An angler possessing a shark endorsement is not prohibited from fishing for other HMS when appropriately permitted to do so and consistent with requirements. Permit holders wishing to retain sharks will be required to use circle hooks to fish for sharks, unless they are fishing in New England waters north of 41°43′ N. latitude, or are fishing with flies or artificial lures. This boundary line for the circle hook requirement was added to the new preferred Alternative A6d to eliminate any impacts to the HMS recreational fishery outside of the dusky sharks' known range. The exception for flies and artificial lures was added because NMFS heard from commenters, including the State of Florida and the SAFMC, concerned that fly fishing for sharks could inadvertently be impacted by the requirement to use circle hooks when targeting sharks with natural bait. Although not widely done at this time, some fishermen target sharks with fly fishing gear, usually with J-hooks. NMFS does not know of instances where cut or whole bait is used when fly fishing for sharks, but it is common for the terminal fly to include natural components such as bird feathers. Furthermore, it is well known by

anglers, and verified by research, that artificial lures and flies rarely gut hook sharks or other fish species, and are much less likely to do the type of tissue or organ damage that leads to post-release mortality. For these reasons, in the final action, NMFS has preferred to specifically exempt shark fishermen using flies and artificial lures from the circle hook requirement.

Comment 42: NMFS received comments suggesting the need for cooperation between the Agency, States, and Councils to ensure that outreach materials reach recreational state water fishermen. Commenters noted that recreational state-water fishermen have a high likelihood of misidentifying sharks. Furthermore, commenters noted recreational state-water fishermen in the State of North Carolina potentially are interacting with dusky and sandbar sharks depending on time of year and weather. The EPA also recommended that NMFS provide incentives to tournament organizers, fishery associations, etc., to encourage and enlist their participation in increasing fishermen's awareness of prohibited shark species identification and regulations.

Response: NMFS is aware that tournament anglers and anglers that fish exclusively in state waters make up a portion of the recreational shark fishery, and are likely interacting with dusky and sandbar sharks depending on their region and time of year and weather. As such, NMFS fully intends to work with the state agencies, commissions, councils, and shark tournament organizers to ensure that shark educational and outreach materials reach all of these anglers. NMFS will be developing a detailed outreach plan for dusky shark conservation efforts that will identify points of contact at state agencies, fishery management councils, and major shark fishing tournaments with a particular focus on those regions where dusky shark interactions are most common. Outreach efforts by NMFS will also target recreational fishing publications that cater to shark anglers.

E. Alternative A6—Circle Hooks in the Recreational Fishery

Comment 43: NMFS received various comments regarding the proposed circle hook measure's potential to achieve mortality reductions. Some commenters felt that circle hooks would reduce the chance of gut hooking and increase the chance of post-release survival for dusky sharks, consistent with our analyses in the draft Amendment. Other commenters support the circle hook requirement for recreational shark fisheries but question the effectiveness of the requirement as it relates to reaching a 35-percent reduction in mortality given the inconsistency of study results between different species of sharks. Additionally, NMFS received a comment that noted that Amendment 5b lacks sufficient quantitative analysis on how the circle hook requirement would achieve mortality reduction. Some commenters felt the circle hook requirement would negatively impact fishermen targeting other species and cause economic hardships while being unenforceable. Other commenters felt that little scientific evidence exists to support the mandatory use of circle hooks while some commenters noted that circle hooks are designed not to hook anything until they find a hard edge, reducing the chances of hooking internal soft tissue, and would be beneficial for sharks. Commenters further noted that more research is needed on the use of circle, J, and barbless J-hooks. The EPA commented that NMFS should provide incentives to tournament operators, fishery associations, etc., to encourage and enlist their participation in advocating for recreational fishermen's use of circle hooks by all Atlantic HMS permit holders participating in fishing tournaments when targeting or retaining sharks.

Response: Circle hooks provide demonstrably positive benefits to dusky sharks caught and released in the recreational shark fishery. While post-release survival is important for the stock health of most species, it can be particularly important for prohibited species because post-release mortality is the primary source of fishing mortality for the stock. As such, ensuring that dusky sharks are released in a condition that maximizes survival is an important way to reduce fishing mortality. Most evidence suggests that circle hooks reduce shark at-vessel and post-release mortality rates without reducing catchability compared to J-hooks, although it varies by species, gear configuration, bait, and other factors. Willey et al. (2016) found that 3 percent of sharks caught recreationally with circle hooks were deep hooked while 6 percent caught on J-hooks were deep hooked. A more detailed examination of these data provided to NMFS by Willey et al. indicated even greater positive impacts specific to dusky sharks, showing a deep-hooking rate of 6 percent for circle hooks and 17.5 percent for J-hooks in dusky sharks (N=230); a reduction of 66 percent. Campana et al. (2009) observed that 96 percent of blue sharks that were deep hooked were severely injured or dead while 97 percent of sharks that were hooked superficially (mouth or jaw) were released healthy and with no apparent trauma. Therefore, assuming that deep hooking in dusky sharks results in comparable post-release mortality rates to those of blue sharks (96 percent), converting recreational shark fisheries from J-hooks to circle hooks should reduce the mortality rate of hooked dusky sharks by 63 percent ((17.5% − 6.0%/17.5%) * 96% = 63%). By requiring circle hooks for shark fishing in the recreational fishery, dusky sharks that are inadvertently caught in the recreational fishery would be more easily released in better condition, reducing dead discards and post-release mortality. While additional studies, including on the use of barbless J-hooks, are always helpful, the existing literature supports a circle hook requirement in the recreational shark fishery to reduce dusky shark mortality. As suggested by the EPA, NMFS intends broad-scale outreach across a number of fishing organizations to inform the affected public about new management measures and the dusky shark sustainability concerns.

Comment 44: NMFS received a large volume of comments expressing concern over the proposed definition of shark fishing for purposes of applicability of the circle hook requirement in the alternative preferred in the draft Amendment (A6a). Commenters, including the States of Florida and North Carolina, noted that the proposed language would have the effect of including fishing in multiple non-shark recreational fisheries such as swordfish deep dropping and trolling for billfish, tuna, wahoo, and mackerels. The proposed measure required that circle hooks be used by everyone who has the shark endorsement and who fishes with the specified natural bait/gear configuration. The State of South Carolina opposed Alternative A6a as originally proposed, as it would place a significant burden on fishermen not fishing for sharks but who opt to get the endorsement in case they want to land a bycaught shark, specifically impacting fishermen trolling offshore for dolphin, wahoo, and tuna. Commenters suggested that NMFS remove the definition of shark fishing as it relates to applicability of the measure to avoid potential conflicts with other fisheries. Additionally, NMFS received comments, including from the SAFMC and the State of Texas that suggested the shark fishing definition should apply to all recreational fishermen targeting sharks, instead of all fishermen using wire, or heavy monofilament or

fluorocarbon leaders, and natural baits and that doing so would minimize impacts of the measure and its attendant costs on non-shark fisheries. Furthermore, NMFS received comments stating that a better definition of shark fishing for the circle hook requirement would include chumming activities, large chunks of cut natural bait (dead or alive), wire greater than #9 gauge, multistrand cable, or monofilament leaders greater than 2.0 mm, activities that were excluded from the previous definition's approach.

NMFS received a comment suggesting that using hook size as an indicator of shark fishing, as proposed in another non-preferred alternative (Alternative A6b), would be complicated and ineffective. The comment noted that determining specific hook size requirements would be difficult given differences between manufacturers, especially regarding a multi-species fishery. NMFS also received comments from the State of Florida and the SAFMC requesting recreational fishermen using flies with natural components (*i.e.,* hair, feathers) be exempted from the natural bait definition.

Response: NMFS agrees that definition of shark fishing proposed in the DEIS and proposed rule would sometimes impact other types of non-shark fishing. It is not NMFS' intention to impose circle hook requirements on non-shark fisheries because those fisheries rarely interact with dusky sharks. For these reasons, NMFS modified the circle hook requirement, presented as Alternative A6d. Under this new preferred alternative, instead of requiring circle hooks when a specified gear configuration is used (*e.g.,* strong leaders and natural bait, or the non-preferred option of hook size and natural bait), circle hooks will be required on any fishing line deployed to target sharks, unless artificial lures or flies are used since artificial lures and flies rarely result in gut-hooking. With this alternative, NMFS broadly requires circle hooks for all recreational shark fishing within a defined geographical boundary unless fishing with artificial lures or flies, as discussed below), rather than more narrowly when shark fishing with a particular gear/bait configuration. This measure ensures that all recreational shark fishing is included (except when fishing with artificial lures or flies) in the circle hook requirement while avoiding the unintended effect of requiring circle hook use in non-shark fisheries. Within the defined geographical boundary, shark possession and landing will still be prohibited if the shark was not retained on a circle hook or using an artificial lure or flies.

Chumming and large chunks of cut bait were excluded from the definition of shark fishing in the proposed rule/Draft Amendment because neither are used in all shark fishing trips, both are used in many other marine recreational fisheries, and their inclusion would have effectively limited enforcement of the circle hook requirement to when fishing activity was directly observed on the water. Additionally, what constitutes a large chunk of cut bait can vary considerably depending on the target species, including among different species of sharks. Alternatively, wire greater than #9 gauge, multistrand cable, and monofilament leaders greater than 2.0 mm all fell within the leader requirement within the definition of shark fishing under Alternative 6a, and comment was requested on the specific leader weight definitions. However, given the general opposition to the leader requirement, and the definition of shark fishing, it was determined that another course of action was preferable to modifying the leader requirements for using circle hooks. NMFS heard from commenters, including the State of Florida and the SAFMC, concerned that fly fishing for sharks could unnecessarily be impacted by the requirement to use circle hooks whenever recreationally fishing for sharks. Although not widely done at this time, some fishermen target sharks with fly fishing gear or artificial lures, usually with J-hooks. NMFS is providing an exemption for artificial lures and flies from the circle hook requirement. Such lures, which mostly use J-hooks, are fished actively, meaning that sharks don't have an opportunity to swallow the hook, and are therefore mostly hooked in the mouth. There is no evidence that artificial lures or flies frequently cause gut-hooking and associated post-release mortality (Muoneke and Childress, 1994; Brownscombe et al., 2017). For this reason, in the final action, NMFS has preferred to specifically exempt shark fishermen using flies and artificial lures from the circle hook requirement.

Comment 45: The State of South Carolina suggested that NMFS exempt fishermen trolling from the circle hook requirement as the conservation benefit is unclear. NMFS also received comment that when trolling for tunas, sharks will sometimes get hooked in the lip when depredating the tuna catch. The commenter felt these sharks should be able to be retained.

Response: NMFS has decided, due to enforcement issues, not to include an exemption to the circle hook requirement for sharks caught while trolling. Allowing the retention of sharks caught on J-hooks introduces a loophole in the circle hook requirement and is counterproductive to NMFS' intention to reduce dusky shark mortality. If a fisherman wishes to retain sharks caught on J-hooks, they could simply contend that they were ''trolling.'' NMFS' concern is that the only way for enforcement officers to know a shark was caught while trolling would be to witness the catch as it happens. Conversely, an enforcement officer intercepting an angler landing a shark at the dock would have no way of knowing if the shark was caught while trolling or using another fishing method.

Comment 46: NMFS received several comments, including from the SAFMC, and the States of Florida, South Carolina, and North Carolina, suggesting NMFS define the type of circle hook (*e.g.,* non-offset, non-stainless steel) required for Alternative A6a; specifically, the SAFMC and the States of Florida and North Carolina suggested that NMFS specify the use of non-offset and non-stainless steel circle hooks.

Response: NMFS agrees that it would be more effective to specify that non-offset, non-stainless steel circle hooks are required. These hooks reduce the chance of damaging the gut track of sharks if swallowed, and because they are corrodible, will deteriorate and fall out of the jaw of the shark if left in. These two features will reduce post-release mortality of dusky sharks. Additionally, non-offset circle hooks are also currently required to be used in billfish tournaments, and the South Atlantic snapper/grouper fishery, which also requires the use of non-stainless steel hooks. For these reasons, the circle hook measure for recreational fishing has been clarified to require non-offset, non-stainless steel circle hooks to maximize reductions in post-release mortality, and to be consistent with circle hook requirements in other recreational fisheries.

Comment 47: NMFS received comments from the SAFMC and the State of North Carolina supporting the requirement of circle hooks in shark fishing tournaments (Alternative A6c).

Response: NMFS agrees that circle hook use in shark fishing tournaments will be beneficial for dusky sharks for the same reasons they are beneficial in the greater recreational shark fishery. Under Alternative A6d, fishermen fishing for sharks recreationally will be required to get a shark endorsement and will be required to use circle hooks when fishing for sharks whether they are fishing in a tournament or not,

except when using flies or artificial lures. Requiring circle hooks in the greater recreational shark fishery, rather than only in shark tournaments, provides a greater conservation benefit for dusky sharks.

Comment 48: NMFS received a comment from the State of North Carolina requesting that circle hooks not be required to retain, possess, or land sharks if an angler catches a shark when targeting non-shark species. The comment noted that allowing the retention of incidentally caught sharks would prevent dead discards.

Response: While NMFS can understand why it would appear desirable to allow anglers to retain sharks incidentally caught on J-hooks, the agency is concerned that doing so would undermine the enforcement of the circle hook requirement when targeting sharks. If shark anglers were permitted to land sharks incidentally caught on J-hooks, they could continue to fish exclusively with J-hooks and simply claim any shark they catch was caught incidentally. As such, NMFS has determined that requiring the release of all sharks caught on J-hooks is essential to the enforcement of the circle hook requirement.

Comment 49: NMFS received comments suggesting that the circle hook requirement be extended to all HMS recreational fisheries to reduce post-release mortality in all HMS fisheries.

Response: The goal of Amendment 5b is to end overfishing of the dusky shark stock, and requiring the use of circle hooks when fishing for all tunas, billfish, or swordfish would not accomplish this goal. Furthermore, while there is evidence that circle hooks are effective in reducing dusky shark post-release mortality, not all studies have conclusively found that circle hooks significantly reduce post-release mortality for all HMS species across all HMS recreational fisheries. Also, NMFS heard during the public comment period that circle hooks are not appropriate for all fishing styles (*e.g.,* deep drop fishing or trolling). While NMFS encourages anglers to adopt the use of circle hooks in a manner that appropriately contributes to the needed mortality reduction for dusky sharks, the Agency also recognizes that data and the conservation goals of the current action do not warrant a blanket extension of the circle hook requirement to all HMS recreational fisheries at this time.

Comment 50: NMFS received comments requesting that circle hooks only be required on the lines targeting sharks, not all lines that are deployed. The commenters stated that at times fishermen may have multiple lines deployed, and only some of those lines are specifically targeting sharks.

Response: Under the new circle hook alternative (A6d), HMS permit holders will only be required to use circle hooks when fishing for sharks, and this can be determined by the angler on a line-by-line basis. Circle hooks are required for any line that is targeting sharks. Anglers will be required to release any sharks incidentally caught on lines with J-hooks targeting other species. As such, HMS anglers will have to weigh their desire to use J-hooks against their desire to retain incidentally-caught sharks, and make their hook choices accordingly.

Comment 51: NMFS received a comment requesting the requirement of barbless J-hooks instead of circle hooks for recreational fishermen.

Response: While NMFS encourages anglers to use barbless hooks, which can allow easier releases, be they circle or J-hooks, NMFS does not have information indicating that barbless J-hooks provide better conservation benefits for sharks than do circle hooks. While barbless J-hooks could certainly be removed from a shark's jaw with less damage than a circle hook, barbless J-hooks would still have a higher probability of deep hooking, which is the larger concern for post-release mortality of incidentally caught dusky sharks. As such, NMFS does not believe a requirement to use barbless J-hooks would accomplish the objectives of this action.

Comment 52: NMFS received several comments, including from the Commonwealth of Massachusetts, opposing the circle hook requirement in New England offshore waters given the rare seasonal occurrence of dusky sharks in the region. The commenters stated that tournament catch data collected in Massachusetts from 1987–2014 indicated low dusky interactions off Massachusetts with the majority of shark catch consisting of blue, shortfin mako, and common thresher sharks. Additionally, commenters noted studies that suggest a lack of evidence for reducing deep-hooking of shark species commonly caught in New England waters such as shortfin mako sharks, thresher sharks, and porbeagle sharks. Commenters, including the Commonwealth of Massachusetts, requested that NMFS set a demarcation line if the circle hook requirement is implemented. Some commenters noted a demarcation line in the vicinity of Shinnecock, NY (40°50′25″ N.) extending to the east. Additionally, the Commonwealth of Massachusetts noted a demarcation line extending southeast from the eastern tip of Long Island, NY.

Response: NMFS agrees that measures to reduce dusky shark mortality would have little utility in areas beyond dusky sharks' range. For Alternative A6d, NMFS undertook an analysis of available data to determine the northern extent of the dusky shark range. Based on the analysis, NMFS has determined that, at this time, dusky sharks are not found north of 41°43′ N. latitude, located around the southeastern edge of Cape Cod. Although fishermen fishing for and retaining sharks north of this line will need to obtain a shark endorsement, shark fishermen will not need to use circle hooks. This line is somewhat north of some suggestions; however, the line was placed in a location to ensure that all dusky sharks caught in the recreational shark fishery are given the best odds of post-release survival. Dusky shark distribution will be examined periodically, and if the dusky shark's range expands northward (*e.g.,* as a result of climate change or as result of the species rebuilding), the boundary line may be moved in a future regulatory action.

Comment 53: NMFS received comments suggesting that the economic impact of the proposed dusky measures for New England recreational, Charter/Headboat, or Atlantic tunas General category permit holders were not considered. Requiring the release of mako sharks incidentally caught on J-hooks would further negatively impact these permit holders.

Response: NMFS fully analyzed the economic impacts (refer to Chapters 4–7 of the FEIS) and concluded that it expects the economic impacts of the circle hook requirement to be minimal. Sharks that are incidentally caught are by definition not the primary target species of the trip, and thus should not be a major driving decision in a charter client's decision to go on the trip. However, to further minimize the potential impacts outside of the dusky shark's range, NMFS has revised the alternative so that it will exempt anglers fishing north of 41°43′ N. latitude from having to use circle hooks to land sharks. This line marks the northernmost range of the dusky shark based on the best available fishery independent data. HMS permit holders fishing north of this line will be permitted to land sharks caught on J-hooks and will not be required to use circle hooks when targeting sharks.

Comment 54: NMFS received comments suggesting that an exemption to the circle hook requirement be made for shortfin mako and thresher sharks. The comments noted that these species are occasionally caught incidentally while trolling for other species with J-

hooks and, although not targeted with J-hooks, are retained because they are a ''trophy'' catch.

Response: As mentioned in previous comment responses, NMFS has modified its circle hook alternative to exempt shark anglers from the requirement to use circle hooks in New England waters north of 41°43′ N. latitude. As such, anglers fishing north of this line will be allowed to retain sharks caught on J-hooks. Shortfin mako and thresher sharks are among the most commonly targeted sharks in the Atlantic. MRIP data in the Mid-Atlantic region, where dusky shark interactions are most frequent, shows that many trips where dusky shark interactions are reported are on trips targeting mako sharks. As such, exempting anglers targeting shortfin mako and thresher sharks from the circle hook requirement would greatly reduce its ability to meet the conservation goals of this action.

F. Commercial Alternatives

Comment 55: Numerous commenters, including the States of North and South Carolina, stated that the requirement to release a shark by cutting the leader no more than three feet from the hook as specified in Alternative B3 should be modified to provide an exemption for situations when the safety of the fishermen is in question. For example, of particular concern were situations when the fishermen are working from a vessel with a high gunwale in heavy seas, or situations where a tight line may recoil back at the fisherman after cutting the line. Some commenters suggested the ''three feet or less'' language should be removed so that the alternative simply states the leader should be cut as close to the hook as safely possible.

Response: NMFS agrees that there may be times when it is unsafe to cut a leader within three feet of the hook. Each of the conditions and gear attributes described in these comments could reduce the feasibility of cutting the leader three feet or less away from the hook. For these reasons, NMFS has changed the preferred alternative in this final action to require releasing of sharks not to be retained by using a dehooker or by cutting the leader/gangion less than three feet from the hook as safely as practicable. As described below, removal of as much fishing gear as possible, in as safe a manner as possible, should increase post-release survival of sharks while also addressing safety concerns for fishermen onboard the vessel.

Comment 56: Several commenters expressed that NMFS should encourage commercial fishermen to follow the status quo and not create new specifications or require new gear regarding the release of sharks. Fishermen currently have safe handling and release protocols, they attend safe handling and release workshops on a regular basis, and they carry the necessary gear on the fishing vessel to release all non-target catch.

Response: NMFS agrees that commercial fishermen currently have gear and protocols onboard that specify the handling and safe release of non-target species and bycatch. As explained in the comment below, NMFS prefers not to specify a certain type of dehooker or line cutter as commercial fishermen most likely already have the necessary gear onboard. However, while commercial fishermen are required to release marine mammals, sea turtles, and smalltooth sawfish, and release all HMS that are not retained in a manner that will ensure maximum probability of survival without removing the fish from the water, Alternative B3 specifically addresses all sharks that are not retained, as the identification of sharks is often difficult, especially while sharks are still in the water. Removal of gear is known to increase post-release survival for other species, such as sea turtles and thresher sharks. While NMFS recognizes that hooks may not be removed from sharks due to safety concerns during certain conditions, NMFS encourages commercial fishermen to remove as much gear as safely possible. This could help prevent situations where the sharks' tails become entangled in the gear or the gear becomes wrapped around the sharks' bodies impeding their ability to feed and/or swim. Research on other pelagic species indicates that the more gear that is removed, the higher the post-release survival. Thus, under this alternative, fishermen will be required to release sharks in a manner that removes either all or most of the gear given safe handling and release protocols and gear that commercial fishermen currently possess.

Comment 57: Another commenter stated that using a thresher shark study estimate for reduction in post-release mortality due to reduced trailing gear as a proxy for dusky shark impacts is not appropriate and that dusky-specific estimates are required.

Response: While NMFS agrees it would be ideal to have a dusky-specific estimate to quantify the potential decrease in mortality that would be associated with the removal of gear, current research on this does not exist. In the absence of that research, NMFS feels it is most logical to use research on similar species, such as thresher sharks and smalltooth sawfish, as well as information for sea turtles and marine mammals, as proxies for estimating mortality reductions, because that currently represents the best available scientific information.

Comment 58: In regard to the requirement to use dehooking devices when releasing sharks, a commenter said NMFS should specifically require use of the ''I'' type dehooker device instead of the ''Z'' type device, as the commenter contends the latter is much more difficult and dangerous to use properly.

Response: At this time, NMFS prefers not to specify the type of dehooker fishermen are required to use when releasing sharks. Although different dehooking devices may provide advantages in certain situations, NMFS leaves dehooker type to the discretion of fishermen.

Comment 59: Commenters, including States of North Carolina and Texas, and the SAFMC, generally supported Alternative B9, which requires the use of circle hooks by shark directed permit holders in the bottom longline fishery. The State of South Carolina also supported the alternative, but stated that the alternative should be modified to specifically require the use of non-offset, non-stainless circle hooks. Other commenters also requested that NMFS be more specific about the type of circle hooks, specifically, non-offset, non-stainless steel circle hooks should be required. Another commenter supported Alternative B9 and suggested that such hooks should be required for incidental shark permit holders in addition to directed shark permit holders. Other commenters stated that circle hooks should only be required when targeting small or large coastal sharks, allowing the continued use of J-hooks when targeting non-shark species.

Response: NMFS agrees that requiring circle hooks in the directed bottom longline shark fishery should help reduce the mortality of incidentally caught dusky sharks because individuals will be released in better condition with a better chance of survival. Regarding the suggestion of using non-stainless steel hooks, current regulations already require that bottom longline fishermen use non-stainless steel, corrodible hooks. Regarding the suggestion of using non-offset circle hooks, NMFS disagrees. The pelagic longline fishery is allowed to use some circle hooks that are offset less than 10° in order to allow the hooks to be baited. Because there is overlap between the fishermen using pelagic longline and bottom longline gear and because circle hooks are required in other fisheries and

may have other requirements, to reduce conflict between regulations, NMFS has decided to allow fishermen to choose circle hook offset type at this time.

The intent of the directed bottom longline shark fishery circle hook requirement is to reduce mortality of dusky sharks caught and released on bottom longline, one of the few commercial fisheries that does not have a circle hook requirement. Dusky sharks most often interact with bottom longline gear when the gear is fished in a manner meant to target sharks, as is shown in the large coastal shark and sandbar shark research fisheries. Some of the other non-HMS bottom longline fisheries that do not target sharks require non-stainless steel circle hooks and dehookers such as the South Atlantic snapper-grouper bottom longline fishery and vessels participating in the Gulf of Mexico reef fish fishery when using natural bait. Many of these fishermen possess HMS incidental shark fishing permits (see Table 5.2 in the FEIS), and therefore are most likely already using circle hooks when fishing in a bottom longline fishery and not targeting sharks; as such, any dusky sharks caught in these fisheries would experience the conservation benefit of circle hooks. Therefore, NMFS believes that requiring circle hooks for incidental shark permit holders is not necessary at this time. Directed shark permit holders fishing with bottom longline gear, however, will be required to use circle hooks regardless of the target species to make a clear distinction for the enforcement of the regulation. If directed shark permit holders were not targeting sharks, but fishing with J-hooks and still interacting with sharks, it would make the regulation difficult to enforce.

Comment 60: Other commenters opposed the proposed alternative to implement circle hooks in the shark bottom longline fishery. One commenter stated that when fishing with J-hooks, he has no bycatch of other species, and the J-hook catches the majority of the sharks in the corner or side of the mouth, similar to circle hooks. The commenter noted that with circle hooks, bycatch rates of other non-HMS (snapper, snapper, etc.) rises dramatically no matter what size hook is used. That commenter further stated that in his experience sharks that swallow J-hooks are always sharks that can be kept legally. In addition, that commenter noted that sharks are easier to release on a J-hook than when on a circle hook; when on a J-hook, the sharks tend to release themselves if given enough line slack and are easier to dehook. The commenter is concerned that sharks caught on circle hooks are harder to release or cut off, and that the added time in releasing the shark could cause more stress on the shark.

Response: NMFS disagrees. Recent research on pelagic longline and rod and reel indicate that circle hooks could reduce post-release mortality by approximately 40–63 percent. If those rates are comparable bottom longline gear, then that mortality reduction could occur in the portion of the bottom longline fishery that is converted from J-hooks to circle hooks (25 percent). Because the bottom longline fishery is observed to interact with hundreds of dusky sharks per year, then this measure is expected to significantly contribute to the overall mortality reduction of 35 percent. Gulack et al., suggests that the typical large J-hook used in commercial shark fishing keeps sharks from easily swallowing the hooks, resulting in no significant difference in shark mortality when compared to circle hooks. However, because circle hook use did not reduce the catchability of sharks compared to J-hooks, the requirement of circle hooks in the shark bottom longline fishery could prevent commercial fishermen from using smaller J-hooks that could be swallowed by sharks. This research also showed that keeping sharks in the water that are not retained would likely increase post-release survival.

In addition, data from the observer program in 2015 indicate that 11 directed shark trips with 16 observed shark hauls resulted in only 22 non-HMS fish caught (3 percent of total catch) and 75 percent of these sets used circle hooks. In 2014, 22 hauls on 14 directed shark trips were observed targeting coastal sharks in the southern Atlantic. During those trips only 11 non-HMS fish were caught (less than 1 percent) and 63.6 percent of these sets used circle hooks. Thus, bycatch of non-target species when using circle hooks does not seem to be a significant issue and would not offset the potential conservation benefit to dusky sharks and other non-target species.

Finally, in terms of removing circle hooks versus J-hooks from sharks, the current dehooking devices required to be carried by bottom longline fishermen are designed to work well for circle hooks when used properly. When the hook is in the jaw, it may be easier to remove a J-hook, but when J-hooks end up in the throat or gut of the animal, they are more difficult to remove than circle hooks.

Comment 61: Numerous commenters expressed support for the relocation protocol in Alternative B6, but several, including the States of North Carolina, South Carolina, and Texas, and the SAFMC, questioned whether the one nautical mile minimum relocation distance was far enough to effectively avoid a highly migratory species like dusky sharks. Some commenters also stated that the relocation protocol was unenforceable. NMFS received a comment suggesting that a better approach would be to form a working group of fishermen, researchers, non-governmental organizations, and NMFS staff to develop a more scientifically sound, practical approach. This group could also work towards developing strategies to collect and analyze dusky shark interaction data, along with oceanographic data, that could be used to develop predictive models for dusky presence/absence.

Response: HMS pelagic and bottom longline fishermen currently have to relocate one nautical mile when they interact with marine mammals or sea turtles, and bottom longline fishermen need to relocate one nautical mile when they interact with smalltooth sawfish. The decision to have these and gillnet fishermen move one nautical mile if they interact with dusky sharks mirrors the current regulations for marine mammals and sea turtles, which are also pelagic and capable of moving long distances, in the Atlantic HMS pelagic and bottom longline fisheries. These species tend to aggregate along discrete water temperature fronts or near certain bathymetric features, so moving away from these features or water conditions, even relatively short distances (*e.g.,* 1 nm), can reduce the potential for additional interactions. Like dusky sharks, sea turtles, marine mammals, and sawfish can also move large distances in short periods of time; however, the direction of the relocation away from the conditions where an interaction took place is likely more important than the distance alone (*e.g.,* moving 1 nm to a deeper depth would likely have more effect than moving 1 nm along the same depth where an interaction occurred). Based on this information, we expect 1 nm will also be appropriate for dusky sharks, while maintaining consistency with existing relocation regulations for other species and therefore encouraging compliance. We are encouraging fishermen to move more than 1 nm when appropriate given the local conditions as an additional precautionary measure.

Comment 62: One commenter suggested the relocation protocol should also be extended to non-HMS fisheries that also interact with dusky sharks.

Response: As detailed in Section 1.2 of the FEIS, there are very small amounts of dusky shark bycatch in non-

HMS fisheries. Implementing relocation protocols in those fisheries would provide very little conservation benefit for dusky sharks. However, NMFS will work with states and Fishery Management Councils, and Commissions, as appropriate, to suggest commensurate changes in other fisheries that interact with dusky sharks.

Comment 63: A commenter expressed opposition to Alternative B6 on the grounds that the relocation protocol would be too burdensome on longline fishing vessels, and would ultimately require them to move so far away from where they are fishing that it would negatively impact them economically. Conversely, other commenters indicated that commercial fishers already practice a relocation protocol within the fleet and that they actively avoid sharks, such as dusky sharks, as the sharks tend to tear up their gear.

Response: NMFS anticipates that the relocation protocol should have minimal costs to fishermen given it only requires them to move one nautical mile after a set is complete, and this requirement is similar to the requirement already in place for several protected species. Several fishermen commented that many members of the HMS commercial fleet are already practicing dusky shark avoidance so the costs to them should be neutral. Furthermore, the outlined communications protocol that will be required by this alternative should help many fishermen avoid setting their gear in areas containing dusky shark in the first place. Finally, the costs associated with Alternative B6 should be minimal when compared to other alternatives that were considered (*e.g.,* hotspot closures, closing the pelagic longline fishery, etc.).

Comment 64: A commenter suggested that NMFS and fishermen should collaborate with the U.S. Coast Guard to broadcast the presence of dusky sharks in an area to other vessels to help facilitate the fleet communication and relocation protocol.

Response: Several fishermen commented that many members of the HMS commercial fleet are already practicing dusky shark avoidance as interacting with the sharks tends to tear up their gear. In addition, the availability of satellite phones has allowed the fleet to communicate effectively with one another. Other fisheries have developed more formal protocols for fleet avoidance of certain species, such as yellowtail flounder. However, they use third-party vendors to disseminate such notifications, not the U.S. Coast Guard. If the current communication and relocation protocol proves to be ineffective, then NMFS can reevaluate a more structured approach in the future. However, at this time, it likely that fishermen would have more immediate information as to where dusky sharks are interacting with fishing gear and are thus the best source of information on dusky presence.

Comment 65: Commenters provided broad support for the addition of a shark identification and safe handling section to the current protected species safe handling workshops under Alternative B5. Some commenters suggested the workshops should also be required of state-licensed commercial shark fishermen, and that opportunities to participate in the workshops should be made available to recreational shark anglers as well.

Response: Both recreational and commercial fishers are welcome to attend the safe handling, release, and identification workshops held by NMFS. NMFS recommends that all fishermen register to check for availability ahead of a workshop, especially if they are not required to take such a workshop. More information on the safe handling, release, and identification workshops can be found at: *http://www.nmfs.noaa.gov/sfa/hms/compliance/workshops/protected_species_workshop/requirements.html.*

Changes From the Proposed Rule (81 FR 71672; October 18, 2016)

As described above, as a result of public comment and additional analyses, NMFS made changes from the proposed rule, as described below.

1. Circle hook requirement in the recreational shark fishery (§§ 635.4(b)(1), (c)(1), and (c)(5); 635.21 (f)(2), (f)(3), (k)(1), and (k)(2); 635.22(c)(1); 635.71 (d)(22) and (d)(23)). NMFS proposed to require the use of circle hooks by all HMS permit holders fishing for sharks recreationally, which the proposed rule defined as when using natural baits and using wire or heavy (200 lb or greater test) monofilament or fluorocarbon leaders. Based on public comment and updated analyses regarding dusky shark distribution, NMFS modified this measure in three ways: First, the final rule now specifies the type of circle hook required, which is non-offset, non-stainless steel circle hooks; second, the final rule now specifies that this measure only applies south of 41°43′ N. latitude, which includes the geographic range of dusky sharks but does apply the requirement to fishermen north of the dusky shark's range; and third, it now removes the gear-based definition of shark fishing. Under the modified measure, all HMS permitted fishermen within the specified geographic area who wish to fish for or retain sharks must use circle hooks, regardless of hook size or leader material, with limited exceptions when fishing with artificial lures or flies. Artificial flies and lures were excluded because fishing with those gears are not likely to gut-hook sharks, the result that the measure is designed to avoid.

2. Shark endorsement requirement in the recreational shark fishery (§ 635.4(j)(4)). In the proposed rule, NMFS clearly indicated that fishermen could add the shark endorsement to their recreational permit at any time during the fishing year. As a result of public comment, in the final rule, NMFS is also allowing fishermen to remove the shark endorsement from their recreational permit at any time during the fishing year. Removal of the shark endorsement would mean that sharks could no longer be fished for, retained, or landed by persons aboard that vessel.

3. Dusky shark release methods in the pelagic longline fishery (§ 635.21(c)(6)(i)). NMFS proposed the requirement that fishermen with an Atlantic shark limited access permit with pelagic longline gear onboard must release all sharks not being retained using a dehooker or cutting the gangion less than three feet from the hook. During the public comment period, NMFS heard from some commercial fishermen that this requirement could raise safety at sea concerns because gangions can sometimes snap back and hit crew when the gangion is cut while under tension. In response, NMFS has slightly modified the requirement to specify that if the fisherman chooses to cut the gangion rather than use a dehooker, they should cut the gangion less than three feet from the hook, as safely as practicable.

4. Fleet communication and relocation protocol (§ 635.21(c)(6)(ii), (d)(2)(iii), and (g)(5)). NMFS proposed the requirement that fishermen with an Atlantic shark limited access permit using pelagic longline, bottom longline, or gillnet gear that catch a dusky shark must both broadcast the location of the dusky shark over the radio to other fishing vessels in the surrounding area and move at least 1 nmi from the reported location of the dusky shark catch. As a result of public comment that questioned whether 1 nmi was far enough to effectively avoid a highly migratory species like dusky sharks, the final rule still specifies that vessels must move at least 1 nmi but encourages fishermen to move more than 1 nmi when appropriate given the local conditions as an additional

precautionary measure. Additionally, in the regulations, NMFS has clarified that the requirement to broadcast the location of the dusky shark over the radio should be done as soon as practicable, whereas the proposed rule did not specify anything related to timing of the broadcast.

5. Workshop title clarification (§ 635.8(a)). In this final rule, NMFS clarifies that the name of a required workshop is ''Safe Handling, Release, and Identification Workshop.'' In the proposed rule, this workshop was erroneously titled the ''Safe Handling, Release, Disentanglement, and Identification Workshop.'' Although this correction was not included in the proposed rule, it is an administrative change and will not have any practical environmental, social, or economic impacts and is included for clarity to the regulated community.

Classification

The Assistant Administrator for Fisheries (AA) determined that Amendment 5b to the 2006 Consolidated HMS FMP is necessary for the conservation and management of Atlantic dusky sharks and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

NMFS prepared an FEIS for Amendment 5b to the 2006 Consolidated HMS FMP. The FEIS was filed with the Environmental Protection Agency on February 17, 2017. A Notice of Availability was published on February 24, 2017 (82 FR 11574). In approving Amendment 5b to the 2006 Consolidated HMS FMP on March 28, 2017, NMFS issued a ROD identifying the selected alternatives. A copy of the ROD is available from the HMS Management Division (see **ADDRESSES**).

This final rule has been determined to be not significant under E.O. 12866.

Paperwork Reduction Act

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number 0648–0327. Public reporting burden for Atlantic HMS Permit Family of Forms is estimated to average 34 minutes per respondent for initial permit applicants, and 10 minutes for permit renewals, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

Summary of the Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis (FRFA) was prepared for this rule. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, our responses to those comments, and a summary of the analyses completed to support the action. The full FRFA is available from NMFS (see **ADDRESSES**). A summary is provided below.

A. Statement of the Need for and Objectives of This Final Rule

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires a succinct statement of the need for and objectives of the rule. Chapter 1.0 of the Amendment 5b FEIS fully describes the need for and objectives of this final rule. In general, the objective of this final rule is to end overfishing of dusky sharks and to rebuild the stock in the timeframe recommended by the assessment update.

Under the Magnuson-Stevens Act, NMFS must, consistent with ten National Standards, manage fisheries to prevent overfishing while achieving, on a continuing basis, the optimum yield for each fishery. Additionally, any management measures must be consistent with other laws including, but not limited to, NEPA, the ESA, the MMPA, and the CZMA.

B. A Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Rule as a Result of Such Comments

Section 604(a)(2) of the RFA requires a summary of the significant issues raised by the public comments in response to the IRFA, a summary of the assessment of the Agency of such issues, and a statement of any changes made in the rule as a result of such comments. Section 604(a)(3) of the RFA requires a response to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a statement of any chances made to the proposed rule as a result of the comments. NMFS received many comments on the proposed rule and DEIS during the public comment period. Summarized public comments and the Agency's responses to them, including changes as a result of public comment, are included above. The general economic concerns raised can be found in comments 33, 41, 44, 53, and 63. NMFS did not receive comments specifically on the IRFA. NMFS did not receive any comments filed from the Chief Council for Advocacy in response to the proposed rule.

C. A Description and an Estimate of the Number of Small Entities to Which the Final Rule Would Apply

Section 604(a)(4) of the RFA requires a description and estimate of the number of small entities to which the final rule would apply. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. The Small Business Administration (SBA) has established size standards for all other major industry sectors in the U.S., including the scenic and sightseeing transportation (water) sector (NAICS code 487210, for-hire), which includes charter/party boat entities. The Small Business Administration (SBA) has defined a small charter/party boat entity as one with average annual receipts (revenue) of less than $7.5 million.

This final rule is expected to directly affect commercial pelagic longline, bottom longline, shark gillnet, and recreational shark fishing vessels that possess HMS permits and are actively fishing. For the pelagic longline vessels, these are vessels that possess an Atlantic shark limited access permit, an Atlantic swordfish limited access permit, and an Atlantic Tunas Longline category permit. Because pelagic longline fishermen must hold all three permits in order to fish, for the purposes of this discussion, NMFS will focus on Atlantic Tunas Longline category permit holders. Regarding those entities that would be directly affected by the preferred commercial management

measures, the average annual revenue per active pelagic longline vessel is estimated to be $187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated $31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel between 2006 and 2015 was less than $1.9 million, well below the NMFS small business size standard for commercial fishing businesses of $11 million. Other non-longline HMS commercial fishing vessels typically generally earn less revenue than pelagic longline vessels. Therefore, NMFS considers all Atlantic HMS commercial permit holders to be small entities (*i.e.,* they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have combined annual receipts not in excess of $11 million for all its affiliated operations worldwide). The preferred commercial alternatives would apply to the 280 Atlantic tunas Longline category permit holders and 224 directed shark permit holders. Of these 280 permit holders, 136 have Individual Bluefin Quotas (IBQ) shares, although all properly permitted vessels may lease quota through the IBQ system to go commercial pelagic longline fishing.

For the recreational management measures, most commonly, the preferred management measures would only directly apply to small entities that are Charter/Headboat permit holders that provide for-hire trips that target or retain sharks. Other HMS recreational fishing permit holders are considered individuals, not small entities for purposes of the RFA because they are not engaged in commercial fishing. Additionally, while Atlantic Tunas General category and Swordfish General commercial permit holders hold commercial permits and are usually considered small entities, the preferred management measures would only affect them when they are fishing under the recreational regulations for sharks during a registered tournament, and NMFS is not considering them small entities for this rule because they are not engaged in commercial activity during those tournaments.

Vessels with the HMS Charter/Headboat category permit are for-hire vessels. These permit holders can be regarded as small entities for RFA purposes (*i.e.,* they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have average annual revenues of less than $7.5 million). Overall, the recreational alternatives would impact the portion of the 3,596 HMS Charter/Headboat permit holders who fish for or retain sharks.

NMFS has determined that the measures in Amendment 5b will not likely directly affect any small organizations or small government jurisdictions defined under RFA, nor will there be disproportionate economic impacts between large and small entities. Furthermore, there will be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

More information regarding the description of the fisheries affected, and the categories and number of permit holders, can be found in Chapter 3.0 of the Amendment 5b FEIS.

D. Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities Which Would Be Subject to the Requirements of the Report or Record

Section 604(a)(5) of the RFA requires Agencies to describe any new reporting, record-keeping, and other compliance requirements. One of the measures in Amendment 5b will result in reporting, record-keeping, and compliance requirements that may require new Paperwork Reduction Act (PRA) filings and two of the measures would modify compliance requirements. NMFS estimates that the number of small entities that would be subject to these requirements would include the Atlantic tuna Longline category (280), Directed and Incidental Shark Limited Access (224 and 275, respectively), and HMS Charter/Headboat category (3,596) permit holders.

Recreational Alternatives

Alternative A2 will require recreational fishermen targeting shark to obtain a shark endorsement in addition to other existing permit requirements. Obtaining the shark endorsement will be included in the online HMS permit application and renewal processes and will require the applicant to complete a quiz focusing on shark species identification. The applicant will simply need to indicate the desire to obtain the shark endorsement after which he or she will be directed to an online quiz that will take minimal time to complete. Adding the endorsement to the permit and requiring applicants to take the online quiz to obtain the endorsement will require a modification to the existing PRA for the permits.

Commercial Measures Alternatives

Alternative B5 will require completion of shark identification and fishing regulation training as a new part of the Safe Handling and Release Workshops for HMS pelagic longline, bottom longline, and shark gillnet vessel owners and operators that they are already required to take on a 3-year basis. The training course will provide information regarding shark identification and regulations, as well as best practices to avoid interacting with dusky sharks and how to minimize mortality of dusky sharks caught as bycatch. Compliance with this course requirement will be mandatory as a condition for permit renewal. Certificates will be issued to all commercial pelagic longline, bottom longline, and gillnet vessel owners and operators indicating compliance with this requirement, and the certificates will be required for permit renewal.

Alternative B6 will require that all vessels with an Atlantic shark commercial permit and fishing with pelagic longline, bottom longline, or shark gillnet gear abide by a dusky shark fleet communication and relocation protocol. The protocol will require vessels to report the location of dusky shark interactions over the radio as soon as practicable to other pelagic longline, bottom longline, or shark gillnet vessels in the area and that subsequent fishing sets on that fishing trip could be no closer than 1 nautical mile (nm) from where the encounter took place.

E. Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason That Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities Was Rejected

Section 604(a)(6) of the RFA requires Agencies to describe any alternatives to the preferred alternatives which accomplish the stated objectives and which minimize any significant economic impacts. The implementation of this action should not result in significant adverse economic impacts to individual vessels. These impacts are discussed below and in Chapter 4.0 of the FEIS. Additionally, the Regulatory Flexibility Act (5 U.S.C. 603(c)(1)–(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories

of alternatives are: (1) Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) use of performance rather than design standards; and, (4) exemptions from coverage of the rule for small entities.

In order to meet the objectives of this amendment, consistent with all legal requirements, NMFS cannot exempt small entities or change the reporting requirements only for small entities because all the entities affected are considered small entities. Thus, there are no alternatives discussed that fall under the first and fourth categories described above. Under the third category, ''use of performance rather than design standards,'' NMFS considers Alternative B5, which will provide additional training to pelagic longline, bottom longline, and shark gillnet fishermen, to be a performance standard rather than a design standard. As described below, NMFS analyzed several different alternatives in this proposed rulemaking and provides the rationale for identifying the preferred alternative to achieve the desired objective.

In this rulemaking, NMFS considered two different categories of alternatives. The first category, recreational alternatives, covers seven main alternatives that address various strategies of reducing dusky shark mortality in the recreational fishery. The second category of alternatives, commercial measures, considers nine main alternatives that address various strategies of reducing dusky shark mortality in the commercial fishery.

The potential impacts these alternatives may have on small entities have been analyzed and are discussed in the following sections. The preferred alternatives include: Alternative A2, Alternative A6d, Alternative B3, Alternative B5, Alternative B6, and Alternative B9. The economic impacts that would occur under these preferred alternatives were compared with the other alternatives to determine if economic impacts to small entities could be minimized while still accomplishing the stated objectives of this rule.

1. Recreational Alternatives

Alternative A1

Alternative A1, the no action alternative, would not implement any management measures in the recreational shark fishery to decrease mortality of dusky sharks, likely resulting in direct, short- and long-term neutral economic impacts. Because there would be no changes to the fishing requirements, there would be no economic impacts on small entities. If more restrictive measures are required in the long-term under MSA or other statutes such as the Endangered Species Act, moderate adverse economic impacts may occur. However, overfishing would continue under this alternative, thus, NMFS does not prefer this alternative at this time.

Alternative A2—Preferred Alternative

Under Alternative A2, a preferred alternative, HMS Angling and Charter/Headboat permit holders would be required to obtain a shark endorsement, which requires completion of a short online shark identification and fishing regulation training course in order to retain sharks. Obtaining the shark endorsement would be included in the online HMS permit application and renewal processes and would require the applicant to complete a training course focusing on shark species identification and fishing regulations. This alternative would likely result in no substantive economic impacts because there would be no additional cost to the applicant and only a small additional investment in time. Obtaining the shark endorsement would be a part of the normal HMS permit application or renewal. The applicant would simply need to indicate the desire to obtain the shark endorsement after which he or she would be directed to a short online training course that would take minimal time to complete. The goal of the training course is to help prevent anglers from landing prohibited or undersized sharks, and thus, help rebuild stocks. Furthermore, the list of shark endorsement holders would allow for more targeted surveys and outreach, likely increasing the reliability of recreational shark catch estimates. This preferred alternative helps achieve the objectives of this rule while minimizing any significant economic impacts on small entities.

Alternative A3

Alternative A3 would have required participants in the recreational shark fishery (Angling and Charter/Headboat permit holders) to carry an approved shark identification placard on board the vessel when fishing for sharks. This alternative would likely result in short- and long-term minor economic impacts. The cost of obtaining a placard, whether by obtaining a pre-printed one or self-printing, would be modest. To comply with the requirement of this alternative, the angler would need to keep the placard on board the vessel when fishing for sharks and, because carrying other documents such as permits and boat registration is already required, this is unlikely to be a large inconvenience. This alternative would have slightly more economic impacts than Alternative A2 on small entities and would likely be less effective than the training course in Alternative A2.

Alternative A4

Under Alternative A4, NMFS would extend the prohibition on the retention of ridgeback sharks to include the rest of the ridgeback sharks, namely oceanic whitetip, tiger sharks, and smoothhound sharks, all of which are currently allowed to be retained by recreational shark fishermen (HMS Angling and Charter/Headboat permit holders). While this alternative would simplify compliance for the majority of fishermen targeting sharks, it could also potentially have adverse economic impacts for a small subset of fishermen that target oceanic whitetip, tiger, and smoothhound sharks. These adverse impacts would be quite small, however, for oceanic whitetip and tiger sharks. However, based on MRIP data, this alternative could have considerable impacts on fishermen targeting smoothhound sharks. Presumably, state-permitted anglers that do not hold an HMS federal permit are responsible for some of the catch and, for species such as smooth dogfish that are often found almost exclusively in state waters, anglers with only state permit may be responsible for most of the catch. Recreational fishermen with only state-issued permits would still be able to retain smoothhound sharks (those that hold an HMS permit must abide by federal regulations, even in state waters). Thus, Alternative A4 would likely result in both direct short- and long-term, minor adverse economic impacts on HMS Charter/Headboat operators if prohibiting landing of additional shark species reduces demand for fishing charters. While this alternative may have greater economic impacts than Alternative A3, it may be effective at achieving the objective of reducing dusky shark mortality in the recreational fishery.

Alternative A5

Under Alternative A5, the minimum recreational size limit for authorized shark species, except for Atlantic sharpnose, bonnethead, and hammerhead (great, scalloped, and smooth) sharks, would increase from 54 to 89 inches fork length. Under this alternative, increasing the recreational

size limit would likely result in both direct short- and long-term, moderate adverse economic impacts for recreational fishermen, charter/headboat operators, and tournament operators. Because many shark species have a maximum size below an 89-inch size limit, there could be reduced incentive to fish recreationally for sharks due to the decreased potential to legally land these fish. Increasing the minimum size for retention would also impact the way that tournaments and charter vessels operate. While the impacts of an 89-inch fork length minimum size on tournaments awarding points for pelagic sharks may be lessened because these tournament participants target larger sharks, such as shortfin mako, blue, and thresher, that grow to larger than 89 inches fork length, this may not be the case for tournaments targeting smaller sharks. Tournaments that target smaller sharks, especially those that target shark species that do not reach sizes exceeding 89 inches fork length such as blacktip sharks, may be heavily impacted by this alternative. Reduced participation in such tournaments could potentially decrease the amount of monetary prizes offered to winners. Thus, implementation of this management measure could significantly alter the way some tournaments and charter vessels operate, or reduce opportunities to fish for sharks and drastically reduce general interest and demand for recreational shark fishing, which could create adverse economic impacts. For the aforementioned reasons, NMFS does not prefer this alternative at this time.

Alternative A6

Under Alternative A6, circle hooks would be required for either all HMS permit holders fishing recreationally for sharks and all Atlantic HMS permit holders participating in fishing tournaments when targeting or retaining Atlantic sharks.

Alternative A6a

Sub-alternative A6a would require the use of circle hooks by HMS permit holders with a shark endorsement whenever fishing with natural bait and wire or (200-pound test or greater) monofilament or fluorocarbon leader. Relative to the total cost of gear and tackle for a typical fishing trip, the cost associated with switching from J hooks to circle hooks is negligible. Thus, the immediate cost in switching hook type is likely minimal. However, there is conflicting indication that the use of circle hooks may reduce or increase CPUE resulting in lower catch of target species. In the event that CPUE is reduced, some recreational fishermen may choose not to fish for sharks or to enter tournaments that offer awards for sharks. Additionally, this alternative would also effectively require HMS permit holders with shark endorsements to use circle hooks when fishing for many non-shark species because wire and heavy monofilament leaders are commonly also used when fishing for swordfish, billfish, tuna, wahoo, mackerel, and other marine species. These missed recreational fishing opportunities could result in minor adverse economic impacts in the short- and long-term. Given the effects this alternative would have on HMS permit holders while targeting non-shark species, NMFS does not prefer this alternative at this time.

Alternative A6b

Sub-Alternative Ab6 is similar to A6a, but instead of requiring circle hooks when deploying natural bait while using a wire or heavy (200-pound test or greater) monofilament or fluorocarbon leader outside of a fishing tournament, it instead requires circle hooks when deploying a 5/0 or greater size hook to fish with natural bait outside of a fishing tournament. This use of the hook size standard to determine if the trip could be targeting sharks may result in more recreational trips requiring circle hooks than under alterative A6a, but many more of those trips might actually not be targeting sharks, but instead other large pelagic fish. The use of a heavy leader would be more correlated with angling activity that is targeting sharks.

Alternative A6c

Sub-Alternative A6c is similar to A6a and A6b, but restricted to requiring the use of circle hooks by all HMS permit holders participating in fishing tournaments that bestow points, prizes, or awards for sharks. This alternative would impact a smaller universe of recreational fishermen, so the adverse impacts are smaller. However, given the limited scope of this requirement, the benefits to reducing dusky shark mortality via the use of circle hooks are also more limited.

Alternative A6d—Preferred Alternative

Sub-Alternative A6d, a preferred alternative, is a new alternative similar to the above sub-alternatives that was formulated based in response to numerous public comments regarding the previously preferred alternative A6a. A6d would require the use of non-offset, non-stainless steel circle hooks by all HMS permit holders with a shark endorsement when fishing for sharks recreationally south of 41°43′ N. latitude, except when fishing with flies or artificial lures. On the one hand, this alternative would have less impact on HMS permit holders as it would limit the circle hook requirement to only those trips in which sharks are the target species, and would limit the requirement to waters south of Cape Cod so that it does not affect HMS permit holders fishing outside the dusky sharks known range. On the other hand, it would likely affect more HMS permit holders south of Cape Cod as fewer permit holders would be discouraged from acquiring the shark endorsement to avoid the circle hook requirement when fishing with wire or heavy monofilament or fluorocarbon leaders for non-shark species. Overall, the new alternative A6d is expected to have minor adverse economic impacts in the short- and long-term. However, A6d is the preferred alternative as it would restrict impacts to recreational fishing trips targeting sharks within the range of the dusky shark, and minimize unintended impacts that are not needed to meet the objectives of this rulemaking.

Alternative A7

Alternative A7 would prohibit HMS permit holders from retaining any shark species. Recreational fishermen may still fish for and target authorized shark species for catch and release. The large number of fishermen who already practice catch and release and the catch and release shark fishing tournaments currently operating would not be impacted. However, prohibiting retention of sharks could have major impacts on fishing behaviors and activity of other recreational shark fishermen and reduce their demand for charter/headboat trips. Only allowing catch and release of authorized sharks in the recreational fishery could impact some fishermen that retain sharks recreationally and tournaments that award points for landing sharks. Thus, prohibiting retention of Atlantic sharks in the recreational shark fisheries could drastically alter the nature of recreational shark fishing and reduce incentives to fish for sharks.

Additionally, with reduced incentive to fish for sharks, this could negatively impact profits for the HMS Charter/Headboat industry. Because there could be major impacts to the recreational shark fisheries from this management measure, Alternative A7 would likely have direct short- and long-term, moderate adverse economic impacts on small business entities.

2. Commercial Alternatives

Alternative B1

Under Alternative B1, NMFS would not implement any measures to reduce dusky shark mortality in the commercial shark or HMS fisheries. Because no management measures would be implemented under this alternative, NMFS would expect fishing practices to remain the same and economic impacts to be neutral in the short-term. Dusky sharks are a prohibited species and fishermen are not allowed to harvest this species. Thus, even if dusky sharks continue to experience overfishing and the abundance declines as a result of this alternative, there would not be any economic impacts on the fishery in the short-term. If more restrictive measures are required in the long-term under MSA or other statutes such as the Endangered Species Act, moderate adverse economic impacts may occur.

Alternative B2

Under Alternative B2, HMS commercial fishermen would be limited to 750 hooks per pelagic longline set with no more than 800 assembled gangions onboard the vessel at any time. Based on average number of hooks per pelagic longline set data, the hook restriction in this alternative could have neutral economic impacts on fishermen targeting bigeye tuna, mixed tuna species, and mixed HMS species, because the average number of hooks used on pelagic longline sets targeting these species is slightly above or below the limit considered in this alternative. This alternative would likely have adverse economic impacts on fishermen targeting dolphin fish, because these fishermen on average use 1,056 hooks per set. If NMFS implemented this alternative, fishermen targeting dolphin fish with pelagic longline gear would have to reduce their number of hooks by approximately 30 percent per set, which may result in a similar percent reduction in set revenue or could result in increased operating costs if fishermen decide to offset the limited number of hooks with more fishing sets. Overall, Alternative B2 would be expected to have short- and long-term minor adverse economic impacts on the pelagic longline fishery.

Alternative B3—Preferred Alternative

Under Alternative B3, a preferred alternative, HMS commercial fishermen must release all sharks that are not being boarded or retained by using a dehooker, or by cutting the gangion no more than three feet from the hook. This alternative would have neutral to adverse economic impacts on commercial shark fishermen using pelagic longline gear. Currently, fishermen are required to use a dehooking device if a protected species is caught. This alternative would require this procedure to be used on all sharks that would not be retained, or fishermen would have to cut the gangion to release the shark. Currently, it is common practice in the pelagic longline fishery to release sharks that are not going to be retained (especially larger sharks) by cutting the gangion, but they usually do not cut the gangion so only 3 feet remain, so there might be a slight learning curve. Using a dehooker to release sharks in the pelagic longline fishery is a less common practice, therefore, there may be more of a learning curve that would make using this technique more time consuming and making fishing operations less efficient. Although this may be an initial issue, NMFS expects that these inefficiencies would be minimal and that fishermen would become adept in using a dehooker to release sharks over time given they are all adept at using a dehooker to release protected species. Thus, Alternative B3 would be expected to have short- and long-term neutral economic impacts on the pelagic longline fishery.

Alternative B4

Under Alternative B4, NMFS considered various dusky shark hotspot closures for vessels fishing with pelagic longline gear. The hotspot closures considered are the same areas that were analyzed in Draft Amendment 5 and the A5b Predraft. These hotspot closure alternatives are located where increased levels of pelagic longline interactions with dusky sharks had been identified based on HMS Logbook data. During the months that hotspot closures are effective, Atlantic shark commercial permit holders (directed or incidental) would not be able to fish with pelagic longline gear in these areas.

Alternative B4a

This alternative would define a rectangular area in a portion of the existing Charleston Bump time/area closure area, and prohibit the use of pelagic longline gear by all vessels during the month of May in that area. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 46 vessels that have historically fished in this Charleston Bump area during the month of May. This closure would result in the loss of approximately $15,250 in gross revenues per year per vessel assuming no redistribution of effort outside of the closed area.

However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. Based on natural breaks in the percentage of sets vessels made inside and outside of this alternative's hotspot closure area, NMFS estimated that if a vessel historically made less than 40 percent of its sets in the hotspot closure area, it would likely redistribute all of its effort. If a vessel made more than 40 percent but less than 75 percent of its sets in the hotspot closure area, it would likely redistribute 50 percent of its effort impacted by the hotspot closure area to other areas. Finally, if a vessel made more than 75 percent of its sets solely within the hotspot closure area, NMFS assumed the vessel would not likely shift its effort to other areas. Based on these individually calculated redistribution rates, the percentage of fishing in other areas during the gear restriction time period, the percentage of fishing in other areas during the hotspot closure time period, and the catch per unit effort for each vessel in each statistical area, NMFS estimated the potential landings associated with redistributed effort associated with fishing sets displaced by the hotspot closure area. The net loss in fishing revenues as a result of the Charleston Bump Hotspot May closure after considering likely redistribution of effort is estimated to be $8,300 per vessel per year. Alternative B4a would result in moderate short- and long-term adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Charleston Bump Hotspot May area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4b

This alternative would prohibit the use of pelagic longline gear in the vicinity of the ''Hatteras Shelf'' area of the Cape Hatteras Special Research Area during the month of May where elevated levels of dusky shark interactions have been reported. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 42 vessels that have historically fished in this Hatteras Shelf Hotspot area during the month of May. The average annual revenue per vessel from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $9,980 during the month of May, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute

their effort to other fishing areas. The net impact of the Hatteras Shelf Hotspot May closure on fishing revenues after considering likely redistribution of effort is estimated to be $5,990 per vessel per year. Alternative B4b would result in moderate adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Hatteras Shelf Hotspot May area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4c

This alternative would prohibit the use of pelagic longline gear in the vicinity of the ''Hatteras Shelf'' area of the Cape Hatteras Special Research Area during the month of June where elevated levels of dusky shark interactions have been reported.

This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 37 vessels that have historically fished in this Hatteras Shelf Hotspot area during the month of June. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $7,640 per vessel during the month of June, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Hatteras Shelf Hotspot June closure on fishing revenues after considering likely redistribution of effort is estimated to be $4,010 per vessel per year. Alternative B4c would result in moderate adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Hatteras Shelf Hotspot June area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4d

This alternative would prohibit the use of pelagic longline gear in the vicinity of the ''Hatteras Shelf'' area of the Cape Hatteras Special Research Area during the month of November where elevated levels of dusky shark interactions have been reported. This alternative is expected to have minor short- and long-term direct adverse economic impacts on 23 vessels that have historically fished in this Hatteras Shelf Hotspot area during the month of November. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $5,230 per vessel during the month of November, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Hatteras Shelf Hotspot November closure on fishing revenues after considering likely redistribution of effort is estimated to be $3,540 per vessel per year. Alternative B4d would result in minor adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Hatteras Shelf Hotspot November area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4e

This alternative would prohibit the use of pelagic longline gear by all U.S. flagged-vessels permitted to fish for HMS in the three distinct closures in the vicinity of the Mid-Atlantic Canyons during the month of October where elevated levels of dusky shark interactions have been reported. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 64 vessels that have historically fished in this Canyons Hotspot October area. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $9,950 per vessel during the month of October, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Canyons Hotspot October closure on fishing revenues after considering likely redistribution of effort is estimated to be $3,720 per vessel per year. Alternative B4e would result in moderate adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Canyons Hotspot October area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4f

This alternative would prohibit the use of pelagic longline gear by all U.S. flagged-vessels permitted to fish for HMS in July in an area adjacent to the existing Northeastern U.S. closure which is currently effective for the month of June, where elevated levels of dusky shark interactions have been reported. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 35 vessels that have historically fished in this Southern Georges Banks Hotspot area during the month of July. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $14,230 per vessel during the month of July, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Southern Georges Banks Hotspot July closure on fishing revenues after considering likely redistribution of effort is estimated to be $8,290 per vessel per year. Alternative B4f would result in moderate adverse economic impacts as a result of restricting longline vessels from fishing in the Southern Georges Banks Hotspot July area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4g

This alternative would prohibit the use of pelagic longline gear by all U.S. flagged-vessels permitted to fish for HMS in August in an area adjacent to the existing Northeastern U.S. closure, which is currently effective for the month of June, where elevated levels of dusky shark interactions have been reported. This alternative is expected to have moderate short- and long-term direct adverse economic impacts on 35 vessels that have historically fished in this Southern Georges Banks Hotspot area during the month of August. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $12,260 per vessel during the month of August, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Southern Georges Banks Hotspot August closure on fishing revenues after considering likely redistribution of effort is estimated to be $5,990 per vessel per year. Alternative B4g would result in moderate adverse economic impacts as a result of restricting pelagic longline vessels from fishing in the Southern Georges Banks Hotspot August area, thus causing decreased revenues and increased costs associated with fishing

in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4h

This alternative would prohibit the use of pelagic longline gear by all U.S. flagged-vessels permitted to fish for HMS in a portion of the existing Charleston Bump time/area closure during the month of November where elevated levels of dusky shark interactions have been reported. This alternative is expected to have minor short- and long-term direct adverse economic impacts on 32 vessels that have historically fished in this Charleston Bump Hotspot area during the month of November. The average annual revenue from 2008 through 2014 from all fishing sets made in this hotspot closure area has been approximately $7,030 per vessel during the month of November, assuming that fishing effort does not move to other areas. However, it is likely that some of the vessels that would be impacted by this hotspot closure would redistribute their effort to other fishing areas. The net impact of the Charleston Bump Hotspot November closure on fishing revenues after considering likely redistribution of effort is estimated to be $2,720 per vessel per year. Alternative B4h would result in minor adverse social and economic impacts as a result of restricting pelagic longline vessels from fishing in the Charleston Bump Hotspot November area, thus causing decreased revenues and increased costs associated with fishing in potentially more distant waters if vessel operators redistribute their effort.

Alternative B4i

This alternative would provide strong incentives to avoid dusky sharks and to reduce interactions by modifying fishing behavior. Participants in the pelagic longline fleet have requested increased individual accountability within the fishery in light of several management issues facing the fishery (*e.g.,* bluefin tuna, dusky sharks). NMFS first developed the use of conditional access under Draft Amendment 7, in part due to the public comments and feedback received regarding the original dusky hotspot closures proposed in Draft Amendment 5. This approach would address the fact that, according to HMS logbook data, relatively few vessels have consistently accounted for the majority of the dusky shark interactions. Conditional access would not impact the entire fleet for interactions made by a relatively small proportion of vessels. Therefore, depending on the metrics selected and fishery participant behavior, this alternative could have adverse socioeconomic effects on certain vessels that are both poor avoiders of dusky sharks and are non-compliant with the regulations. NMFS would analyze the socioeconomic impact by using similar fishing effort redistribution proposed in Draft Amendment 7. Overall, the adverse socioeconomic effects of dusky shark hotspot closures are expected to be less if a conditional access alternative is implemented because some vessels would still be able to access and fish the hotspot closures. This alternative would have neutral to beneficial effects for vessels that are still authorized to fish in these regions, as they would not be held accountable for the behavior of other individuals and would not have to change their current fishing operations.

Alternative B4j

This alternative would implement bycatch caps on dusky shark interactions in hotspot areas. Under this alternative, NMFS would allow pelagic longline vessels limited access to high dusky shark interaction areas with an observer onboard while limiting the number of dusky shark interactions that could occur in these areas. Once the dusky shark bycatch cap for an area is reached, that area would close until the end of the three-year bycatch cap period. This alternative could lead to adverse economic impacts by reducing annual revenue from fishing in the various hot spot areas depending on the number of hotspots where bycatch cap limits are reached, the timing of those potential closures during the year, and the amount of effort redistribution that occurs after the closures. In addition to direct impacts to vessels owners, operators, and crew members, this alternative would have moderate, adverse indirect impacts in the short- and long-term on fish dealers, processors, bait/gear suppliers, and other shore-based businesses impacted by reduced fishing opportunities for pelagic longline vessel owners that would have fished in the hotspot area.

Alternative B5—Preferred Alternative

Alternative B5, a preferred alternative, would provide additional training to pelagic longline, bottom longline, and shark gillnet vessel owners and operators as a new part of all Safe Handling and Release Workshops. The course would be taught in conjunction with the current Protected Species Safe Handling, Release, and Identification workshops that HMS pelagic longline, bottom longline, and shark gillnet vessel owners and operators are already required to attend. The training course would provide information regarding shark identification and regulations, as well as best practices to avoid interacting with dusky sharks and how to minimize mortality of dusky sharks caught as bycatch. This training course would provide targeted outreach on dusky shark identification and regulations, which should decrease interactions with dusky sharks. This alternative would have neutral economic impacts because the fishermen are already required to attend a workshop, incur some travel costs, and would not be fishing while taking attending the workshop. Given the neutral economic impacts and this alternative's potential to decrease dusky interactions and mortality, NMFS prefers this alternative.

Alternative B6—Preferred Alternative

The economic impacts associated with Alternative B6, which would increase dusky shark outreach and awareness through development of additional commercial fishery outreach materials and establish a communication and fishing set relocation protocol for HMS commercial fishermen following interactions with dusky sharks and increase outreach to the pelagic longline fleet, are anticipated to be neutral. These requirements would not cause a substantial change to current fishing operations, but have the potential to help fishermen become more adept in avoiding dusky sharks. If fishermen become better at avoiding dusky sharks, there is the possibility that target catch could increase. On the other hand, the requirement to move the subsequent fishing set one nautical mile from where a previous dusky shark interaction occurred could move fishermen away from areas where they would prefer to fish and it could increase fuel usage and fuel costs. Given the neutral economic impacts of this alternative and its expectation to decrease dusky shark interactions, NMFS prefers this alternative.

Alternative B7

NMFS would seek, through collaboration with the affected states and the ASMFC, to extend the end date of the existing state shark closure from July 15 to July 31. Currently, the states of Virginia, Maryland, Delaware, and New Jersey have a state-water commercial shark closure from May 15 to July 15. In 2014, 621 lb dw of aggregated LCS and 669 lb dw of hammerhead sharks were landed by commercial fishermen in Virginia, Maryland, and New Jersey from July 15 to July 31. Based on 2014 ex-vessel prices, the annual gross revenues loss

for aggregated LCS and hammerhead shark meat to the regional fleet in revenues due to an extended closure date would be $847, while the shark fins would be $207. Thus the total loss annual gross revenue for aggregated LCS and hammerhead sharks would be $1,054. Extending this closure by 16 days could cause a reduction of commercial fishing opportunity, likely resulting in minor adverse economic impacts due to reduced opportunities to harvest aggregated LCS and hammerhead sharks. In the long-term, this reduction would be neutral since fishermen would be able to adapt to the new opening date.

Alternative B8

Under Alternative B8, NMFS would remove pelagic longline gear as an authorized gear for Atlantic HMS. All commercial fishing with pelagic longline gear for HMS in the Atlantic, Gulf of Mexico, and Caribbean would be prohibited. This would greatly reduce fishing opportunities for pelagic longline fishing vessel owners. Prohibiting the use of pelagic longline fishing gear would result in direct and indirect, major adverse economic impacts in the short-and long-term for pelagic longline vessel owners, operators, and crew.

Between 2008 and 2014, 168 different vessels reported using pelagic longline fishing gear in Atlantic HMS Logbooks. Average annual revenues were estimated to be approximately $34,322,983 per year based on HMS logbook records, bluefin tuna dealer reports, and the eDealer database. In 2014, there were 110 active pelagic longline vessels which produced approximately $33,293,118 in revenues. The 2014 landings value is in line with the 2008 to 2014 average. Therefore, NMFS expects future revenues forgone revenue on a per vessel basis to be approximately $309,000 per year based on 110 vessels generating an estimated $34 million in revenues per year. This displacement of fishery revenues would likely cause business closures for a majority of these pelagic longline vessel owners. Given the magnitude of the economic impact of this alternative, it is not a preferred alternative.

Alternative B9—Preferred Alternative

Under Alternative B9, NMFS would require the use of circle hooks by all HMS directed shark permit holders in the bottom longline fishery. This requirement is expected to reduce the mortality associated with catch of dusky shark in the bottom longline fishery.

There is negligible cost associated with switch from J-hooks to circle hooks. However, there is some indication that the use of circle hooks may reduce catch per unit effort (CPUE) resulting in lower catch of target species. To the extent that CPUE is reduced, some commercial fishermen using BLL gear may experience reduced landings and associated revenue with the use of circle hooks. This alternative would require the 224 vessels that hold a shark directed limited access permit as of 2015 to use circle hooks. However, 104 of the 224 vessels have an Atlantic tunas longline permit, which requires fishermen to use circle hooks with pelagic longline gear. Thus, those vessels would already possess and use circle hooks. The remaining 120 permit holders would be required to use circle hooks when using bottom longline gear. Given the low switching costs from J-hooks to circle hooks and the potential to reduce dusky shark mortality, NMFS prefers this alternative.

Alternative B10

Under this alternative, NMFS would annually allocate a certain number of allowable dusky shark interactions to each individual shark directed or incidental limited access permit holder in the HMS pelagic and bottom longline fisheries. These allocations would be transferable between permit holders. When each vessel's individual dusky shark bycatch quota (IDQ) is reached, the vessel would no longer be authorized to fish for HMS for the remainder of the year. The concept of this alternative is similar to the Individual Bluefin Tuna Quota (IBQ) Program implemented in Amendment 7 to the 2006 Consolidated HMS FMP (79 FR 71510), which established individual quotas for bluefin tuna bycatch in the pelagic longline fishery and authorized retention and sale of such bycatch. We would not, however, anticipate authorizing retention and sale of dusky sharks, because they remain a prohibited species.

The goal of this alternative would be to provide strong individual incentives to reduce dusky shark interactions while providing flexibility for vessels to continue to operate in the fishery, however, several unique issues associated with dusky sharks would make these goals difficult to achieve.

In order to achieve the mortality reductions based upon the 2016 SEDAR 21 dusky shark assessment update, the number of dusky shark interactions may need to be substantially reduced. NMFS expects the allocations to each vessel may be extremely low and highly inaccurate/uncertain. It is not clear that an IDQ system without a supportable scientific basis would actually reduce interactions with dusky sharks. To the extent that any reduction actually occurred, some vessels would be constrained by the amount of individual quota they are allocated and this could reduce their annual revenue. If a pelagic longline vessel interacts with dusky sharks early in the year and uses their full IDQ allocation, they may be unable to continue fishing with pelagic longline or bottom longline gear for the rest of the year if they are unable to lease quota from other IDQ holders. This would result in reduced revenues and potential cash flow issues for these small businesses.

If vessel owners are only allocated a very low amount of IDQ, it is very unlikely that an active trading market for IDQs will emerge. The initial allocations could be insufficient for many vessels to maintain their current levels of fishing activity and they may not be able to find IDQs to lease or have insufficient capital to lease a sufficient amount of IDQs. Some vessel owners may view the risk of exceeding their IDQ allocations and the associated costs of acquiring additional quota to outweigh the potential profit from fishing, so they may opt to not continue participating in the fishery.

The annual transaction costs associated with matching lessor and lessees, the costs associated with drafting agreements, and the uncertainty vessel owners would face regarding quota availability would reduce some of the economic benefits associated with leasing quota and fishing.

There would also be increased costs associated with bottom longline vessels obtaining and installing EM and VMS units. Some bottom longline vessel owners might have to consider obtaining new vessels if their current vessels cannot be equipped with EM and VMS. There would be increased costs associated with VMS reporting of dusky interactions. Some fishermen would also need to ship EM hard drives after each trip and they may need to consider acquiring extra hard drives to avoid not having one available when they want to go on a subsequent trip.

Given the challenges in properly identifying dusky sharks, every shark would need to be brought on board the vessel and ensure an accurate picture of identifying features was taken by the EM cameras. Such handling would likely increase dusky shark and other shark species mortality and thus not fully achieve the stated objectives of this rule. This alternative is also unlikely to minimize the economic impact of this rule as compared to the preferred alternatives given the potential for

reduced fishing revenues, monitoring equipment costs, and transaction costs.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Copies of this final rule and the compliance guide are available upon request from NMFS (see **ADDRESSES**). Copies of the compliance guide will be available from the Highly Migratory Species Management Division Web site at *http://www.nmfs.noaa.gov/sfa/hms/.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: March 30, 2017.

Alan D. Risenhoover,

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

For reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 635 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b) under ''50 CFR'', add entries for ''635.2'', ''635.4(c)'', and ''635.4(j)'' in numerical order to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control No. (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
635.2	–0327
* * * * *	
635.4(c)	–0327
* * * * *	
635.4(j)	–0327
* * * * *	

* * * * *

Title 50—Wildlife and Fisheries

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.2:

■ a. Remove the definition of ''Protected species safe handling, release, and identification workshop certificate''; and

■ b. Add new definitions for ''Safe handling, release, and identification workshop certificate'' and ''Shark endorsement'' in alphabetical order to read as follows:

§ 635.2 Definitions.

* * * * *

Safe handling, release, and identification workshop certificate means the document issued by NMFS, or its designee, indicating that the person named on the certificate has successfully completed the Atlantic HMS safe handling, release, and identification workshop.

* * * * *

Shark endorsement means an authorization added to an HMS Angling, HMS Charter/Headboat, Atlantic Tunas General, or Swordfish General Commercial permit that allows for the retention of authorized Atlantic sharks consistent with all other applicable regulations in this part.

* * * * *

■ 5. In § 635.4, revise paragraphs (b)(1), (c)(1), and (c)(2), and add paragraphs (c)(5) and (j)(4) to read as follows:

§ 635.4 Permits and fees.

* * * * *

(b) * * *

(1) The owner of a charter boat or headboat used to fish for, retain, possess, or land any Atlantic HMS must obtain an HMS Charter/Headboat permit. In order to fish for, retain, possess, or land Atlantic sharks, the owner must have a valid shark endorsement issued by NMFS. A vessel issued an HMS Charter/Headboat permit for a fishing year shall not be issued an HMS Angling permit, a Swordfish General Commercial permit, or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.

* * * * *

(c) * * *

(1) The owner of any vessel used to fish recreationally for Atlantic HMS or on which Atlantic HMS are retained or possessed recreationally, must obtain an HMS Angling permit, except as provided in paragraph (c)(2) of this section. In order to fish for, retain, possess, or land Atlantic sharks, the owner must have a valid shark endorsement issued by NMFS. Atlantic HMS caught, retained, possessed, or landed by persons on board vessels with an HMS Angling permit may not be sold or transferred to any person for a commercial purpose. A vessel issued an HMS Angling permit for a fishing year shall not be issued an HMS Charter/Headboat permit, a Swordfish General Commercial permit, or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.

(2) A vessel with a valid Atlantic Tunas General category permit issued under paragraph (d) of this section or with a valid Swordfish General Commercial permit issued under paragraph (f) of this section may fish in a recreational HMS fishing tournament if the vessel has registered for, paid an entry fee to, and is fishing under the rules of a tournament that has registered with NMFS' HMS Management Division as required under § 635.5(d). When a vessel issued a valid Atlantic Tunas General category permit or a valid Swordfish General Commercial permit is fishing in such a tournament, such vessel must comply with HMS Angling category regulations, except as provided in paragraphs (c)(3) through (c)(5) of this section.

* * * * *

(5) In order to fish for, retain, possess, or land sharks, the owner of a vessel fishing in a registered recreational HMS fishing tournament and issued either an Atlantic Tunas General category or Swordfish General Commercial permit must have a shark endorsement.

* * * * *

(j) * * *

(4) In order to obtain a shark endorsement to fish for, retain, possess, or land sharks, a vessel owner with a vessel fishing in a registered recreational HMS fishing tournament and issued or required to be issued either an Atlantic Tunas General category or Swordfish General Commercial permit or a vessel owner of a vessel issued or required to be issued an HMS Angling or HMS Charter/Headboat permit must take a shark endorsement online quiz. After completion of the quiz, NMFS will issue the vessel owner a new or revised permit with the shark endorsement for the vessel. The vessel owner can take the quiz at any time during the fishing year, but his or her vessel may not leave the dock on a trip during which sharks will be fished for, retained, possessed, or landed unless a new or revised permit with a shark endorsement has been issued by NMFS for the vessel. The addition of a shark endorsement to the permit does not constitute a permit category change and does not change the timing considerations for permit category changes specified in paragraph (j)(3) of this section. Vessel owners may request that NMFS remove the shark endorsement from the permit at any time. If NMFS removes the shark endorsement from the vessel permit, no person on board the vessel may fish for, retain, possess, or land sharks.

* * * * *

■ 6. In § 635.8, revise paragraphs (a), (c)(2), (c)(3), (c)(5), (c)(6), and (c)(7) as follows:

§ 635.8 Workshops.

(a) *Safe handling, release, and identification workshops.* (1) Both the owner and operator of a vessel that fishes with Longline or gillnet gear must be certified by NMFS, or its designee, as having completed a safe handling, release, and identification workshop before a shark or swordfish limited access vessel permit, pursuant to § 635.4(e) and (f), is renewed. For the purposes of this section, it is a rebuttable presumption that a vessel fishes with longline or gillnet gear if: Longline or gillnet gear is onboard the vessel; logbook reports indicate that longline or gillnet gear was used on at least one trip in the preceding year; or, in the case of a permit transfer to new owners that occurred less than a year ago, logbook reports indicate that longline or gillnet gear was used on at least one trip since the permit transfer.

(2) NMFS, or its designee, will issue a safe handling, release, and identification workshop certificate to any person who completes a safe handling, release, and identification workshop. If an owner owns multiple vessels, NMFS will issue a certificate for each vessel that the owner owns upon successful completion of one workshop. An owner who is also an operator will be issued multiple certificates, one as the owner of the vessel and one as the operator.

(3) The owner of a vessel that fishes with longline or gillnet gear, as specified in paragraph (a)(1) of this section, is required to possess on board the vessel a valid safe handling, release, and identification workshop certificate issued to that vessel owner. A copy of a valid safe handling, release, and identification workshop certificate issued to the vessel owner for a vessel that fishes with longline or gillnet gear must be included in the application package to renew or obtain a shark or swordfish limited access permit.

(4) An operator that fishes with longline or gillnet gear as specified in paragraph (a)(1) of this section must possess on board the vessel a valid safe handling, release, and identification workshop certificate issued to that operator, in addition to a certificate issued to the vessel owner.

* * * * *

(c) * * *

(2) If a vessel fishes with longline or gillnet gear as described in paragraph (a)(1) of this section, the vessel owner may not renew a shark or swordfish limited access permit, issued pursuant to § 635.4(e) or (f), without submitting a valid safe handling, release, and identification workshop certificate with the permit renewal application.

(3) A vessel that fishes with longline or gillnet gear as described in paragraph (a)(1) of this section and that has been, or should be, issued a valid limited access permit pursuant to § 635.4(e) or (f), may not fish unless a valid safe handling, release, and identification workshop certificate has been issued to both the owner and operator of that vessel.

* * * * *

(5) A vessel owner, operator, shark dealer, proxy for a shark dealer, or participant who is issued either a safe handling, release, and identification workshop certificate or an Atlantic shark identification workshop certificate may not transfer that certificate to another person.

(6) Vessel owners issued a valid safe handling, release, and identification workshop certificate may request, in the application for permit transfer per § 635.4(l)(2), additional safe handling, release, and identification workshop certificates for additional vessels that they own. Shark dealers may request from NMFS additional Atlantic shark identification workshop certificates for additional places of business authorized to receive sharks that they own as long as they, and not a proxy, were issued the certificate. All certificates must be renewed prior to the date of expiration on the certificate.

(7) To receive the safe handling, release, and identification workshop certificate or Atlantic shark identification workshop certificate, persons required to attend the workshop must first show a copy of their HMS permit, as well as proof of identification to NMFS or NMFS' designee at the workshop. If a permit holder is a corporation, partnership, association, or any other entity, the individual attending on behalf of the permit holder must show proof that he or she is the permit holder's agent and provide a copy of the HMS permit to NMFS or NMFS' designee at the workshop. For proxies attending on behalf of a shark dealer, the proxy must have documentation from the shark dealer acknowledging that the proxy is attending the workshop on behalf of the Atlantic shark dealer and must show a copy of the Atlantic shark dealer permit to NMFS or NMFS' designee at the workshop.

■ 7. In § 635.19, revise paragraph (d) to read as follows:

§ 635.19 Authorized gears.

* * * * *

(d) *Sharks.* (1) No person may possess a shark without a permit issued under § 635.4.

(2) No person issued a Federal Atlantic commercial shark permit under § 635.4 may possess a shark taken by any gear other than rod and reel, handline, bandit gear, longline, or gillnet, except that smoothhound sharks may be retained incidentally while fishing with trawl gear subject to the restrictions specified in § 635.24(a)(7).

(3) No person issued an HMS Commercial Caribbean Small Boat permit may possess a shark taken from the U.S. Caribbean, as defined at § 622.2 of this chapter, by any gear other than with rod and reel, handline or bandit gear.

(4) Persons on a vessel issued a permit with a shark endorsement under § 635.4 may possess a shark only if the shark was taken by rod and reel or handline, except that persons on a vessel issued both an HMS Charter/Headboat permit (with or without a shark endorsement) and a Federal Atlantic commercial shark permit may possess sharks taken by rod and reel, handline, bandit gear, longline,

or gillnet if the vessel is engaged in a non for-hire fishing trip and the commercial shark fishery is open pursuant to § 635.28(b).

* * * * *

■ 8. In § 635.21:

■ a. Add paragraph (c)(6);

■ b. Revise the introductory text for paragraph (d)(2);

■ c. Add paragraphs (d)(2)(iii) and (d)(4);

■ d. Revise paragraph (f); and

■ e. Add paragraphs (g)(5) and (k).

The additions and revisions read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(6) The owner or operator of a vessel permitted or required to be permitted under this part and that has pelagic longline gear on board must undertake the following shark bycatch mitigation measures:

(i) *Handling and release requirements.* As safely as practicable, any hooked or entangled sharks that are not being retained must be released using dehookers or line clippers or cutters. If using a line clipper or cutter, the gangion must be cut so that less than three feet (91.4 cm) of line remains attached to the hook.

(ii) *Fleet communication and relocation protocol.* The owner or operator of any vessel that catches a dusky shark must, as quickly as practicable, broadcast the location of the dusky shark interaction over the radio to other fishing vessels in the surrounding area. Subsequent fishing sets by that vessel on that trip must be at least 1 nmi from the reported location of the dusky shark catch. Vessel owners and operators are encouraged to move the vessel further away than 1 nmi if conditions (*e.g.,* water temperature, depth, tide, etc.) indicate that moving a greater distance is warranted to avoid additional dusky shark interactions.

(d) * * *

(2) The operator of a vessel required to be permitted under this part and that has bottom longline gear on board must undertake the following bycatch mitigation measures:

* * * * *

(iii) *Fleet communication and relocation protocol.* The owner or operator of any vessel that catches a dusky shark must, as quickly as practicable, broadcast the location of the dusky shark interaction over the radio to other fishing vessels in the surrounding area. Subsequent fishing sets by that vessel on that trip must be at least 1 nmi from the reported location of the dusky shark catch. Vessel owners and operators are encouraged to move the vessel further away than 1 nmi if conditions (*e.g.,* water temperature, depth, tide, etc.) indicate that moving a greater distance is warranted to avoid additional dusky shark interactions.

* * * * *

(4) Vessels that have bottom longline gear on board and that have been issued, or are required to have been issued, a directed shark limited access permit under § 635.4(e) must have only circle hooks as defined at § 635.2 on board.

* * * * *

(f) *Rod and reel.* (1) Persons who have been issued or are required to be issued a permit under this part and who are participating in a ''tournament,'' as defined in § 635.2, that bestows points, prizes, or awards for Atlantic billfish must deploy only non-offset circle hooks when using natural bait or natural bait/artificial lure combinations, and may not deploy a J-hook or an offset circle hook in combination with natural bait or a natural bait/artificial lure combination.

(2) A person on board a vessel that has been issued or is required to be issued a permit with a shark endorsement under this part and who is participating in an HMS registered tournament that bestows points, prizes, or awards for Atlantic sharks must deploy only non-offset, corrodible circle hooks when fishing for, retaining, possessing, or landing sharks south of 41°43′ N. latitude, except when fishing with flies or artificial lures. Any shark caught south of 41°43′ N. latitude on non-circle hooks must be released, unless the shark was caught when fishing with flies or artificial lures.

(3) A person on board a vessel that has been issued or is required to be issued an HMS Angling permit with a shark endorsement or an HMS Charter/Headboat permit with a shark endorsement must deploy only non-offset, corrodible circle hooks when fishing for, retaining, possessing, or landing sharks south of 41°43′ N. latitude, except when fishing with flies or artificial lures. Any shark caught south of 41°43′ N. latitude on non-circle hooks must be released, unless the shark was caught when fishing with flies or artificial lures.

(g) * * *

(5) *Fleet communication and relocation protocol.* The owner or operator of any vessel issued or required to be issued a Federal Atlantic commercial shark limited access permit that catches a dusky shark must, as quickly as practicable, broadcast the location of the dusky shark interaction over the radio to other fishing vessels in the surrounding area. Subsequent fishing sets by that vessel that trip must be at least 1 nmi from the reported location of the dusky shark catch. Vessel owners and operators are encouraged to move the vessel further away than 1 nmi if conditions (*e.g.,* water temperature, depth, tide, etc.) indicate that moving a greater distance is warranted to avoid additional dusky shark interactions.

* * * * *

(k) *Handline.* (1) A person on board a vessel that has been issued or is required to be issued a permit with a shark endorsement under this part and who is participating in an HMS registered tournament that bestows points, prizes, or awards for Atlantic sharks must deploy only non-offset, corrodible circle hooks when fishing for, retaining, possessing, or landing sharks south of 41°43′ N. latitude, except when fishing with flies or artificial lures. Any shark caught south of 41°43′ N. latitude on non-circle hooks must be released, unless the shark was caught when fishing with flies or artificial lures.

(2) A person on board a vessel that has been issued or is required to be issued an HMS Angling permit with a shark endorsement or a person on board a vessel with an HMS Charter/Headboat permit with a shark endorsement must deploy only non-offset, corrodible circle hooks when fishing for, retaining, possessing, or landing sharks south of 41°43′ N. latitude, except when fishing with flies or artificial lures. Any shark caught south of 41°43′ N. latitude on non-circle hooks must be released, unless the shark was caught when fishing with flies or artificial lures.

■ 9. In § 635.22, revise paragraph (c)(1) to read as follows:

§ 635.22 Recreational retention limits.

(c) * * *

(1) The recreational retention limit for sharks applies to any person who fishes in any manner, except to persons aboard a vessel that has been issued a Federal Atlantic commercial shark vessel permit under § 635.4. The retention limit can change depending on the species being caught and the size limit under which they are being caught as specified under § 635.20(e). If a commercial Atlantic shark quota is closed under § 635.28, the recreational retention limit for sharks and no sale provision in paragraph (a) of this section may be applied to persons aboard a vessel issued a Federal Atlantic commercial shark vessel permit under § 635.4, only if that vessel has also been issued an HMS Charter/Headboat permit with a shark

endorsement under § 635.4 and is engaged in a for-hire fishing trip. A person on board a vessel that has been issued or is required to be issued a permit with a shark endorsement under § 635.4 may be required to use non-offset, corrodible circle hooks as specified in § 635.21(f) and (k) in order to retain sharks per the retention limits specified in this section.

* * * * *

■ 10. In § 635.71, revise paragraphs (a)(50) through (52), and add paragraphs (d)(21) through (d)(26) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(50) Fish without a NMFS safe handling, release, and identification workshop certificate, as required in § 635.8.

(51) Fish without having on board the vessel a valid safe handling, release, and identification workshop certificate issued to the vessel owner and operator as required in § 635.8.

(52) Falsify a NMFS safe handling, release, and identification workshop certificate or a NMFS Atlantic shark identification workshop certificate as specified at § 635.8.

* * * * *

(d) * * *

(21) Fish for, retain, possess, or land sharks without a shark endorsement, as specified in § 635.4(b) and (c).

(22) Except when fishing only with flies or artificial lures, fish for, retain, possess, or land sharks south of 41°43′ N. latitude without deploying non-offset, corrodible circle hooks when fishing at a registered recreational HMS fishing tournament that has awards or prizes for sharks, as specified in § 635.21(f) and (k).

(23) Except when fishing only with flies or artificial lures, fish for, retain, possess, or land sharks south of 41°43′ N. latitude without deploying non-offset, corrodible circle hooks when issued an Atlantic HMS Angling permit or HMS Charter/Headboat permit with a shark endorsement, as specified in § 635.21(f) and (k).

(24) Release sharks with more than 3 feet (91.4 cm) of trailing gear, as specified in § 635.21(c)(6).

(25) Fail to follow the fleet communication and relocation protocol for dusky sharks as specified at § 635.21(c)(6), (d)(2), and (g)(5).

(26) Deploy bottom longline gear without circle hooks, or have on board both bottom longline gear and non-circle hooks, as specified at § 635.21(d)(4).

* * * * *

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H.R. 1362/P.L. 115–16

To name the Department of Veterans Affairs community-based outpatient clinic in Pago Pago, American Samoa, the Faleomavaega Eni Fa'aua'a Hunkin VA Clinic. (Mar. 31, 2017; 131 Stat. 80)

H.J. Res. 42/P.L. 115–17

Disapproving the rule submitted by the Department of Labor relating to drug testing of unemployment compensation applicants. (Mar. 31, 2017; 131 Stat. 81)

S.J. Res. 1/P.L. 115–18

Approving the location of a memorial to commemorate and honor the members of the Armed Forces who served on active duty in support of Operation Desert Storm or Operation Desert Shield. (Mar. 31, 2017; 131 Stat. 82)

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