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

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2017-0252; Directorate Identifier 2016-NM-187-AD; Amendment 39-18863; AD 2017-09-01]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier, Inc., Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL-600-2E25 (Regional Jet Series 1000) airplanes. This AD requires a detailed inspection of the circuit breakers, replacement of damaged circuit breakers, and installation of a circuit breaker bushing assembly. This AD was prompted by a report of cracks found in the plastic casing of cockpit circuit breaker panels. We are issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective May 11, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 11, 2017.

We must receive comments on this AD by June 12, 2017.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-493-2251.

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

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

For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1-866-538-1247 or direct-dial telephone 1-514-855-2999; fax 514-855-7401; email [ac.yul@aero.bombardier.com](mailto:ac.yul@aero.bombardier.com); Internet <http://www.bombardier.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0252.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0252; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE-172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7301; fax 516-794-5531.

#### SUPPLEMENTARY INFORMATION:

##### Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2016-30, dated September 21, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the

MCAI”), to correct an unsafe condition for certain Bombardier, Inc., Model CL-600-2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

It was discovered during an inspection that circuit breakers installed on the cockpit circuit breaker panels may have cracks in the plastic casing. The damage was found on a Bombardier CL-600-2E25 production aeroplane following a routine functional test procedure. A fleet inspection also found similar damage on the in-service aeroplanes.

Cracked circuit breakers can allow moisture ingress and damage the interior of the circuit breaker and circuit breaker panels resulting in a malfunction of the affected circuit breaker and the potential loss of power to multiple airplane systems.

Corrective actions include inspecting the circuit breakers for any cracks or signs of damage (including small white lines on the casing), replacing any cracked or damaged circuit breakers, and installing a circuit breaker bushing assembly. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0252.

#### Related Service Information Under 14 CFR Part 51

Bombardier, Inc., has issued Service Bulletin 670BA-24-037, Revision A, dated July 11, 2016. The service information describes a detailed visual inspection of each circuit breaker for any cracks or signs of damage, replacement of damaged circuit breakers, and installation of a circuit breaker bushing assembly. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

#### FAA’s Determination and Requirements of This AD

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

**FAA’s Determination of the Effective Date**

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

**Comments Invited**

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD.

Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2017–0252; Directorate Identifier 2016–NM–187–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

**Costs of Compliance**

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product
Inspection .....	3 work-hours × \$85 per hour = \$255 .....	\$0	\$255
Installation of bushing assembly .....	43 work-hours × \$85 per hour = \$3,655 .....	0	3,655

In addition, we estimate that it will take about 1 work-hour for each circuit breaker requiring replacement and will require parts costing \$0, for a cost of \$85 per circuit breaker. We have no way of determining the number of aircraft that might need this action.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

- 1. The authority citation for part 39 continues to read as follows:  
**Authority:** 49 U.S.C. 106(g), 40113, 44701.

**§ 39.13 [Amended]**

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

**2017–09–01 Bombardier, Inc.:** Amendment 39–18863; Docket No. FAA–2017–0252; Directorate Identifier 2016–NM–187–AD.

**(a) Effective Date**

This AD becomes effective May 11, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model CL–600–2E25 (Regional Jet Series 1000) airplanes, certificated in any category, as identified in Bombardier Service Bulletin 670BA–24–037, Revision A, dated July 11, 2016.

**(d) Subject**

Air Transport Association (ATA) of America Code 24, Electrical power.

**(e) Reason**

This AD was prompted by a report of cracks found in the plastic casing of cockpit circuit breaker panels. We are issuing this AD to detect and correct cracked circuit breaker casings, which could allow moisture ingress that could result in the malfunction of affected circuit breakers, and the potential loss of power to multiple airplane systems.

**(f) Compliance**

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

**(g) Inspection and Replacement of Damaged Cockpit Panel Circuit Breakers**

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Do a detailed visual inspection for any cracks or signs of damage on each circuit breaker in the cockpit circuit breaker panels, and replace any cracked or damaged circuit breakers, in accordance with “Part A—Inspection and Replacement of the Damaged Cockpit Panel Circuit Breakers,” of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–24–037, Revision A, dated July 11, 2016. Replace any cracked or damaged circuit breakers before further flight.

(1) For airplanes that have accumulated less than 10,000 total flight hours as of the effective date of this AD: Before the accumulation of 12,600 total flight hours.

(2) For airplanes that have accumulated 10,000 or more total flight hours as of the effective date of this AD: Within 2,000 flight hours after the effective date of this AD.



**(h) Installation and Inspection of the Cockpit Panel Circuit Breaker Bushing Assembly**

At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD: Install a cockpit breaker bushing assembly, and do a detailed visual inspection of each circuit breaker for cracks or damage, in accordance with "Part B—Installation of the Cockpit Panel Circuit Breakers Bushings assembly," of the Accomplishment Instructions of Bombardier Service Bulletin 670BA–24–037, Revision A, dated July 11, 2016. Replace any cracked or damaged circuit breakers before further flight, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–24–037, Revision A, dated July 11, 2016. Installing the cockpit panel circuit breaker bushing assembly is acceptable for compliance with the requirements of paragraph (g) of this AD.

(1) For airplanes that have accumulated less than 10,000 total flight hours as of the effective date of this AD: Before the accumulation of 12,600 total flight hours.

(2) For airplanes that have accumulated 10,000 or more total flight hours as of the effective date of this AD: Within 2,000 flight hours after the effective date of this AD.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

**(j) Related Information**

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2016–30, dated September 21, 2016, for related information. You may examine the MCAI on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–0252.

**(k) Material Incorporated by Reference**

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

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

(i) Bombardier Service Bulletin 670BA–24–037, Revision A, dated July 11, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on April 14, 2017.

**John P. Piccola, Jr.,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017–08184 Filed 4–25–17; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA–2016–9380; Directorate Identifier 2016–NE–21–AD; Amendment 39–18857; AD 2017–08–08]**

**RIN 2120–AA64**

**Airworthiness Directives; CFE Company Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain CFE Company (CFE) turbofan engines. This AD was prompted by a quality escape for high-pressure compressor (HPC) impellers made from forgings with nonconforming material grain size. This AD requires removal of the HPC impeller. We are issuing this AD to correct the unsafe condition on these products.

**DATES:** This AD is effective May 31, 2017.

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

**ADDRESSES:** For service information identified in this final rule, contact CFE Company, 111 S. 34th Street, Phoenix, Arizona 85034–2802; phone: 800–601–3099; Internet: <https://www.myaerospace.com>. You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

**Examining the AD Docket**

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2016–9380; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

**SUPPLEMENTARY INFORMATION:****Discussion**

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain CFE 738–1–1B model turbofan engines with HPC impeller, part number (P/N) 6079T77P07 or P/N 6079T77P09, installed. The NPRM published in the **Federal Register** on January 3, 2017 (82 FR 52). The NPRM was prompted by a quality escape for HPC impellers made from forgings with nonconforming material grain size. The NPRM proposed to require removal of the HPC impeller. We are issuing this AD to correct the unsafe condition on these products.

**Comments**

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (82 FR 52, January 3, 2017) or on the determination of the cost to the public.

**Conclusion**

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

**Related Service Information Under 1 CFR Part 51**

We reviewed CFE Service Bulletin (SB) CFE738–72–8080, Revision 0, dated August 18, 2016. The SB describes procedures for replacing

specific serial numbered HPC impellers, P/N 6079T77P07 or P/N 6079T77P09. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 176 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Pro-rated HPC impeller .....	\$0.00	\$42,240	\$42,240	\$7,434,240

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

**2017–08–08 CFE Company:** Amendment 39–18857; Docket No. FAA–2016–9380; Directorate Identifier 2016–NE–21–AD.

**(a) Effective Date**

This AD is effective May 31, 2017.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to CFE Company (CFE) CFE738–1–1B model turbofan engines with a high-pressure compressor (HPC) impeller, part number (P/N) 6079T77P07 or P/N 6079T77P09, with a serial number listed in CFE Service Bulletin (SB) CFE738–72–8080, Revision 0, dated August 18, 2016, installed.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a quality escape for HPC impellers made from forgings with nonconforming material grain size. We are issuing this AD to prevent uncontained failure of the HPC impeller, damage to the engine, and damage to the airplane.

**(f) Compliance**

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

**(g) Required Action**

Remove all affected HPC impellers from service at the next piece-part exposure and replace with a part eligible for installation.

**(h) Definition**

For the purposes of this AD, “piece-part exposure” is defined as separation of the impeller from the compressor rotor assembly.

**(i) Alternative Methods of Compliance (AMOCs)**

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

**(j) Related Information**

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

**(k) Material Incorporated by Reference**

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

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

(i) CFE Service Bulletin CFE738–72–8080, Revision 0, dated August 18, 2016.

(ii) Reserved.

(3) For CFE service information identified in this AD, contact CFE Company, 111 S. 34th Street, Phoenix, Arizona 85034–2802; phone: 800–601–3099; Internet: <https://www.myaerospace.com>.

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

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

Issued in Burlington, Massachusetts, on April 11, 2017.

**Robert J. Ganley,**

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

[FR Doc. 2017-08409 Filed 4-25-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2016-6928; Directorate Identifier 2016-SW-018-AD; Amendment 39-18864; AD 2017-09-02]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH Helicopters (Airbus Helicopters) Model MBB-BK 117 C-2 and MBB-BK 117 D-2 helicopters. This AD requires installing rivets to the air inlet cover rings (rings). This AD was prompted by reports of rings detaching. The actions of this AD are intended to prevent the unsafe condition on these products.

**DATES:** This AD is effective May 31, 2017.

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

**ADDRESSES:** For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at [https://www.airbushelicopters.com/techpub/FO/scripts/myFO\\_login.php](https://www.airbushelicopters.com/techpub/FO/scripts/myFO_login.php). You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6928.

#### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-6928; or in person at the Docket

Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800-647-5527) is U.S. Department of Transportation, Docket Operations Office, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email [matthew.fuller@faa.gov](mailto:matthew.fuller@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

On January 5, 2017, at 82 FR 1252, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model MBB-BK 117 C-2 (including configuration C-2e) helicopters, serial number 9004 through 9725, and Model MBB-BK 117 D-2 helicopters, serial number 20003 through 20045, with an air inlet part number (P/N) B212M20C1005 installed. The NPRM proposed inspecting each ring and determining if it is loose, and gluing and installing rivets to the rings. The proposed requirements were intended to prevent a ring from detaching, which could then become stuck between the air inlet and the cyclic stick, restricting movement of the cyclic stick. This condition could result in loss of helicopter control.

The NPRM was prompted by AD No. 2016-0001, dated January 4, 2016, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model MBB-BK 117 C-2, Model MBB-BK117 C-2e, Model MBB-BK117 D-2, and MBB-BK117 D-2m helicopters. EASA advises that a ring detached and got stuck between the air inlet and the cyclic stick on a Model MBB-BK117 C-2 helicopter and an inspection on another helicopter found a second loose cover ring. EASA states that this condition, if not corrected, could affect the cyclic stick's range of movement, possibly resulting in degraded control of the helicopter. The EASA AD consequently requires inspections and reinforcement of the rings' installation.

#### Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM.

#### FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

#### Differences Between This AD and the EASA AD

The EASA AD applies to Model MBB-BK117 D-2m helicopters. This AD does not because this model does not have an FAA type certificate. The EASA AD requires compliance for Model MBB-BK117 D-2 helicopters within 400 hours time-in-service (TIS), while this AD requires compliance within 100 hours TIS. The EASA AD requires marking the air inlet with the applicable alert service bulletin once it is glued and riveted, while this AD does not.

#### Related Service Information Under 14 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) MBB-BK117 C-2-21A-011 for Model MBB-BK 117 C-2 and Model MBB-BK117 C-2e helicopters and ASB MBB-BK117 D-2-21A-004 for Model MBB-BK 117 D-2 and Model MBB-BK 117 D-2m helicopters. Both ASBs are Revision 0 and dated November 16, 2015. This service information introduces an improved attachment method for the ring using rivets. The ASBs specify inspecting the air inlet to determine whether the ring is loose, and then gluing and riveting the ring to the air inlet at different timeframes, depending on whether it is loose.

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

#### Costs of Compliance

We estimate that this AD affects 141 helicopters of U.S. Registry and that labor costs average \$85 per work-hour. Based on these estimates, we expect the following costs:

Manually inspecting the left and right air inlet cover rings requires a half work-hour for a labor cost of \$43 per helicopter. No parts are needed, so the U.S. fleet cost totals \$6,063.

Riveting the rings requires 2 work-hours for a labor cost of \$170 per helicopter. The cost for parts is minimal for a U.S. fleet cost of \$23,970.

#### Authority for This Rulemaking

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

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

#### Regulatory Findings

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

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

#### 2017-09-02 Airbus Helicopters

**Deutschland GmbH:** Amendment 39-18864; Docket No. FAA-2016-6928; Directorate Identifier 2016-SW-018-AD.

#### (a) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB-BK 117 C-2 (including configuration C-2e) helicopters, serial number 9004 through 9725, and Model MBB-BK 117 D-2 helicopters, serial number 20003 through 20045, certificated in any category, with an air inlet part number (P/N) B212M20C1005 installed.

#### (b) Unsafe Condition

This AD defines the unsafe condition as a detached air inlet cover ring (ring), which could become stuck between the air inlet and the cyclic stick, restricting movement of the cyclic stick. This condition could result in loss of helicopter control.

#### (c) Effective Date

This AD becomes effective May 31, 2017.

#### (d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

#### (e) Required Actions

(1) Within 100 hours time-in-service (TIS), manually inspect each ring to determine if it is loose. If a ring is loose, before further flight, glue the ring on the air inlet using an adhesive (CM 687 or CM 6044 or equivalent) as shown in Figure 1 of Airbus Helicopters Alert Service Bulletin (ASB) MBB-BK117 C-2-21A-011, Revision 0, dated November 16, 2015 (ASB C-2-21A-011), or ASB MBB-BK117 D-2-21A-004, Revision 0, dated November 16, 2015 (ASB D-2-21A-004), as applicable to your model helicopter. Rivet the ring to the air inlet in accordance with the Accomplishment Instructions, paragraphs 3.B.4.2 through 3.B.4.4 of ASB C-2-21A-011 or paragraphs 3.B.3.2 through 3.B.3.4 of ASB D-2-21A-004.

(2) If a ring is not loose, within 400 hours TIS:

(i) Manually inspect the ring to determine if it is loose. If the ring is loose, before further flight, glue the ring on the air inlet using an adhesive (CM 687 or CM 6044 or equivalent) as shown in Figure 1 of ASB C-2-21A-011 or ASB D-2-21A-004.

(ii) Rivet the ring to the air inlet in accordance with the Accomplishment Instructions, paragraphs 3.B.3.2 through 3.B.3.4 of ASB C-2-21A-011 or paragraphs 3.B.2.2 through 3.B.2.4 of ASB D-2-21A-004.

(3) After the effective date of this AD, do not install an air inlet P/N B212M20C1005 on any helicopter unless the ring has been riveted to the air inlet in accordance with the requirements of this AD.

#### (f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222-5110; email 9-ASW-FTW-AMOC-Requests@faa.gov.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

#### (g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016-0001, dated January 4, 2016. You may view the EASA AD on the Internet at <http://www.regulations.gov> in Docket No. FAA-2016-6928.

#### (h) Subject

Joint Aircraft Service Component (JASC) Code: 2150, Cabin Cooling System.

#### (i) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin MBB-BK117 C-2-21A-011, Revision 0, dated November 16, 2015.

(ii) Airbus Helicopters Alert Service Bulletin MBB-BK117 D-2-21A-004, Revision 0, dated November 16, 2015.

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at [https://www.airbushelicopters.com/techpub/FO/scripts/myFO\\_login.php](https://www.airbushelicopters.com/techpub/FO/scripts/myFO_login.php).

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call

(202) 741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Fort Worth, Texas, on April 18, 2017.

**Scott A. Horn,**

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2017-08185 Filed 4-25-17; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2017-0019; Directorate Identifier 2016-CE-038-AD; Amendment 39-18861; AD 2017-08-12]

RIN 2120-AA64

#### Airworthiness Directives; GROB Aircraft AG Gliders

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for GROB Aircraft AG Models GROB G 109 and GROB G 109B gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as broken pivots of the tail wheel mounting bracket resulting from corrosion and damage due to wear. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective May 31, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of May 31, 2017.

**ADDRESSES:** You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0019; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact GROB Aircraft AG, Product Support, Lettenbachstrasse 9, D-86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268-998-105; fax: + 49 (0) 8268-998-200; email:

[productsupport@grob-aircraft.com](mailto:productsupport@grob-aircraft.com); Internet: [grob-aircraft.com](http://grob-aircraft.com). You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available on the Internet at <http://www.regulations.gov> by searching for Docket No. FAA-2017-0019.

**FOR FURTHER INFORMATION CONTACT:** Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4165; fax: (816) 329-4090; email: [jim.rutherford@faa.gov](mailto:jim.rutherford@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to GROB Aircraft AG Models GROB G 109 and GROB G 109B gliders. The NPRM was published in the **Federal Register** on January 18, 2017 (82 FR 5456). The NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

Occurrences were reported of broken pivots of the tail wheel mounting bracket. Subsequent investigation attributed these events to corrosion and damage due to wear.

This condition, if not detected and corrected, could lead to loss of rudder control, resulting in reduced control of the powered sailplane.

To address this potentially unsafe condition, Grob Aircraft AG issued Mandatory Service Bulletin (MSB) 817-70 (hereafter referred to as ‘the MSB’ in this [EASA] AD) to provide inspection and repair instructions.

For the reasons described above, this [EASA] AD requires repetitive inspections of the tail wheel mounting bracket and, depending on findings, accomplishment of applicable corrective action(s).

The MCAI can be found in the AD docket on the Internet at: <https://www.regulations.gov/document?D=FAA-2017-0019-0002>.

##### Comments

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

##### Conclusion

We reviewed the relevant data and determined that air safety and the

public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

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

#### Related Service Information Under 1 CFR Part 51

We reviewed GROB Aircraft AG Service Bulletin No. MSB817-70, dated September 28, 2016, which describes procedures for inspection of the tail mounting bracket; and GROB Aircraft AG Repair Instruction RI 817-015, dated September 16, 2016, which provides instructions for any necessary repair. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this final rule.

#### Costs of Compliance

We estimate that this AD will affect 57 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$50 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be \$17,385, or \$305 per product.

In addition, we estimate that any necessary follow-on actions would take about 5 work-hours and require parts costing \$100, for a cost of \$525 per product. We have no way of determining the number of products that may need these actions.

#### Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

### Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0019; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

#### 2017-08-12 GROB Aircraft AG:

Amendment 39-18861; Docket No.

FAA-2017-0019; Directorate Identifier 2016-CE-038-AD.

#### (a) Effective Date

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

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to GROB Aircraft AG Models GROB G 109 and GROB G 109B gliders, all serial numbers, certificated in any category.

#### (d) Subject

Air Transport Association of America (ATA) Code 32: Landing Gear.

#### (e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as broken pivots of the tail wheel mounting bracket resulting from corrosion and damage due to wear. We are issuing this AD to detect and correct if necessary any corrosion or damage to the tail wheel mounting bracket, which could cause loss of rudder control and result in reduced control.

#### (f) Actions and Compliance

Unless already done, do the following actions:

(1) Within the next 3 months after May 31, 2017 (the effective date of this AD) or 100 hours time-in-service (TIS) after May 31, 2017 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed every 100 hours TIS or 12 months, whichever occurs first, inspect the tail wheel mounting bracket following the Accomplishment Instructions in section 1.8 of GROB Aircraft AG Service Bulletin (SB) No. MSB817-70, dated September 28, 2016.

(2) If any damage is found during any inspection required in paragraph (f)(1) of this AD, before further flight, repair following GROB Aircraft AG Repair Instruction RI 817-015, dated September 16, 2016.

*Note 1 to paragraph (f)(2) of this AD:* The bolt in Figure 1, Pos. 10 of GROB Aircraft AG Repair Instruction RI 817-015, dated September 16, 2016, is welded into place onto the steel base plate. Therefore, in order to facilitate the removal of the bolt, the welding seams may be carefully ground off using caution to not damage the steel base plate, instead of completely cutting off the bolt head.

(3) Repairs made as required by paragraph (f)(2) of this AD do not qualify as terminating action for the repetitive inspections required in paragraph (f)(1) of this AD.

#### (g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures

found in 14 CFR 39.19. Send information to ATTN: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4165; fax: (816) 329-4090; email: [jim.rutherford@faa.gov](mailto:jim.rutherford@faa.gov). Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

#### (h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2016-0228, dated November 14, 2016, for related information. The MCAI can be found in the AD docket on the Internet at: <https://www.regulations.gov/document?D=FAA-2017-0019-0002>.

#### (i) Material Incorporated by Reference

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

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

(i) GROB Aircraft AG Service Bulletin (SB) No. MSB817-70, dated September 28, 2016.

(ii) GROB Aircraft AG Repair Instruction RI 817-015, dated September 16, 2016.

(3) For GROB Aircraft AG service information identified in this AD, contact GROB Aircraft AG, Product Support, Lettenbachstrasse 9, D-86874 Tussenhausen-Mattsies, Germany, telephone: + 49 (0) 8268-998-105; fax: + 49 (0) 8268-998-200; email: [productsupport@grob-aircraft.com](mailto:productsupport@grob-aircraft.com); Internet: [grob-aircraft.com](http://grob-aircraft.com).

(4) You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. In addition, you can access this service information on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0019.

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

Issued in Kansas City, Missouri, on April 13, 2017.

**Brian Yanez,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2017-07936 Filed 4-25-17; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2017-0216; Airspace  
Docket No. 17-ANM-7]

**Amendment of Class D and Class E  
Airspace for the Following Idaho  
Towns; Lewiston, ID; Pocatello, ID; and  
Twin Falls, ID**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule, technical  
amendment.

**SUMMARY:** This action amends the legal description of the Class E airspace designated as an extension at Lewiston-Nez Perce County Airport, Lewiston, ID; Pocatello Regional Airport, Pocatello, ID; and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID, eliminating the Notice to Airmen (NOTAM) part-time status. Additionally, this action updates the geographic coordinates of these airports, the Pocatello VHF Omnidirectional Radar Range Tactical Air Navigation Aid (VORTAC) the Twin Falls VORTAC, and American Falls Airport listed in the associated Class D and Class E airspace descriptions for Pocatello Regional Airport, and Joslin Field-Magic Valley Regional Airport to match the FAA's aeronautical database. This action does not affect the charted boundaries or operating requirements of the airspace.

**DATES:** Effective 0901 UTC, June 22, 2017. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203-4511.

**SUPPLEMENTARY INFORMATION:****Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Lewiston-Nez Perce County Airport, Lewiston, ID, Pocatello Regional Airport, Pocatello, ID, and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID.

**History**

The FAA Aeronautical Information Services branch found the Class E airspace designated as an extension to a Class D or Class E surface area does not require NOTAM part-time status at Lewiston-Nez Perce County Airport, Lewiston, ID; Pocatello Regional Airport, Pocatello, ID; and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID, as published in FAA Order 7400.11A, Airspace Designations and Reporting Points. Also, after a review, the FAA found the geographic coordinates for Pocatello Regional Airport, Pocatello VORTAC, American Falls Airport, and Twin Falls VORTAC, listed in the associated Class D and Class E airspace for these airports as well as navigation aids do not match the FAA's current aeronautical database. This action makes these updates.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR part 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

**Availability and Summary of  
Documents for Incorporation by  
Reference**

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by eliminating the following NOTAM information from the regulatory text of Class E airspace designated as an extension to Class D, at Lewiston-Nez Perce County Airport, Lewiston, ID; Pocatello Regional Airport, Pocatello, ID; and Joslin Field-Magic Valley Regional Airport, Twin Falls, ID: "This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory." Also, this action updates the geographic coordinates for Pocatello Regional Airport, Pocatello VORTAC, American Falls Airport, and Twin Falls VORTAC listed in the associated Class D and Class E airspace for these airports and navigation aids to match the FAA's aeronautical database. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

**Regulatory Notices and Analyses**

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

number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, “Environmental Impacts: Policies and Procedures,” paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, effective September 15, 2016, is amended as follows:

*Paragraph 5000 Class D Airspace.*

\* \* \* \* \*

**ANM ID D Pocatello, ID [Modified]**

Pocatello Regional Airport, ID  
(Lat. 42°54'35" N., long. 112°35'45" W.)

That airspace extending upward from the surface to and including 6,900 feet MSL within a 4.5-mile radius of the Pocatello Regional Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

*Paragraph 6002 Class E Airspace Designated as Surface Areas.*

\* \* \* \* \*

**ANM ID E2 Pocatello, ID [Modified]**

Pocatello Regional Airport, ID  
(Lat. 42°54'35" N., long. 112°35'45" W.)

Within a 4.5-mile radius of the Pocatello Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to

Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

\* \* \* \* \*

**ANM ID E4 Lewiston, ID [Modified]**

Lewiston-Nez Perce County Airport, ID  
(Lat. 46°22'28" N., long. 117°00'55" W.)  
Nez Perce VOR/DME  
(Lat. 46°22'54" N., long. 116°52'10" W.)  
Lewiston-Nez Perce ILS Localizer  
(Lat. 46°22'27" N., long. 117°01'54" W.)

That airspace extending upward from the surface within 2.7 miles each side of the Lewiston-Nez Perce ILS localizer course extending from the 4.1-mile radius of the airport to 14 miles east of the airport, and within 3.5 miles each side of the Nez Perce VOR/DME 266° radial extending from the 4.1-mile radius of the airport to 13.1 miles west of the airport.

**ANM ID E4 Pocatello, ID [Modified]**

Pocatello Regional Airport, ID  
(Lat. 42°54'35" N., long. 112°35'45" W.)  
Pocatello VORTAC  
(Lat. 42°52'13" N., long. 112°39'08" W.)  
American Falls Airport  
(Lat. 42°47'50" N., long. 112°49'31" W.)

That airspace extending upward from the surface within 2.7 miles each side of the Pocatello VORTAC 252° radial extending from the 4.5-mile radius of Pocatello Regional Airport to 7.4 miles west of the VORTAC, and within 4.3 miles each side of the Pocatello VORTAC 225° radial extending from the 4.5-mile radius of the airport to 9.2 miles southwest of the VORTAC; excluding that airspace within a 0.9-mile radius of American Falls Airport.

**ANM ID E4 Twin Falls, ID [Modified]**

Joslin Field-Magic Valley Regional Airport, ID  
(Lat. 42°28'55" N., long. 114°29'16" W.)  
Twin Falls VORTAC  
(Lat. 42°28'47" N., long. 114°29'22" W.)

That airspace extending upward from the surface 4.2 miles south and 4.4 miles north of the Twin Falls VORTAC 086° and 281° radials extending from the 4.3-mile radius of Joslin Field-Magic Valley Regional Airport to 9.2 miles east and 9.2 miles west of the VORTAC.

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**ANM ID E5 Pocatello, ID [Modified]**

Pocatello Regional Airport, ID  
(Lat. 42°54'35" N., long. 112°35'45" W.)  
Pocatello VORTAC  
(Lat. 42°52'13" N., long. 112°39'08" W.)

That airspace extending upward from 700 feet above the surface within 4 miles southeast and 9.6 miles northwest of the Pocatello VORTAC 048° radial extending from the VORTAC to 24.4 miles northeast of the VORTAC, and within 8.3 miles north and 4 miles south of the 252° radial extending

from 16.1 miles west to 1.4 miles east of the VORTAC.

Issued in Seattle, Washington, on April 19, 2017.

**Sam S.L. Shrimpton,**

*Acting Group Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2017–08366 Filed 4–25–17; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 73**

[Docket No. FAA–2017–0307; Airspace Docket No. 17–ANE–1]

**Amendment of Restricted Areas R–4102A and R–4102B; Fort Devens, MA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action updates the using agency information for restricted areas R–4102A and R–4102B, Fort Devens, MA. This is an administrative change to reflect the current organization tasked with using agency responsibilities for the restricted areas. It does not affect the boundaries, designated altitudes, time of designation or activities conducted within the restricted areas.

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

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

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it updates the using agency for restricted areas R–4102A and R–4102B, Fort Devens, MA, to reflect the current organization responsible for the restricted areas.



## The Rule

This rule amends Title 14 Code of Federal Regulations (14 CFR) part 73 by updating the using agency name for restricted areas R-4102A and R-4102B, Fort Devens, MA, by removing the words “Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA,” and adding the words “Commander, U.S. Army Garrison, Fort Devens, MA.” The name change reflects the current organization assigned using agency responsibilities for the restricted areas. This is an administrative change that does not affect the boundaries, designated altitudes, or activities conducted within the restricted areas; therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

## Regulatory Notices and Analyses

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

## Environmental Review

The FAA has determined that this action of updating the using agency information for restricted areas R-4102A and R-4102B, Fort Devens, MA qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5.d, “Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors).” This airspace action is an administrative change to the description of restricted areas R-4102A and R-4102B to update the using agency name. It does not alter the dimensions, altitudes, time of designation, or use of the airspace.

Therefore, this airspace action is not expected to result in any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, this action has been reviewed for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis, and it is determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment.

## List of Subjects in 14 CFR Part 73

Airspace, Prohibited areas, Restricted areas.

## Adoption of the Amendment

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

### PART 73—SPECIAL USE AIRSPACE

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

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

#### § 73.41 [Amended]

- 2. Section 73.41 is amended as follows:

\* \* \* \* \*

#### R-4102A Fort Devens, MA [Amended]

By removing the words “Using agency. Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA,” and adding in their place the words “Using agency. Commander, U.S. Army Garrison, Fort Devens, MA.”

#### R-4102B Fort Devens, MA [Amended]

By removing the words “Using agency. Chief, Reserve Component Division, Devens Reserve Forces Training Area, Ayer, MA,” and adding in their place the words “Using agency. Commander, U.S. Army Garrison, Fort Devens, MA.”

Issued in Washington, DC, on April 19, 2017.

**Rodger A. Dean, Jr.,**

*Manager, Airspace Policy Group.*

[FR Doc. 2017-08365 Filed 4-25-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2017-0251]

#### Drawbridge Operation Regulation; Barnegat Bay, Seaside Heights, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation; modification.

**SUMMARY:** The Coast Guard has modified a temporary deviation from the operating schedule that governs the S37 Bridge across the Barnegat Bay, mile 14.1, New Jersey Intracoastal Waterway, at Seaside Heights, NJ. This modified deviation is necessary to perform bridge maintenance and repairs. This deviation allows the bridge to remain in the closed-to-navigation position.

**DATES:** This modified deviation is effective without actual notice from April 26, 2017 through 8 p.m. on April 28, 2017. For the purposes of enforcement, actual notice will be used from 8:00 p.m. on April 21, 2017, until April 26, 2017.

**ADDRESSES:** The docket for this deviation, [USCG-2017-0251] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email Mr. Hal R. Pitts, Bridge Administration Branch Fifth District, Coast Guard, telephone 757-398-6222, email [Hal.R.Pitts@uscg.mil](mailto:Hal.R.Pitts@uscg.mil).

**SUPPLEMENTARY INFORMATION:** On March 30, 2017, the Coast Guard published a temporary deviation entitled “Drawbridge Operation Regulation: Barnegat Bay, Seaside Heights, NJ” in the **Federal Register** (82 FR 15630). Under that temporary deviation, the bridge will remain in the closed-to-navigation position from 8 p.m. on March 31, 2017, through 8 p.m. on April 21, 2017. The New Jersey Department of Transportation, that owns and operates the S37 Bridge, has requested a modified temporary deviation from the current operating regulations to continue performing a maintenance and repair project on the bridge that commenced at 8 a.m. on December 1, 2016, and was scheduled to cease at 8 p.m. on April 21, 2017. The bridge is a bascule draw bridge and has a vertical clearance in the closed position of 30 feet above mean high water.

The current operating schedule as set out in 33 CFR 117.733(c) allows the bridge to remain in the closed-to-navigation position from 8 a.m. on December 1, 2016, until 8 p.m. on March 31, 2017. Under this modified temporary deviation, the bridge will continue to remain in the closed-to-navigation position from 8 p.m. on March 31, 2017, to 8 p.m. on April 28, 2017.

The Barnegat Bay on the New Jersey Intracoastal Waterway is used by a variety of vessels including small government and public vessels, small commercial vessels, and recreational vessels. The Coast Guard has carefully considered the nature and volume of vessel traffic on the waterway in publishing this temporary deviation.

Vessels able to safely pass through the bridge in the closed position may do so at any time. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transit to minimize any impact caused by the temporary deviation.

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

Dated: April 20, 2017.

**Hal R. Pitts,**

*Bridge Program Manager, Fifth Coast Guard District.*

[FR Doc. 2017-08395 Filed 4-25-17; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA-2017-0002; Internal Agency Docket No. FEMA-8475]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for

suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at <https://www.fema.gov/national-flood-insurance-program-community-status-book>.

**DATES:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact Patricia Suber, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, (202) 646-4149.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59.

Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the

suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* FEMA has determined that the community suspension(s) included in this rule is a non-discretionary action and therefore the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) does not apply.

*Regulatory Flexibility Act.* The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

*Paperwork Reduction Act.* This rule does not involve any collection of

information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.  
Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

■ 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in SFHAs
<b>Region V</b>				
Minnesota:				
Badger, City of, Roseau County .....	270412	April 22, 1975, Emerg; June 8, 1984, Reg; April 19, 2017, Susp..	April 19, 2017 ...	April 19, 2017.
Chatfield, City of, Fillmore and Olmsted Counties.	270125	April 15, 1982, Emerg; August 2, 1982, Reg; April 19, 2017, Susp..	.....do .....	Do.
Dover, City of, Olmsted County .....	270566	March 15, 1982, Emerg; April 15, 1982, Reg; April 19, 2017, Susp..	.....do .....	Do.
Eyota, City of, Olmsted County .....	270329	December 3, 1981, Emerg; December 15, 1981, Reg; April 19, 2017, Susp..	.....do .....	Do.
Olmsted County, Unincorporated Areas	270626	April 17, 1984, Emerg; May 19, 1981, Reg; April 19, 2017, Susp..	.....do .....	Do.
Oronoco, City of, Olmsted County .....	270330	July 3, 1974, Emerg; November 4, 1981, Reg; April 19, 2017, Susp..	.....do .....	Do.
Pine Island, City of, Goodhue and Olmsted Counties.	270145	September 4, 1974, Emerg; March 2, 1981, Reg; April 19, 2017, Susp..	.....do .....	Do.
Rochester, City of, Olmsted County .....	275246	April 3, 1970, Emerg; March 26, 1971, Reg; April 19, 2017, Susp..	.....do .....	Do.
Roseau, City of, Roseau County .....	270414	April 26, 1974, Emerg; September 29, 1978, Reg; April 19, 2017, Susp..	.....do .....	Do.
Roseau County, Unincorporated Areas	270633	April 26, 1974, Emerg; January 2, 1980, Reg; April 19, 2017, Susp..	.....do .....	Do.
Stewartville, City of, Olmsted County ...	270332	May 7, 1975, Emerg; September 2, 1982, Reg; April 19, 2017, Susp..	.....do .....	Do.
Warroad, City of, Lake Of The Woods and Roseau Counties.	270415	July 3, 1974, Emerg; December 4, 1979, Reg; April 19, 2017, Susp..	.....do .....	Do.
<b>Region VI</b>				
Louisiana:				
Baldwin, Town of, St. Mary Parish .....	220193	April 23, 1973, Emerg; December 15, 1978, Reg; April 19, 2017, Susp..	.....do .....	Do.
St. Mary Parish, Unincorporated Areas	220192	April 6, 1973, Emerg; September 3, 1980, Reg; April 19, 2017, Susp..	.....do .....	Do.

-do- =Ditto.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: April 13, 2017.

**Michael M. Grimm,**

*Assistant Administrator for Mitigation, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2017-08375 Filed 4-25-17; 8:45 am]

**BILLING CODE 9110-12-P**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Part 1**

[Docket No. DOT-OST-2012-0123]

**RIN 2105-AE64**

**Organization and Delegation of Powers and Duties**

**AGENCY:** Office of the Secretary (OST), U.S. Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary of Transportation is updating the regulations that govern the organization of DOT to clarify the responsibilities of certain OST officials and their relationships with senior leaders throughout DOT. These updates will ensure that heads of DOT operating administrations have the benefit of input from OST officials in carrying out their management responsibilities.

**DATES:** Effective April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Brett A. Jortland, Deputy Assistant General Counsel for Regulation, (202) 366-9314.

**SUPPLEMENTARY INFORMATION:****Background**

This final rule updates the regulations that organize DOT in order to clarify the role of certain OST officials in the day-to-day management of the Department. Specifically, and where consistent with statute, these officials will be viewed as the final authority on matters within their areas of expertise, and will be involved in the hiring and evaluation of senior leadership in DOT's operating administrations within their areas of expertise. While the General Counsel and the Chief Financial Officer already have similar specific authority, this rule grants explicit authority to the Assistant Secretaries for Governmental Affairs and Administration, the Chief Information Officer, and the Director of Public Affairs.

This final rule does not impose substantive requirements on the public. It is ministerial and relates only to the Department's organization, procedure, and practice. Therefore, the Department has determined that notice and comment are unnecessary and that the rule is exempt from prior notice and comment requirements under 5 U.S.C. 553(b)(3)(A). Accordingly, under 5 U.S.C. 553(d)(3), the Department finds good cause for this rule to be effective less than 30 days after its publication in the **Federal Register**.

**Regulatory Analyses and Notices***Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The Department has determined that this final rule is not a significant regulatory action under Executive Order 12866 and DOT Regulatory Policies and Procedures (44 FR 11034). It was not reviewed by the Office of Management and Budget. There are no costs associated with this rule.

*Executive Order 13132 (Federalism)*

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the consultation requirements of Executive Order 13132 do not apply.

*Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This final rule has been analyzed in accordance with the principles and

criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial or direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

**Regulatory Flexibility Act**

Because no notice of proposed rulemaking is required for this rule under the Administrative Procedure Act, 5 U.S.C. 553, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. We also do not believe this rule will impose any costs on small entities because it is merely organizational in nature. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) does not require a written statement for this final rule because the rule does not include a Federal mandate that may result in the expenditure in any one year of \$156,000,000 or more by State, local, and tribal governments, or the private sector.

**National Environmental Policy Act**

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action

is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to update the regulations that govern the organization of the Department. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

**List of Subjects in 49 CFR Part 1**

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons stated in the preamble, the Department of Transportation amends 49 CFR part 1 as follows:

**PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES**

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

**Authority:** 49 U.S.C. 322.

- 2. Revise § 1.35 to read as follows:

**§ 1.35 Assistant Secretary for Governmental Affairs.**

The Assistant Secretary for Governmental Affairs serves as the Department's primary point of contact for Congressional offices, as well as State and locally elected officials; works with other departmental offices to ensure that Congressional mandates are fully implemented by the Department; and works with the White House, other Federal agencies, and Congress to fulfill the Department's legislative priorities. The Assistant Secretary coordinates congressional and intergovernmental activities with governmental affairs offices in the Operating Administrations and is the final authority on governmental affairs issues within the Department. The Assistant Secretary participates with each Administrator in the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Directors of Governmental Affairs. The Assistant Secretary supervises the Deputy Assistant Secretary for Tribal Government Affairs who plans and coordinates the Department's policies and programs with respect to Indian tribes and tribal organizations.

- 3. Revise § 1.37 to read as follows:

**§ 1.37 Assistant Secretary for Administration.**

The Assistant Secretary for Administration is the principal advisor to the Secretary and Deputy Secretary on Department-wide administrative matters and is the final authority on these matters within the Department. The Assistant Secretary for Administration serves as the Designated Agency Safety and Health Official. The Office of the Assistant Secretary for Administration's responsibilities include: Strategic management of human capital; monitoring the progress of departmental offices related to sustainability goals; controls and standards to ensure that procurement and financial assistance programs are in accord with good business practice; follow-up and resolution of Government Accountability Office and Inspector General audit reviews; information resource management; property management information; facilities; and security. The Assistant Secretary for Administration is responsible for recommending performance objectives for the Operating Administrations'

Directors of Human Resources. The Assistant Secretary for Administration participates with each Administrator in the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Associate Administrators for Administration.

■ 4. Revise § 1.46 to read as follows:

**§ 1.46 Office of Public Affairs.**

The Director of Public Affairs is the principal advisor to the Secretary and Secretarial Officers on public affairs issues and the final authority on public affairs issues within the Department. The Office of Public Affairs prepares news releases and supporting media materials, and maintains a new media presence. The Office also provides information to the Secretary on opinions and reactions of the public and news media on programs and transportation issues. The Office of Public Affairs is responsible for the supervision, coordination, and review of the activities of the public affairs offices within the Operating Administrations. The Director of Public Affairs participates with each Administrator in

the hiring decisions (other than in the Federal Aviation Administration) and performance reviews of all of the Operating Administrations' Directors of Public Affairs.

■ 5. Revise § 1.48 to read as follows:

**§ 1.48 Office of the Chief Information Officer.**

The Chief Information Officer (CIO) is the principal information technology (IT), cyber security, privacy, and records management advisor to the Secretary, and is the final authority on these matters within the Department. The Office of the CIO supports the Organizational Excellence Strategic Goal by providing leadership on all matters associated with the Department's IT portfolio. The CIO participates with each Administrator in the hiring decisions and performance reviews of the Operating Administrations' CIOs.

Issued in Washington, DC, on April 20, 2017.

**Elaine L. Chao,**

*Secretary of Transportation.*

[FR Doc. 2017-08416 Filed 4-25-17; 8:45 am]

**BILLING CODE 4910-9X-P**

# Proposed Rules

Federal Register

Vol. 82, No. 79

Wednesday, April 26, 2017

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2017-0284; Airspace Docket No. 17-ACE-5]

#### Proposed Amendment of Class E Airspace, for Orange City, IA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to modify Class E airspace extending up to 700 feet above the surface at Orange City Municipal Airport, Orange City, IA, to accommodate new standard instrument approach procedures (SIAPs) for instrument flight rules (IFR) operations at the airport. This action is necessary due to the decommissioning of the Orange City non directional radio beacon (NDB), and cancellation of the NDB approach, and would enhance the safety and management of IFR operations at the airport. The airport's coordinates also would be updated to match the FAA's aeronautical data base.

**DATES:** Comments must be received on or before June 12, 2017.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366-9826, or 1-800-647-5527. You must identify FAA Docket No. FAA-2017-0284/Airspace Docket No. 17-ACE-5, at the beginning of your comments. You may also submit comments through the Internet at <http://www.regulations.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

FAA Order 7400.11, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at [http://www.faa.gov/air\\_traffic/publications/](http://www.faa.gov/air_traffic/publications/). For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202-267-8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call 202-741-6030, or go to [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

FAA Order 7400.11A, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

**FOR FURTHER INFORMATION CONTACT:** Ron Laster, Federal Aviation Administration, Contract Support, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5879.

#### SUPPLEMENTARY INFORMATION:

##### Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Orange City Municipal Airport, Orange City, IA, to accommodate new SIAPs for IFR operations at the airport.

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2017-0284/Airspace Docket No. 17-ACE-5." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at [http://www.faa.gov/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel

concerned with this rulemaking will be filed in the docket.

### Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface within the 6.4-mile radius of Orange City Municipal Airport, Orange City, IA, and within 2.6 miles each side of the 165° bearing from the airport extending from the 6.4-mile radius to 10.1 miles south of the airport. The segment each side of the 172° bearing from the Orange City NDB extending from the 6.4-mile radius to 7.4 miles south of the airport would be removed due to the decommissioning of the NDB, and cancellation of the NDB approach. The airport coordinates also be amended to be in concert with the FAA's aeronautical database. This action would enhance the safety and management of the standard instrument approach procedures for IFR operations at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

### Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air

traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS**

- 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

#### **§71.1 [Amended]**

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### **ACE IA E5 Orange City, IA [Amended]**

Orange City Municipal Airport, IA  
(Lat. 42°59'20" N., long. 96°03'45" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Orange City Municipal Airport and within 2 miles each side of the 165° bearing from the airport extending from the 6.4-mile radius to 10.1 miles south of the airport.

Issued in Fort Worth, Texas, on April 18, 2017.

#### **Walter Tweedy,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

[FR Doc. 2017-08367 Filed 4-25-17; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

RIN-0648-XF140

### Plan for Periodic Review of Regulations

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of plan for periodic review of regulations; request for comments.

**SUMMARY:** Regulatory Flexibility Act (RFA) section 610 requires that the NOAA Office of National Marine Sanctuaries (ONMS) periodically review existing regulations that have a significant economic impact on a substantial number of small entities, such as small businesses, small organizations, and small governmental jurisdictions. This plan describes how ONMS will perform this review and describes the regulation proposed for review during the current review-cycle.

**DATES:** Written comments must be received on or before May 15, 2017.

**ADDRESSES:** Comments may be submitted by:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2017-0001>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

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

**FOR FURTHER INFORMATION CONTACT:** Meredith Walz, NOAA Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, MD 20910, [Meredith.Walz@noaa.gov](mailto:Meredith.Walz@noaa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that federal agencies take into account how their regulations affect “small entities,” including small businesses, small governmental jurisdictions and small organizations. For regulations proposed after January 1, 1981, the agency must either prepare a Regulatory Flexibility Analysis or certify the regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Section 610 of the RFA requires federal agencies to review existing regulations. It requires that ONMS publish a plan in the **Federal Register** explaining how it will review existing regulations which have or will have a significant economic impact on a substantial number of small entities. Regulations that become effective after January 1, 1981 must be reviewed within 10 years of the publication date of the final rule. Section 610(c) requires that ONMS publish in the **Federal Register** a list of rules it will review during the succeeding 12 months. The list must describe, explain the need for, provide the legal basis for the rules, as well as invite public comment on the rules.

In addition, section 605 of the RFA provides that, when a rule is promulgated, the head of an agency may certify to the Small Business Administration’s Chief Counsel for Advocacy that a rule would not have a significant economic impact on a substantial number of small entities. Section 610 of the RFA requires review of these previously certified rules if the agency is aware of changed conditions that may mean that a certified rule now does have a significant impact.

**Criteria for Review of Existing Regulations**

The purpose of the review is to determine whether existing rules should be left unchanged, or whether they should be revised or rescinded in order to minimize significant economic impacts on a substantial number of small entities, consistent with the objectives of other applicable statutes. In deciding whether change is necessary, RFA section 610(b) establishes five factors that agencies will consider in reviewing existing regulations:

- (1) Whether the rule is still needed;
- (2) What type of complaints or comments were received concerning the rule from the public;
- (3) The complexity of the rule;
- (4) How much the rule overlaps, duplicates or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules; and
- (5) How long it has been since the rule has been evaluated or how much the technology, economic conditions, or other factors have changed in the area affected by the rule.

**Plan for Periodic Review of Rules**

ONMS will conduct reviews in such a way as to ensure that all rules for which a Final Regulatory Flexibility Analysis was prepared are reviewed within 10 years of the year in which they were originally issued. During this same period, ONMS will also review other rules certified under RFA section 605 as not having significant impacts. ONMS will evaluate whether those rules now have a significant impact and therefore should be reviewed under RFA section 610. ONMS intends that it will conduct section 610 reviews on applicable regulations on an annual basis. ONMS will make RFA Section 610 review reports available at the following Web site: <http://sanctuaries.noaa.gov/library/alldocs.html>.

**ONMS Regulation Requiring Review for 2017**

One rulemaking finalized in 2007 requires review under RFA section 610: “Establishment of Marine Reserves and a Marine Conservation Area Within the Channel Islands National Marine Sanctuary”. RIN 0648–AT18. (72 FR 29208; May 24, 2007). ONMS issued this rule to supplement the State of California’s marine reserves implemented in the state waters of the sanctuary in 2001 to 2003. This rule implemented new marine zones only in the Federal waters of the sanctuary, extending from the offshore extent of state waters to the outer boundary. This federal action established two types of zones: Marine reserves and marine conservation areas. All extractive activities (*e.g.*, removal of any sanctuary resource) and injury to sanctuary resources are prohibited in all marine reserves. Commercial and recreational lobster fishing and recreational fishing for pelagic species are allowed within the marine conservation area, while all other extraction and injury are prohibited. This action established approximately 110.5 square nautical miles of marine reserves and 1.7 square nautical miles of marine conservation area in the federal waters of the sanctuary.

ONMS invites comments on the Channel Islands National Marine Sanctuary marine reserves rule. ONMS plans to complete the RFA section 610 review of the regulation by May 24, 2017. Unless we publish a notice stating otherwise, ONMS will make the final report available at <http://sanctuaries.noaa.gov/library/alldocs.html>.

Dated: April 17, 2017.

**John Armor,**  
*Director, Office of National Marine Sanctuaries.*

[FR Doc. 2017–08404 Filed 4–25–17; 8:45 am]

**BILLING CODE 3510–NK–P**



# Notices

Federal Register

Vol. 82, No. 79

Wednesday, April 26, 2017

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

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

April 21, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; 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 26, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street, NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: [OIRA\\_Submission@OMB.EOP.GOV](mailto: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.

### Foreign Agricultural Service

*Title:* Dairy Tariff-Rate Import Quota Licensing Program.

*OMB Control Number:* 0551-0001.

*Summary of Collection:* The Dairy Tariff-Rate Import Quota regulation (the Regulation) (7 CFR part 6.20-6.37) which governs the administration of the import licensing system applicable to most dairy products subject to tariff-rate quotas (TRQs). The importation of most cheese made from cow's milk and certain non-cheese dairy articles (butter, dried milks, and butter substitutes) are subject to TRQs and must be accompanied by an import license issued by the Department to enter at the lower tariff. Importers without licenses may enter these dairy articles, but are required to pay the higher tariff. The Foreign Agricultural Service (FAS) will collect information using several forms.

*Need and Use of the Information:* FAS will use the collected information in the administration of the tariff-rate import quota licensing system for certain dairy products and the issuance of licenses in accordance with the Regulation. If the information were collected less frequently, FSA would be unable to issue licenses on an annual basis in compliance with the Import Regulation.

*Description of Respondents:* Business or other-for-profit.

*Number of Respondents:* 700.

*Frequency of Responses:* Record keeping, Reporting: Annually.

*Total Burden Hours:* 479.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2017-08418 Filed 4-25-17; 8:45 am]

**BILLING CODE 3410-10-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Nez Perce-Clearwater National Forests, Palouse Ranger District; Idaho; Little Boulder Project

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Little Boulder project was released for public scoping in November 2014. The anticipated National Environmental Policy Act (NEPA) analysis level at that time was an environmental assessment. Upon further environmental impact analysis, the responsible official decided to proceed with an environmental impact statement (EIS) to analyze and disclose any significant effects which may result from the proposed action. Those who submitted comments in response to the initial scoping request within the allotted timeframe already have standing to object. To establish standing to object, comments may still be submitted in response to this notice no later than 30 days from May 26, 2017 OR by providing comments during the 45-day comment period following distribution of the draft EIS.

**DATES:** The draft environmental impact statement is expected September 2017 and the final environmental impact statement is expected March 2018.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Israel, NEPA Planner (North Zone), Nez Perce-Clearwater National Forests, (208) 476-8344 or [sisrael@fs.fed.us](mailto:sisrael@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 a.m. and 8 p.m., Eastern Time, Monday through Friday.

### SUPPLEMENTARY INFORMATION:

#### Purpose and Need for Action

The purpose of the Little Boulder project is to create conditions that are more resilient to disturbance by restoring white pine and other seral tree species and to initiate recovery of watershed function. Currently, grand fir and Douglas-fir tree species dominate the landscape within the proposed project area. The current species composition is creating intense competition for nutrients and ladder fuels in the drier, fire-dependent ecosystems. If left untreated, these conditions would lead to a decline in forest health and put future ecological, societal, and economical values at risk.

There is a need to initiate recovery of watershed function with management actions aimed at reducing long-term

sedimentation to streams and improving soil productivity. Nearly all of the fish-bearing streams in the Little Boulder project area are critical habitat for steelhead. A combination of various past management activities have resulted in channels with excess sediment, areas of bank instability, and decreased fisheries habitat. The proposed activities in the Little Boulder project would aim to improve future watershed conditions.

### Proposed Action

The original proposed action identified has been modified based on additional field review, resource concerns, and scoping comments. Information about the original proposed action can be found on the project Web site at <http://prdp2fs.ess.usda.gov/project/?project=45225>. The current proposal, also identified as Alternative 2, would harvest timber from approximately 2,680 acres. Non-commercial fuels reduction treatments would occur on approximately 1,180 acres. Proposed activities would require construction of 5.2 miles of new roads, 9 miles of reconstruction, and 14.9 miles of road re-conditioning. 10.2 miles of temporary roads would be decommissioned after harvest.

Watershed improvements would include: Placing existing roads needed for future management into intermittent storage; improving channel and riparian function through woody debris and vegetation treatments; replacing undersized or deteriorated culverts; replacing existing Ruby Creek ford with a bridge or other aquatic organism passage structure; and decompacting existing skid trails and landings.

### Possible Alternatives

Three alternatives are being developed in addition to the proposed action (Alternative 2) for the Little Boulder project: Alternative 1—No-action; Alternative 2—Proposed Action (preferred); Alternative 3—Existing Roads; Alternative 4—Openings Less Than 40 Acres in Size.

### Responsible Official

Forest Supervisor, Nez Perce-Clearwater National Forests.

### Nature of Decision To Be Made

The Responsible Official will determine whether to adopt the proposed action or another alternative, in whole or in part, and what mitigation measurements and management requirements will be implemented.

### Scoping Process

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments submitted in a timely and appropriate response to the previous notification to prepare an environmental assessment were reviewed, considered, and already established standing to object.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent environmental documents.

Dated: April 13, 2017.

**Glenn P. Casamassa,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017-08406 Filed 4-25-17; 8:45 am]

**BILLING CODE 3411-15-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Revision of Land Management Plan for Gila National Forest; Counties of Catron, Grant, Hidalgo, and Sierra, New Mexico

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to revise the Gila National Forest Land Management Plan and prepare an associated Environmental Impact Statement.

**SUMMARY:** As directed by the National Forest Management Act, the USDA Forest Service is revising the Gila National Forest's Land Management Plan (hereafter referred to as Forest Plan) through development of an associated National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS). This notice describes the documents available for review and how to obtain them; summarizes the needs for change to the existing Forest Plan; provides information concerning public participation and collaboration,

including the process for submitting comments; provides an estimated schedule for the planning process, including the time available for comments, and includes the names and addresses of agency contacts who can provide additional information.

**DATES:** Comments concerning the Needs for Change and Proposed Action provided in this notice will be most useful in the development of the revised plan and draft EIS if received by June 12, 2017. The agency expects to release a draft revised plan and draft EIS, developed through a collaborative public engagement process by spring 2018, and a final revised plan and final EIS by summer/fall 2019.

**ADDRESSES:** Send written comments to Gila National Forest, Attn: Plan Revision, 3005 E. Camino del Bosque, Silver City, NM 88061. Comments may also be sent via email to [gilaplan@fs.fed.us](mailto:gilaplan@fs.fed.us).

**FOR FURTHER INFORMATION CONTACT:** Matt Schultz, Forest Planner, Gila National Forest, 575-388-8280. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday. More information on our forest plan revision process can be found on our Web site at <http://go.usa.gov/h88k>.

**SUPPLEMENTARY INFORMATION:** The National Forest Management Act (NFMA) of 1976 requires that every National Forest System (NFS) unit develop a forest plan. On April 9, 2012, the Forest Service finalized its land management planning rule (2012 Planning Rule, 36 CFR 219), which describes requirements for the planning process and the content of the forest plans. Forest plans describe the strategic direction for management of forest resources for ten to fifteen years, and are adaptive and amendable as conditions change over time. Under the 2012 Planning Rule, the assessment of ecological, social, cultural, and economic conditions and trends is the first stage of the planning process (36 CFR 219.6). The second stage, formal plan revision, involves the development of our forest plan in conjunction with the preparation of an Environmental Impact Statement under the National Environmental Policy Act (NEPA). The third stage of the process is monitoring and feedback, which is ongoing over the life of the revised forest plans.

The Gila National Forest has completed its assessment pursuant to 2012 Forest Planning Rule. The assessment was developed with public participation and includes an evaluation

of existing information about relevant ecological, economic, cultural and social conditions, trends, and sustainability and their relationship to forest plans within the context of the broader landscape. The intent of the Gila National Forest is that this information builds a common understanding prior to entering formal plan revision. With this notice, the Gila National Forest is initiating formal plan revision and invites other governments, non-governmental parties, and the public to contribute. The intent of public engagement is to inform development of the plan revision. We encourage contributors to share material that may be relevant to the planning process, including desired conditions for the Gila National Forest. As we develop public engagement opportunities to assist with the plan revision phase, public announcements will be made and information will be posted on the Forest's Web site: <http://go.usa.gov/h88k>. If you would like to contribute to the process or for more information email [gilaplan@fs.fed.us](mailto:gilaplan@fs.fed.us), or contact Matt Schultz, Forest Planner, Gila National Forest, 575-388-8280.

#### **Name and Address of the Responsible Official**

Adam Mendonca, Forest Supervisor, Gila National Forest, 3005 E. Camino del Bosque, Silver City, NM 88061.

#### **Nature of the Decision To Be Made**

The Gila National Forest is preparing an EIS to revise the existing forest plan. The EIS process is meant to inform the Forest Supervisor so he can decide which alternative best maintains and restores National Forest System terrestrial and aquatic resources while providing ecosystem services and multiple uses, as required by the National Forest Management Act and the Multiple Use Sustained Yield Act.

The revised forest plan will describe the strategic intent of managing the Forest for the next 10 to 15 years and will address the identified needs for change to the existing land management plans. The revised forest plan will provide management direction in the form of desired conditions, objectives, standards, guidelines, and suitability of lands. It will identify delineation of new management areas and possibly geographic areas across the Forest; identify the timber sale program quantity; make recommendations to Congress for Wilderness designation; and list rivers and streams eligible for inclusion in the National Wild and Scenic Rivers System. The revised forest plan will also provide a description of the plan area's distinctive roles and

contributions within the broader landscape, identify watersheds that are a priority for maintenance or restoration, include a monitoring program, and contain information reflecting expected possible actions over the life of the plan.

It is also important to identify the types of decisions that will not be made within the revised forest plan. The revised forest plan will represent decisions that are strategic in nature, but will not make site-specific project decisions and will not dictate day-to-day administrative activities needed to carry on the Forest Service's internal operations. The authorization of project level activities will be based on the guidance/direction contained in the revised plan, but will occur through subsequent project specific NEPA analysis and decision-making.

The revised forest plan will provide broad, strategic guidance that is consistent with other laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those might be associated with a Travel Management plan under 36 CFR part 212. Some issues (e.g., hunting regulations), although important, are beyond the authority or control of the National Forest System and will not be considered.

#### **Purpose and Need (Needs for Change) and Proposed Action**

According to the National Forest Management Act, forest plans are to be revised at least every 15 years. The purpose and need for revising the current forest plan are to: (1) Update the Forest Plan which was approved in 1986 and is over 30 years old, (2) reflect changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research, and (3) address the preliminary identified needs for change to the existing plan, which are summarized below. Extensive public and employee involvement, along with science-based evaluations, have helped to identify these preliminary needs for change to the existing forest plan.

What follows is a summary of the preliminary identified needs for change. A more fully developed description of the preliminary needs for change, which has been organized into several resource and management topic sections, is available for review on the plan revision Web site at: <http://go.usa.gov/h88k>.

#### **Plan-Wide Changes**

The ability of the National Forest to continue to provide desired social and economic benefits associated with recreation and tourism, ranching, hunting, timber, and other natural resources is affected by changing social, economic, and environmental conditions. To help balance these demands with sustainability, there is a need to:

1. Develop a desired condition to recognize and improve the Forest's role in contributing to local economies through recreation and tourism, timber and forest products, livestock grazing, and other multiple-use related activities and products while balancing these uses with available resource capacity and emerging opportunities.

2. Include management approaches throughout the plan as appropriate that consider the capacity of infrastructure, contractors and markets when planning towards desired conditions.

*Relationships and Partners.* Especially with challenges related to lower budgets and staffing levels, strong working relationships can help successfully implement the forest plan. With this in mind, there is a need to:

3. Include management approaches throughout the plan as appropriate that utilize collaboration with stakeholders, partnerships and volunteer opportunities as a management option to strengthen relationships and to promote movement toward desired conditions. This includes but is not limited to local, state, and federal agencies, local and tribal governments, elected officials, local communities, interested individuals, businesses, permittees, recreation and forest user groups, fire safety and community protection groups, environmental and conservation organizations, users with historic ties to the forest, volunteer and stewardship groups, educators, and youth groups. This also includes management approaches that encourage working with neighboring land managers to implement projects at a scale that improves landscape scale connectivity across mixed ownerships where natural systems, such as watersheds and wildlife corridors, span multiple administrative boundaries.

4. Develop management approaches that can strategically leverage and streamline processes for engaging partners and volunteers during project implementation and monitoring.

5. Create management approaches that emphasize public education about the Gila NF's diverse ecological, social, and economic resources, the multiple-use sustained yield philosophy, public laws

and regulations, shared use ethics, and management strategies.

6. Prepare desired conditions and management approaches aimed at connecting people—particularly youth and underserved populations—with public lands and nature.

*Applicable Laws, Regulations, and Policies.* Forest plans must be consistent with all applicable laws, regulations, and policies, but should not repeat those requirements. Therefore, there is a need to:

7. Remove components that are redundant with existing laws, regulations and Forest Service policy where possible. These should be incorporated by specific reference, which will allow the plan to be up to date with the most recent versions without amendments.

*Resource Management Approaches.* The current forest plan imposes internal management boundaries, often with different management direction. This artificially fragments the National Forest and creates unnecessary complexities. Therefore, there is a need to:

8. Reevaluate the number, arrangement, and boundaries related to current forest plan management areas, and base new ones on ecological boundaries such as ecological response units (ERUs).

9. Include plan direction that provides for adaptive management. There is also a need for plan components to be more strategic than prescriptive and for increased usage of management approaches based on best available science and monitoring.

10. Develop a monitoring program that collects relevant data, tracks progress toward desired conditions, distributes information consistently, and allows for a responsive adaptive management program with available resources, and uses updated terminology and methodologies especially for air quality, facilities, fire/fuels, lands, timber, and wilderness monitoring elements.

### Ecological Changes

The cumulative effects of past management, combined with current management actions and inactions have contributed to departure from the natural range of variation and risk to ecological integrity.

*Upland Vegetation.* Past fire suppression, historic overgrazing, and other activities have disrupted many natural processes, such as wildfire and natural vegetation succession. In the meantime, factors such as climate change, drought, and uncharacteristic fires have made upland vegetation (*i.e.*, terrestrial vegetation communities) more

vulnerable to insects, diseases, and non-native species. To address these issues, there is a need to:

11. Develop desired conditions regarding vegetation structure, composition, and function, as well as objectives, standards, guidelines and management approaches that will promote ecological restoration, support ecological resilience, and minimize risks.

12. Develop desired conditions, standards, guidelines, and management approaches to better promote the restoration and maintenance of native herbaceous vegetation, limit woody species encroachment/infill and non-native invasive plant establishment.

*Frequent Fire and Infrequent Fire Ecosystems.* Restoring natural vegetation conditions can increase environmental resiliency, but restoring natural ecological processes such as fire is key to sustainability. Specifically, fire can reduce the risk of larger, more severe wildfires. However, restoring the historic fire regime faces challenges related to altered fuel characteristics, climate change, and operational, budget, policy, and political constraints. To address these issues, there is a need to:

13. Update current plan direction to better support an integrated resource approach to increase flexibility for the restoration and maintenance of fire as an ecological process while addressing firefighter and public safety and health concerns, especially in the Wildland Urban Interface (WUI).

14. Develop plan direction that recognizes the natural role of fire and its use as a management tool to help achieve desired conditions appropriate to both frequent and infrequent fire ERUs across the landscape.

15. Develop plan direction that allows for the flexibility to manage naturally ignited fires to meet land management objectives based on weather and site-specific conditions (*e.g.* fuel conditions, topography, safety concerns and values). These objectives may include the use of fire to reduce fuel accumulations, reduce the risk of future undesirable fires, improve wildlife habitat and range conditions, and improve watershed and overall forest health.

16. Update plan direction to address vegetation structure in within the Wildland Urban Interface (WUI), since these areas may have different desired conditions than non-WUI areas.

17. Consider landscape dynamics of old growth populations when replacing current plan direction with the revised plan content identified in statement 11.

*Soils, Watershed, Riparian Ecosystems, and Aquatic Habitat.* The past and present management factors

impacting upland vegetation have also impacted soils, watersheds, riparian ecosystems and aquatic habitat. While the National Forest has no ability to control or influence cycles of drought, climate change, water allocation or use, there is a need to:

18. Develop desired conditions, standards, guidelines, and management approaches to restore, maintain and sustainably manage soil stability, hydrologic and nutrient cycling functions (aka soil condition) for both ecosystem and watershed health.

19. Develop desired conditions, standards, guidelines, and management approaches to inventory, restore, maintain and sustainably manage riparian areas, including those associated with springs, seeps and wetlands.

20. Develop plan direction that better recognizes the connections and interrelationships of ecosystems and watershed condition and facilitates integration of their management.

21. Develop desired conditions, standards, guidelines, and management approaches to restore, maintain and sustainably manage watershed condition.

22. Develop adaptive management approaches for water dependent resources and multiple-uses.

23. Update plan direction and develop management approaches to sustainably manage water resources via enhancing adaptation by anticipating and planning for disturbances from intense storms; reducing watershed vulnerability by maintaining and restoring resilient ecosystems; increasing water conservation and planning for reductions in upland water supplies; and avoiding actions that exacerbate drought effects.

*Wildlife, Fish, and Plants.* The Gila National Forest is home to hundreds of animal and plant species, some of which are found only on the Gila National Forest. For a few species, changing land use outside of the Gila National Forest has increased the species' reliance on Forest Service managed lands. Recent studies have identified 66 at-risk species, including six endangered, seven threatened, two proposed threatened and 51 species of conservation concern on the Gila National Forest. Restored, resilient, and connected habitats are necessary to maintaining species diversity across the National Forest. To help achieve this, there is a need to:

24. Develop desired conditions and standards and guidelines that support ecological conditions that contribute to the conservation and recovery of federally recognized species, as well as

maintain viable populations of species of conservation concern and other native species.

25. Develop standards and guidelines that allow for managing toward terrestrial, riparian and aquatic habitat and population connectivity for terrestrial and aquatic species movement across the landscape, while allowing for the restoration of the range of native species.

*Restoration Approaches and Tools.* Many Gila National Forest ecosystems are not as resilient as they might be. Restoration treatments are not at the scale to affect change. Fire is an important tool, but it is not the only tool available to facilitate restoration. Mechanical and manual vegetation treatments, along with managed fire, are expected to occur more often and over larger areas, with a continued emphasis on landscape scale restoration. These types of treatments have met with variable success, often producing increases in shade intolerant, re-sprouting native species such as alligator juniper. While the Gila National Forest does not currently have extensive issues with invasive species, in the coming years, such species may compound the challenge to effectively restore ecosystem resiliency. To maintain restoration treatments and the trajectory toward desired conditions, there is a need to:

26. Update plan direction regarding integrated pest management and provide plan direction on the use of pesticides for restoration.

27. Develop standards and guidelines to address the presence of nonnative species by encouraging the removal of existing populations, limiting the introduction and spread of new populations while promoting the characteristic composition and condition of native species.

#### **Social, Cultural, and Economic Changes**

The previously identified risks to ecological integrity and sustainability may impact the Forest's ability to contribute to some of the social, cultural and economic benefits desired and enjoyed by people in local communities, surrounding areas and visitors to the area.

*Recreation.* The Gila National Forest features a diverse range of recreational opportunities, including opportunities for solitude. There are nearly 2,000 miles of trails in the Forest trail system, including almost 200 miles of recently designated motorized trails and more than 850 miles of wilderness trails. However, because of limited maintenance funds and uncharacteristic wildfire and post-fire flooding, many

trails may be infrequently maintained and difficult to follow. Recreational demands, including permitted special uses, are increasing, while many recreational opportunities have limited availability on adjacent lands. Other challenges include sustainability under current funding levels and conflicting use demands. There is a need to:

28. Develop desired conditions, standards, guidelines and management approaches to address the long-term sustainability, changing trends in demands, and intended use of recreation infrastructure, trails, and facilities.

29. Update existing and develop new desired conditions, standards, and guidelines for management of recreation activities and permitted special uses that occur in areas that are sensitive or at risk of resource degradation due to high visitation.

30. Include guidelines and management approaches to implement public education and to anticipate demand and minimize conflicts between uses.

31. Update existing desired conditions, standards, guidelines and management approaches to emphasize the importance of scenery and recreation opportunity effects when planning projects across all Forest program areas.

32. Create desired conditions, standards, guidelines, and management approaches for cave management, backcountry river use, and rockclimbing since these activities are not addressed in the current Forest Plan.

33. Update plan direction for administration of the special uses program to be aligned with current National, Regional, and Forest policy direction.

34. Prepare desired conditions, standards, and guidelines to balance consideration of special uses requests with impacts to natural and cultural resources, wilderness character, and other forest uses.

*Designated Areas.* Designated areas represent identified exceptional areas that have distinct or unique characteristics warranting special designation. These areas have management objectives to maintain their unique characteristics. The Gila National Forest contains the world's first designated wilderness and altogether has three large wilderness areas in relatively close proximity that total nearly 800,000 acres. Most permitted outfitter and guide use occurs within designated wilderness areas and is expected to grow with the demand for trophy elk hunting. Other designated areas include scenic byways, research

natural areas, national recreation trails, and 254 miles of the Continental Divide National Scenic Trail. The plan revision process includes an inventory and evaluation process for lands and rivers that may be suitable for congressional designation, and other potential administrative designations (*e.g.* botanical, geological areas and research natural areas) will also be further considered. To address these unique management needs and requirements, there is a need to:

35. Update desired conditions, standards, guidelines and management approaches for managing existing or potential new designated areas to maintain desired character and values unique to each area.

36. Update plan direction for the Continental Divide National Scenic Trail (CDNST) to follow the management policy and direction outlined in the 2009 Continental Divide National Scenic Trail Comprehensive Plan and to adapt desired conditions and standards from the Regional Foresters' CDNST plan revision considerations policy letter issued August 2016.

37. Update current standards and guidelines for completing permitted outfitter/guide use capacities within wilderness to inform management decisions in light of changing social and environmental conditions, and to continue to maintain alignment with National, Regional, and Forest policy direction.

*Range.* Most rangeland vegetation on the National Forest is in fair condition, with stable to upward trends. However, woody species encroachment, climate change, drought, and invasive species may reduce rangeland productivity. Future management that focuses on the restoration and maintenance of ecological integrity is required to address these sustainability issues. Fire restoration objectives and the protection of endangered and threatened species can pose range management challenges. Increased management flexibility that responds to climatic, operational or resource condition changes is necessary to address these challenges, and therefore there is a need to:

38. Update plan direction for livestock management that incorporates increased flexibility and adaptive management in order to restore and maintain ecological integrity of rangelands.

*Timber and Special Forest Products.* The National Forest provides timber and forest products, mainly to local communities and mills. Forest restoration and landscape-scale restoration projects can help sustain

forest and watershed health, reduce potential for uncharacteristic wildfire, maintain or improve wildlife habitat, and maintain the ability to sustainably meet local demand. To facilitate these efforts, there is a need to:

39. Update timber suitability determinations consistent with updated plan desired conditions.

*Infrastructure.* Limited funding has led to an increasing amount of deferred infrastructure maintenance, affecting administrative buildings, recreation buildings, communication structures, lookout towers, airstrips, remote cabins, roads, trails, and range and wildlife developments. Roads and trails across the National Forest are important for access and fire management, and facilitate multiple-uses, but have potential negative ecological impacts. To help address these issues, there is a need to:

40. Develop plan direction and management approaches to ensure sustainable infrastructure (*e.g.*, roads, trails, recreation and administrative facilities, range developments, airstrips, etc.) while being adaptive to budgets and resource needs (demand for services, activities, types of facilities).

41. Provide plan direction and management approaches for the maintenance prioritization process of the Gila's National Forest System roads.

42. Update plan direction and management approaches for decommissioning of unneeded roads that accounts for budgets/resource needs and constraints, but that also involves affected stakeholders.

*Cultural and Historic Resources.* With about 12,000 years of known human occupation and use, the National Forest includes numerous historic properties and traditional cultural properties as defined by the National Historic Preservation Act of 1966. These sites provide valuable information and cultural connections. However, these sites are not fully inventoried and are vulnerable to natural and human processes such as erosion, wildfire, and recreational use. To help protect these sites, there is a need to:

43. Update plan direction to stabilize, preserve, interpret, and protect historic and sensitive properties (*e.g.*, archaeological sites, historic structures, and traditional cultural properties).

44. Prepare plan direction that recognizes the inherent value and sensitivity of traditional cultural properties, while maintaining the security of information about such sites.

45. Develop desired conditions in the plan to address the alignment of cultural resource management objectives with

other land and resource management objectives.

*Areas of Tribal Importance.* The National Forest works with 10 Native American tribes in four states on policies, plans, projects, programs, and activities that might affect tribal interests. Management challenges include changes in access, forest and watershed degradation, and land development and recreational interference with traditional activities. To help tribal interests and use, there is a need to:

46. Update plan direction on giving consideration to the value and importance of areas that may be identified as a sacred site or part of an important cultural landscape by tribes (also see Land Status and Ownership, Use and Access section below).

47. Develop management approaches that include opportunities for integrating Forest management with tribal needs through shared stewardship.

*Traditional and Cultural Ways of Life.* For many years, the lands of the Forest have provided economic, social, and religious value to Native Americans, Hispanics, and Anglo-American traditional communities. The continued use and access to the Forest contributes greatly to the continuation of local culture and tradition, and therefore there is a need to:

48. Provide management direction for historic and contemporary cultural uses, including both economic and noneconomic uses for tribes and for those traditional communities not considered under tribal relations (*i.e.*, traditional Hispanic and Anglo communities).

*Land Status and Ownership, Use, and Access.* The Lands program faces many challenges, including access and encroachment issues, title claims, communication site demands, wildland-urban interface expansion, completing property boundary surveys, and fragmentation. To help address these issues, there is a need to:

49. Develop plan direction related to Forest Service land acquisitions, disposals, and exchanges that are not covered by the existing Forest Plan.

50. Prepare plan direction for the authorization, location, and inspection of current and future communication site infrastructure because there is an increasing demand on the Forest for these services.

51. Create plan direction that is more flexible to changes in technology and can be responsive to future needs and changes in communication site demand.

52. Include management approaches for the resolution of existing and

prevention of new encroachment cases on the Forest.

53. Formulate plan direction that encourages the protection of existing public access and the acquisition of new public access opportunities to National Forest lands.

*Energy and Minerals.* Policies and regulations regarding personal collecting of rocks, minerals, and gold ore have been identified as an area of desired improvement. To improve accuracy and consistency in this area, there is a need to:

54. Include management approaches for education and communication of policies regarding recreational mining and non-commercial rock and mineral specimen collection activities.

### Public Involvement

Public participation in the planning process began prior to the May 2015 publication of a notice in the **Federal Register** that marked the official start of the assessment. A series of community conversations were held in March 2015 at Quemado, Reserve, Glenwood, Silver City, Mimbres and Truth or Consequences. The desired outcomes of these conversations were to introduce forest plan revision, identify expectations, opportunities and methods for communication and engagement, and build or enhance relationships between the Gila NF and its stakeholders. The information shared during these meetings were used to develop the Forest's Public Participation Strategy. The Public Participation Strategy and summaries of these conversations are available on the Gila NF's Plan Revision Web page at <http://go.usa.gov/h88k>.

Since March 2015, the Gila NF has presented on plan revision at 40 governmental and organizational meetings. Informational booths at over 15 special events such as county fairs have been an ongoing way to share materials summarizing the plan revision process. On-line and interactive classroom sessions to engage youth and educators were conducted by Western New Mexico University.

Another round of public meetings at the same locations was held in August 2015 to gather input for the assessment phase of plan revision. Participants were provided an overview of the assessment process, including the 15 topics identified in the 2012 Planning Rule. Opportunities were also provided for stakeholders to share knowledge, plans, and data for the assessment. This input was used in the development of parts of the ecological, and social, cultural and economic sections of the

assessment including a section devoted to stakeholder input in most chapters.

In February 2016, the Gila NF and the Southwestern Regional Office participated in the 6th Natural History of the Gila Symposium hosted by Western New Mexico University. Ecological assessment data and analysis approaches were presented, including: an overview of forest plan revision, the analysis framework, state and transition modeling, vegetation, soil, water, at-risk species and a history of insects and disease.

The Forest released the draft assessment report in September 2016 and draft need-for-change document in October 2016 to the public and other stakeholders for feedback. Community meetings were held in communities surrounding the Forest (including Las Cruces) in late October to early November 2016 to discuss assessment key findings, collaborate to determine needs-for-change to the current plan, and continue the dialogue between the Forest and nearby residents, users, and interested individuals. All meeting materials have been posted online at <http://go.usa.gov/h88k> to provide an opportunity for people that couldn't attend the meetings to be able to view the materials, and to provide feedback. The Forest received 78 emails, letters, and forms providing feedback on the draft assessment report and need-for-change document, which were all considered as the Gila NF revised and finalized the documents. Stakeholder engagement will continue throughout the upcoming plan and EIS development.

### Scoping Process

Written comments received in response to this notice will be analyzed to complete the identification of the needs for change to the existing plan, further develop the proposed action, and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action. Comments on the preliminary needs for change and proposed action will be most valuable if received by [45 days from date of publication in the **Federal Register**], and should clearly articulate the reviewer's opinions and concerns. Comments received in response to this notice, including the names and addresses of those who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered in the NEPA process; however, anonymous comments will not provide the Agency with the ability to provide the respondent with subsequent

environmental documents, nor will anonymous comments provide standing to the commenter for the eventual Objection process. See the below Objection process material, particularly the requirements for filing an objection, for how anonymous comments are handled during the objection process. Refer to the Forest's Web site (<http://go.usa.gov/h88k>) for information on when public meetings will be scheduled for refining the proposed action and identifying possible alternatives to the proposed action.

### Applicable Planning Rule

Preparation of the revised forest plan for the Gila National Forest began with the publication of a Notice of Assessment Initiation in the **Federal Register** on May 18, 2015 (80 FR 28222) and was initiated under the planning procedures contained in the 2012 Forest Service planning rule (36 CFR 219 (2012)).

### Permits or Licenses Required To Implement the Proposed Action

No permits or licenses are needed for the development or revision of a forest plan.

### Decisions Will Be Subject to Objection

The decision to approve the revised forest plan for the Gila National Forest will be subject to the objection process identified in 36 CFR part 219 Subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), those who may file an objection are individuals and entities who have submitted substantive formal comments related to plan revision during the opportunities provided for public comment during the planning process.

### Documents Available for Review

The Needs for Change documentation, the Assessment Report, summaries of the public meetings and public meeting materials, and public comments are posted on the Forest's Web site at: <http://go.usa.gov/h88k>. As necessary or appropriate, the material available on this site will be further adjusted as part of the planning process using the provisions of the 2012 planning rule.

**Authority:** 16 U.S.C. 1600–1614; 36 CFR part 219 [77 FR 21260–21273].

Dated: April 13, 2017.

**Glenn Casamassa,**

*Associate Deputy Chief, National Forest System.*

[FR Doc. 2017–08407 Filed 4–25–17; 8:45 am]

**BILLING CODE 3411–15-P**

## COMMISSION ON CIVIL RIGHTS

### Agenda and Notice of Public Meeting of the District of Columbia 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 District of Columbia Advisory Committee to the Commission will convene at 10:00 a.m. (EDT) Tuesday, May 9, 2017 at the offices of the U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue NW., Suite 1150, Washington, DC 20425. The purpose of the planning meeting is to discuss and select the topic for the committee's civil rights project.

**DATES:** Tuesday, May 9, 2017 at 11:30 a.m. EDT.

**ADDRESSES:** 1331 Pennsylvania Avenue NW., Suite 1150, Washington, DC 20425.

**SUPPLEMENTARY INFORMATION:** Persons with accessibility needs should contact the Eastern Regional Office no later than 10 working days before the scheduled meeting by sending an email to the following email address at [ero@usccr.gov](mailto:ero@usccr.gov).

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Tuesday, May 2, 2017. 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@usccr.gov](mailto:Evelyn.Bohor@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=241>; 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](http://www.usccr.gov), or to contact the Eastern Regional Office at the above phone numbers, email or street address.

**Agenda**

## I. Welcome and Introductions

—Rollcall

Planning Meeting

—Discuss Topics for Civil Right Project

## II. Other Business

Adjournment

**FOR FURTHER INFORMATION CONTACT:** Ivy L. Davis, at [ero@usccr.gov](mailto:ero@usccr.gov) or by phone at 202-376-7533.

Dated: April 21, 2017.

**David Mussatt,***Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017-08445 Filed 4-25-17; 8:45 am]

**BILLING CODE P****COMMISSION ON CIVIL RIGHTS****Notice of Public Meeting of the Nevada State Advisory Committee**

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Nevada Advisory Committee (Committee) to the Commission will be held at 1:00 p.m. (Pacific Time) Thursday, May 11, 2017, for the purpose of discussing themes and recommendations to include in an advisory memorandum issued to the US Commission on Civil Rights.

**DATES:** The meeting will be held on Thursday, May 11, 2017, at 1:00 p.m. PDT.

*Public Call Information:* Dial: 888-359-3613, Conference ID: 3585074.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at [afortes@usccr.gov](mailto:afortes@usccr.gov) or (213) 894-3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 888-359-3613, conference ID number: 3585074. 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 entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894-0508, or emailed Ana Victoria Fortes at [afortes@usccr.gov](mailto:afortes@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (213) 894-3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at <http://facadatabase.gov/committee/meetings.aspx?cid=261>. Please click on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

**Agenda**

## I. Welcome

## II. Discussion on Organization of Advisory Memorandum

## a. Themes

## b. Recommendations

## III. Public Comment

## IV. Next Steps

## V. Adjournment

Dated: April 21, 2017.

**David Mussatt,***Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017-08446 Filed 4-25-17; 8:45 am]

**BILLING CODE P****COMMISSION ON CIVIL RIGHTS****Notice of Public Meeting of the Texas Advisory Committee**

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that a meeting of the Texas Advisory Committee (Committee) to the Commission will be held at 2:00 p.m.

(Central Time) Wednesday, May 24, 2017. The purpose of the meeting is for the Committee to receive orientation from Commission staff and share project process.

**DATES:** The meeting will be held on Wednesday, May 24, 2017, at 2:00 p.m. CDT.

*Public Call Information:* Dial: 888-298-3465, Conference ID: 5446934.

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes (DFO) at [afortes@usccr.gov](mailto:afortes@usccr.gov) or (213) 894-3437.

**SUPPLEMENTARY INFORMATION:** This meeting is available to the public through the following toll-free call-in number: 888-298-3465, conference ID number: 5446934. 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 entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be mailed to the Western Regional Office, U.S. Commission on Civil Rights, 300 North Los Angeles Street, Suite 2010, Los Angeles, CA 90012. They may be faxed to the Commission at (213) 894-0508, or emailed Ana Victoria Fortes at [afortes@usccr.gov](mailto:afortes@usccr.gov). Persons who desire additional information may contact the Regional Programs Unit at (213) 894-3437.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at <http://facadatabase.gov/committee/meetings.aspx?cid=276>. Please click on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.



**Agenda**

- I. Introductions
- II. Committee Orientation
- III. Discussion on FY17 Civil Rights Project Ideas
- IV. Public Comment
- V. Next Steps
- VI. Adjournment

Dated: April 21, 2017.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2017-08447 Filed 4-25-17; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****Materials Technical Advisory Committee; Notice of Partially Closed Meeting**

The Materials Technical Advisory Committee will meet on May 11, 2017, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials and related technology.

**Agenda***Open Session*

1. *Presentation:* Twist Bioscience on Twist's experience with export controls.
2. *Presentation:* Export Enforcement Coordination Center (E2C2) and discussion on the FBI film "Made in America: Defending Our Technology."
3. A draft proposal to move a green technology report forward, engaging the Office of Technology and Evaluation and the Renewable Energy and Energy Efficiency Advisory Committee on the possibility of collaboration.
4. Open session report by regime representatives.
5. Report by working groups (composite, pumps and valves, bio, public domain, chemicals).
6. Public Comments/New Business/ Closed session.

*Closed Session*

7. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at [Yvette.Springer@bis.doc.gov](mailto:Yvette.Springer@bis.doc.gov), no later than May 4, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 sec. 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482-2813.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 2017-08387 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-JT-P**

**DEPARTMENT OF COMMERCE****Bureau of Industry and Security****Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel**

**AGENCY:** Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

**ACTION:** Notice of request for public comments and public hearing.

**SUMMARY:** The Secretary of Commerce initiated an investigation to determine the effects on the national security of imports of steel. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. Interested parties are invited to submit written comments, data, analyses, or other information pertinent to the investigation to the Department of Commerce's Bureau of Industry and Security. The Department of Commerce will also hold a public hearing on the investigation on May 24, 2017 in Washington, DC. This notice identifies the issues on which the Department is

interested in obtaining the public's views. It also sets forth the procedures for public participation in the hearing.

**DATES:** Comments may be submitted at any time but must be received by May 31, 2017.

The hearing will be held on May 24, 2017 at the U.S. Department of Commerce auditorium, 1401 Constitution Avenue NW., Washington, DC 20230. The hearing will begin at 10:00 a.m. local time and conclude at 1:00 p.m. local time.

**ADDRESSES:**

*Written comments:* Send written comments to Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 1093, Washington, DC 20230 or by email to [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov).

*Public hearing:* Send requests to speak and written summaries of the oral presentations to Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, Room 1093, 1401 Constitution Avenue NW., Washington, DC 20230 or by email to [Steel232@bis.doc.gov](mailto:Steel232@bis.doc.gov), by May 17, 2017. Any person, whether presenting or not, may submit a written statement through May 31, 2017—7 days after the hearing date.

**FOR FURTHER INFORMATION CONTACT:** Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce (202) 482-4060, [brad.botwin@bis.doc.gov](mailto:brad.botwin@bis.doc.gov). For more information about the section 232 program, including the regulations and the text of previous investigations, see [www.bis.doc.gov/232](http://www.bis.doc.gov/232).

**SUPPLEMENTARY INFORMATION:****Background**

On April 19, 2017, the Secretary of Commerce ("Secretary") initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of steel. On April 20, 2017, the President signed a memorandum directing the Secretary to proceed expeditiously in conducting his investigation and submit a report on his findings to the President. The President further directed that if the Secretary finds that steel is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall recommend actions and steps that should be taken to adjust steel

imports so that they will not threaten to impair the national security.

### Written Comments

This investigation is being undertaken in accordance with part 705 of the National Security Industrial Base Regulations (15 CFR parts 700 to 709) (“NSIBR”). Interested parties are invited to submit written comments, data, analyses, or information pertinent to this investigation to the Office of Technology Evaluation, U.S. Department of Commerce (“the Department”), no later than May 31, 2017.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the NSIBR as they affect national security, including the following: (a) Quantity of steel or other circumstances related to the importation of steel; (b) Domestic production and productive capacity needed for steel to meet projected national defense requirements; (c) Existing and anticipated availability of human resources, products, raw materials, production equipment, and facilities to produce steel; (d) Growth requirements of the steel industry to meet national defense requirements and/or requirements to assure such growth; (e) The impact of foreign competition on the economic welfare of the steel industry; (f) The displacement of any domestic steel causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; (g) The displacement of any domestic steel causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; (h) Relevant factors that are causing or will cause a weakening of our national economy; and (i) Any other relevant factors.

Material that is business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations. Anyone submitting business confidential information should clearly identify the business confidential portion of the submission, then file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential submission which can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection. Please note that the submission of comments for presentation at the public

hearing is separate from the request for written comments.

The Bureau of Industry and Security does not maintain a separate public inspection facility. Requesters should first view the Bureau’s Web page, which can be found at <https://efoia.bis.doc.gov/> (see “Electronic FOIA” heading). If requesters cannot access the Web site, they may call 202–482–0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

### Public Hearing

Consistent with the interest of the U.S. Department of Commerce in soliciting public comments on issues affecting U.S. industry and national security, the Department is holding a public hearing as part of the investigation. The hearing will assist the Department in determining whether imports of steel threaten to impair the national security and in recommending remedies if such a threat is found to exist. Public comments at the hearing should address the criteria listed in § 705.4 of the NSIBR as they affect national security described above.

The hearing will be held on May 24, 2017 at the U.S. Department of Commerce auditorium, 1401 Constitution Avenue NW., Washington, DC 20230. The hearing will begin at 10:00 a.m. local time and conclude at 1:00 p.m. local time.

### Procedure for Requesting Participation

The Department encourages interested public participants to present their views orally at the hearing. Any person wishing to make an oral presentation at the hearing must submit a written request to the Department of Commerce at the address indicated in the **ADDRESSES** section of this notice. The request to participate in the hearing must be accompanied by a copy of a summary of the oral presentation. The written request and summary must be received by the Department no later than Wednesday, May 17, 2017. In addition, the request to speak should contain (1) the name and address of the person requesting to make a presentation; (2) a daytime phone number where the person who would be making the oral presentation may be contacted before the hearing; (3) the organization or company they represent; and (4) an email address.

Please note that the submission of comments for presentation at the public hearing is separate from the request for written comments. Since it may be

necessary to limit the number of persons making presentations, the written request to participate in the public hearing should describe the individual’s interest in the hearing and, where appropriate, explain why the individual is a proper representative of a group or class of persons that has such an interest. If all interested parties cannot be accommodated at the hearing, the summaries of the oral presentations will be used to allocate speaking time and to ensure that a full range of comments is heard.

Each person selected to make a presentation will be notified by the Department of Commerce no later than 8:00 p.m. Eastern Daylight Time on Friday, May 19, 2017. The Department will arrange the presentation times for the speakers. Persons selected to be heard are requested to bring 20 copies of their oral presentation and of all exhibits to the hearing site on the day of the hearing. All such material must be of a size consistent with ease of handling, transportation and filing. While large exhibits may be used during a hearing, copies of such exhibits in reduced size must be provided to the panel. Written submissions by persons not selected to make presentations will be made part of the public record of the proceeding. Any person, whether presenting or not, may submit a written statement through May 31, 2017—7 days after the hearing date. Confidential business information may not be submitted at a public hearing. In the event confidential business information is submitted it will be handled according to the same procedures applicable to such information provided in the course of an investigation. See 15 CFR 705.6. The hearing will be recorded.

Copies of the requests to participate in the public hearing, and the transcript of the hearing will be maintained on the Bureau of Industry and Security’s Web page, which can be found at <http://www.bis.doc.gov> (see Freedom of Information Act (FOIA) heading). If the requesters cannot access the Web site, they may call (202) 482–0795 for assistance. The records related to this assessment are made accessible in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et seq.*).

### Conduct of the Hearing

The Department reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each speaker will be limited to

10 minutes, and comments must be directly related to the criteria listed in 15 CFR 705.4 of the regulations. Attendees will be seated on a first-come, first-served basis.

A Department official will be designated to preside at the hearing. The presiding officer shall determine all procedural matters during the hearing. Representatives from the Department, and other U.S. Government agencies as appropriate, will make up the hearing panel. This will be a fact-finding proceeding; it will not be a judicial or evidentiary-type hearing. Only members of the hearing panel may ask questions, and there will be no cross-examination of persons presenting statements. However, questions submitted to the presiding officer in writing may, at the discretion of the presiding officer, be posed to the presenter. No formal rules of evidence will apply to the hearing.

Any further procedural rules for the proper conduct of the hearing will be announced by the presiding officer.

#### Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be received by the Department of Commerce no later than Thursday, May 11, 2017 at the address indicated in the **ADDRESSES** section of this notice.

Dated: April 21, 2017.

**Wilbur L. Ross,**

*Secretary of Commerce.*

[FR Doc. 2017-08499 Filed 4-24-17; 11:15 am]

**BILLING CODE 3510-33-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-822-806, A-475-836, A-580-891, A-821-824, A-791-823, A-469-816, A-489-831, A-823-816, A-520-808, A-412-826]

### Carbon and Alloy Steel Wire Rod From Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and United Kingdom: Initiation of Less-Than-Fair-Value Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Effective April 17, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Rebecca Janz at (202) 482-2972 (Belarus), Tom Bellhouse at (202) 482-0257 (Italy), David Crespo at (202) 482-3693 (Republic of Korea (Korea)), Terre Keaton at (202) 482-1280 (the Russian

Federation (Russia)), Moses Song at (202) 482-5041 (South Africa), Chelsea Simonovich at (202) 482-1979 (Spain), Ryan Mullen at (202) 482-5260 (the Republic of Turkey (Turkey)), Julia Hancock at (202) 482-1394 (Ukraine), Carrie Betha at (202) 482-1491 (the United Arab Emirates (UAE)), and Alice Maldonado at (202) 482-4682 (the United Kingdom), AD/CVD Operations, Enforcement and Compliance, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### The Petitions

On March 28, 2017, the U.S. Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of carbon and alloy steel wire rod (wire rod) from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom, filed in proper form on behalf of Charter Steel, Gerdau Ameristeel US Inc., Keystone Consolidated Industries, Inc., and Nucor Corporation (collectively, the petitioners).<sup>1</sup> The AD petitions were accompanied by countervailing duty (CVD) petitions on imports from Italy and Turkey. The petitioners are domestic producers of wire rod.<sup>2</sup>

On March 31, 2017, and April 6, 2017, the Department requested additional information and clarification of certain areas of the Petitions.<sup>3</sup> The petitioners filed responses to these requests on April 4, 2017, and on April 7, 2017, respectively.<sup>4</sup> On April 5, the petitioners filed a submission demonstrating that, for certain countries, the prices they obtained for normal value were below the production costs. As a result, they compared export price (EP) or constructed export price (CEP) to

<sup>1</sup> See Letter to the Secretary of Commerce from Petitioners "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and United Kingdom—Petitions for the Imposition of Antidumping and Countervailing Duties" (March 28, 2017) (the Petitions).

<sup>2</sup> See Volume I of the Petitions, at 2.

<sup>3</sup> See Country-specific letters to Petitioners from the Department concerning supplemental questions on each of the country-specific records (March 31, 2017); and Memorandum to the File "Phone Call with Counsel to Petitioners" (April 10, 2017).

<sup>4</sup> See Country-specific amendments to the Petitions (first and second amendments for each country); see also Letter to the Secretary of Commerce from Petitioners "Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, the Republic of Turkey, Ukraine, the United Arab Emirates, and United Kingdom—Petitioners' Amendment to Volume I Relating to General Issues" April 4, 2017 (General Issues Supplement).

normal value (NV) using constructed value (CV).<sup>5</sup>

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom 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 petitioners supporting their allegations.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the AD investigations that the petitioners are requesting.<sup>6</sup>

#### Periods of Investigation

Because the Petitions were filed on March 28, 2017, the period of investigation (POI) for all investigations except Belarus is January 1, 2016, through December 31, 2016. Because Belarus is a non-market economy country, the POI for that investigation is July 1, 2016, through December 31, 2016.

#### Scope of the Investigations

The product covered by these investigations is wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom. For a full description of the scope of these investigations, see the "Scope of the Investigations," in Appendix I of this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate

<sup>5</sup> See Country-specific amendments to the Petitions from the petitioners, "Re: Carbon and Certain Alloy Steel Wire Rod from the Republic of Korea, the Russian Federation, South Africa, and Ukraine—Existence of Below-Cost Sales" (April 5, 2017).

<sup>6</sup> See the "Determination of Industry Support for the Petitions" section below.

reflection of the products for which the domestic industry is seeking relief.<sup>7</sup>

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).<sup>8</sup> The Department will consider all comments received from parties and, if necessary, will consult with parties prior to the issuance of the preliminary determination. 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 Monday, May 8, 2017, which is the next business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, May 18, 2017, which is 10 calendar days from the deadline for initial comments.<sup>9</sup>

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 finds 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. 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).<sup>10</sup> 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

<sup>7</sup> See General Issues Supplement, at 1–4 and Exhibits I–SUPP–2 and I–SUPP–3.

<sup>8</sup> See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

<sup>9</sup> See 19 CFR 351.303(b).

<sup>10</sup> See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) 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%20Filing%20Procedures.pdf>.

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 provide comments on the appropriate physical characteristics of wire rod 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 factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Subsequent to the publication of this notice, the Department will be releasing a proposed list of physical characteristics and product-comparison criteria, and interested parties will have the opportunity to 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 used by manufacturers to describe wire rod, 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 matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

The Department intends to establish a deadline for relevant comments and submissions at the time it releases the proposed list of physical characteristics and product-comparison criteria. All comments and submissions to the Department must be filed electronically using ACCESS, as explained above, on the records of the Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United

Kingdom 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,<sup>11</sup> 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.<sup>12</sup>

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

<sup>11</sup> See section 771(10) of the Act.

<sup>12</sup> 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)).

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 Petitions).

With regard to the domestic like product, the petitioners do 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 wire rod, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>13</sup>

In determining whether the petitioners have 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 petitioners provided 2016 production of the domestic like product for all supporters of the Petitions, and compared this to the total production of the domestic like product for the entire

<sup>13</sup> For the petitioners’ submission regarding industry support, *see* Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and United Kingdom, (Attachment II); For a discussion of the domestic like product analysis as applied to these cases, *see* Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Belarus (Belarus AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Italy (Italy AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Korea (Korea AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Russia (Russia AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from South Africa (South Africa AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Spain (Spain AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Turkey (Turkey AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Ukraine (Ukraine AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from UAE (UAE AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from United Kingdom (United Kingdom AD 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.

domestic industry.<sup>14</sup> We relied on data the petitioners provided for purposes of measuring industry support.<sup>15</sup>

Our review of the data provided in the Petitions, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petitions.<sup>16</sup> 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).<sup>17</sup> 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.<sup>18</sup> 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 expressing support for, or opposition to, the Petitions.<sup>19</sup> Accordingly, the Department determines that the Petitions were filed on behalf of the

<sup>14</sup> *See* Volume I of the Petitions, at 3 and Exhibit I–3; *see also* General Issues Supplement, at 4–5 and Exhibits I–SUPP–4 and I–SUPP–5.

<sup>15</sup> *Id.* For further discussion, *see* Belarus AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Turkey AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist, at Attachment II.

<sup>16</sup> *See* Belarus AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Turkey AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist, at Attachment II.

<sup>17</sup> *See* section 732(c)(4)(D) of the Act; *see also* Belarus AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Turkey AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist, at Attachment II.

<sup>18</sup> *See* Belarus AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Turkey AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist, at Attachment II.

<sup>19</sup> *Id.*

domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the AD investigations that they are requesting that the Department initiate.<sup>20</sup>

#### Allegations and Evidence of Material Injury and Causation

The petitioners allege 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 NV. In addition, with regard to Korea, Russia, Spain, Turkey, and Ukraine, the petitioners allege that subject imports exceed the three percent negligibility threshold provided for under section 771(24)(A) of the Act.<sup>21</sup>

With regard to Belarus, Italy, South Africa, the UAE, and the United Kingdom, while the allegedly dumped imports from each of these countries do not individually exceed the statutory requirements for negligibility, the petitioners provide data demonstrating that the aggregate import share from these five countries is 10.15 percent, which exceeds the seven percent threshold established by the exception in section 771(24)(A)(ii) of the Act.<sup>22</sup> Therefore, the subject imports from these countries are not negligible for purposes of the material injury analysis in these Petitions.<sup>23</sup>

The petitioners contend that the industry’s injured condition is illustrated by reduced market share; underselling and price suppression or depression; declines in production capacity, net sales, and U.S. producers’ average U.S. shipments unit value; negative impacts on domestic industry employment, including declines in wages paid to production-related workers; declines in financial performance; and lost sales and

<sup>20</sup> *Id.*

<sup>21</sup> *See* Volume I of the Petitions, at 16–17 and Exhibit I–13.

<sup>22</sup> Section 771(24)(A)(ii) of the Act states “{i}mports that would otherwise be negligible under clause (i) shall not be negligible if the aggregate volume of imports of the merchandise from all countries described in clause (i) with respect to which investigations were initiated on the same day exceeds 7 percent of the volume of all such merchandise imported in to the United States during the applicable 12-month period.”

<sup>23</sup> *See* Volume I of the Petitions, at 17–18 and Exhibit I–13.

revenues.<sup>24</sup> 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.<sup>25</sup>

### 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 AD investigations of imports of wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom. 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 Turkey, the petitioners based U.S. price on EP using price quotes for sales of wire rod produced in, and exported from, the subject country and offered for sale in the United States.<sup>26</sup> For Belarus, Italy, Korea, Russia, South Africa, Spain, the UAE, and Ukraine, the petitioners based EP on average unit values (AUVs) of publicly available import data.<sup>27</sup> Where applicable, the petitioners made deductions from U.S. price for movement expenses and trading company/importer mark-ups, consistent with the terms of sale.<sup>28</sup>

<sup>24</sup> *Id.*, at 10–12, 23–37, and Exhibits I–8, I–10–I–12, and I–14–I–15.

<sup>25</sup> See Belarus AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and United Kingdom (Attachment III); see also Italy AD Initiation Checklist, at Attachment III; Korea AD Initiation Checklist, at Attachment III; Russia AD Initiation Checklist, at Attachment III; South Africa AD Initiation Checklist, at Attachment III; Spain AD Initiation Checklist, at Attachment III; Turkey AD Initiation Checklist, at Attachment III; Ukraine AD Initiation Checklist, at Attachment III; UAE AD Initiation Checklist, at Attachment III; and United Kingdom AD Initiation Checklist, at Attachment III.

<sup>26</sup> See Turkey AD Initiation Checklist.

<sup>27</sup> See Belarus AD Initiation Checklist, Italy AD Initiation Checklist, Korea AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Russia AD Initiation Checklist, UAE AD Initiation Checklist, and Ukraine AD Initiation Checklist.

<sup>28</sup> See Spain AD Initiation Checklist, Italy AD Initiation Checklist, Turkey AD Initiation Checklist, Ukraine AD Initiation Checklist, South Africa AD Initiation Checklist, Korea AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

### Constructed Export Price

For Belarus, Russia and Ukraine, because the petitioners had reason to believe the sale was made through a U.S. affiliate, the petitioners based CEP on a price quote/offer for sale of wire rod produced in, and exported from, those countries.<sup>29</sup> For the United Kingdom, because the petitioners had reason to believe the first transaction relating to the entry of goods into the United States was to a U.S. affiliate, the petitioners based CEP on AUVs of publicly available import data.<sup>30</sup> The petitioners made deductions from U.S. price for movement expenses consistent with the delivery terms.<sup>31</sup> Where applicable, the petitioners also deducted from U.S. price trading company/importer mark-ups.<sup>32</sup>

### Normal Value

For Korea, Russia, South Africa, Turkey, and Ukraine, the petitioners provided home market price information obtained through market research for wire rod produced in, and offered for sale in, each of these countries.<sup>33</sup> For all five of these countries, the petitioners provided a declaration from a market researcher for the price information.<sup>34</sup> Where applicable, the petitioners made deductions for movement expenses, taxes, and imputed credit expenses, consistent with the terms of sale.<sup>35</sup>

For Korea, Russia, South Africa, and Ukraine, the petitioners also provided information that sales of wire rod in the respective home markets were made at prices below the cost of production (COP) and also calculated NV based on CV.<sup>36</sup> For Italy, Spain, the UAE, and the United Kingdom, the petitioners were unable to obtain home market price quotes for wire rod and calculated NV based on CV.<sup>37</sup> For further discussion of COP and NV based on CV, see below.<sup>38</sup>

<sup>29</sup> See Belarus AD Initiation Checklist, Russia AD Initiation Checklist, and Ukraine AD Initiation Checklist.

<sup>30</sup> See United Kingdom AD Initiation Checklist.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> See Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Turkey AD Initiation Checklist, and Ukraine AD Initiation Checklist.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, and Ukraine AD Initiation Checklist.

<sup>37</sup> See Italy AD Initiation Checklist, Spain AD Initiation Checklist, UAE AD Initiation Checklist; and United Kingdom AD Initiation Checklist.

<sup>38</sup> In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for all of the investigations, the Department will request information necessary to calculate the CV and COP

With respect to Belarus, the petitioners stated that the Department has found Belarus to be a non-market economy (NME) country in prior administrative proceedings in which Belarus has been involved.<sup>39</sup> In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for Belarus has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation.

Accordingly, the NV of the product for Belarus is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.<sup>40</sup> In the course of this investigation, all parties, and the public, will have the opportunity to provide relevant information related to the granting of separate rates to individual exporters.

The petitioners claim that South Africa is an appropriate surrogate country because it is a market economy that is at a level of economic development comparable to that of Belarus and it is a significant producer of the merchandise under consideration.<sup>41</sup>

Based on the information provided by the petitioners, we believe it is appropriate to use South Africa as a surrogate country for initiation purposes. Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs no later than 30 days before the scheduled date of the preliminary determination.

### Factors of Production

Because information regarding the volume of inputs consumed by Belarusian producers/exporters is not reasonably available, the petitioners relied on a surrogate company's actual consumption of direct materials, labor, energy, packing materials, and financial ratios from a South African producer as an estimate of Belarusian manufacturers' FOPs.<sup>42</sup> The petitioners

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.

<sup>39</sup> See Volume II of the Petitions, at 4–5.

<sup>40</sup> See Belarus AD Initiation Checklist.

<sup>41</sup> *Id.*; see also section 773(c) of the Act.

<sup>42</sup> See Volume II of the Petitions, at 5 and Exhibits AD–BY–3 and AD–BY–4; see also Amendment to Belarus Petition, dated April 4, 2017 (Belarus

valued the estimated FOPs using surrogate values from South Africa,<sup>43</sup> and used the average POI exchange rate to convert the data to U.S. dollars.<sup>44</sup>

#### Normal Value Based on Constructed Value

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM), SG&A, financial expenses, and packing expenses. The petitioners calculated COM based on the experience of a surrogate producer, adjusted for known differences between the surrogate producer and the producer(s) of the respective country (*i.e.*, Italy, Korea, Russia, South Africa, Spain, Ukraine, the UAE, and the United Kingdom), during the proposed POI.<sup>45</sup> Using publicly available data to account for price differences, the petitioners multiplied the surrogate usage quantities by the submitted value of the inputs used to manufacture wire rod in each country.<sup>46</sup> For Italy, Korea, Russia, South Africa, Spain, Ukraine, the UAE, and the United Kingdom, labor and energy rates were derived from publicly available sources multiplied by the product-specific usage rates.<sup>47</sup> For Italy, Korea, Russia, South Africa, Spain, Ukraine, and the United Kingdom, to determine factory overhead, SG&A, and financial expense rates, the petitioners relied on financial statements of companies they asserted were producers of identical or comparable merchandise operating in the respective foreign country.<sup>48</sup> For the UAE, because the financial statements of companies that were producers of identical or comparable merchandise operating in the respective foreign country were not available, the petitioners relied on the financial data from a U.S. producer.<sup>49</sup>

For Korea, Russia, South Africa, and Ukraine, because certain home market

prices fell below COP, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, as noted above, the petitioners calculated NVs based on CV for those countries.<sup>50</sup> For Italy, Spain, the UAE, and the United Kingdom, the petitioners indicated they were unable to obtain home market or third country prices; accordingly, the petitioners based NV only on CV for those countries.<sup>51</sup> Pursuant to section 773(e) of the Act, CV consists of the COM, SG&A, financial expenses, packing expenses, and profit. The petitioners calculated CV using the same average COM, SG&A, and financial expenses, to calculate COP.<sup>52</sup> The petitioners relied on the financial statements of the same producers that they used for calculating manufacturing overhead, SG&A, and financial expenses to calculate the profit rate.<sup>53</sup> For South Africa, Ukraine, and the United Kingdom, because the relevant financial statements indicated that the companies were operating at a loss, the petitioners did not include profit in CV.<sup>54</sup>

#### Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom 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 of the Act, the estimated dumping margins for wire rod are as follows: (1) Belarus ranges from 161.75 to 280.02 percent;<sup>55</sup> (2) Italy is 18.89 percent;<sup>56</sup> (3) Korea ranges from 33.96 to 43.25 percent;<sup>57</sup> (4) Russia ranges from 214.06 to 756.93 percent;<sup>58</sup> (5) South Africa ranges from 128.66 to 142.26 percent;<sup>59</sup> (6) Spain is 32.70 percent;<sup>60</sup> (7) Turkey is 37.67 percent;<sup>61</sup> (8) Ukraine ranges from 21.23

to 44.03 percent;<sup>62</sup> (9) the UAE is 84.10 percent;<sup>63</sup> and (10) the United Kingdom is 147.63 percent.<sup>64</sup>

#### Initiation of Less-Than-Fair-Value Investigations

Based upon the examination of the AD Petitions on wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom 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.

On June 29, 2015, the Trade Preferences Extension Act of 2015 made numerous amendments to the AD and CVD law.<sup>65</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>66</sup> 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 investigations.<sup>67</sup>

#### Respondent Selection

The petitioners named a single company in Belarus,<sup>68</sup> 12 companies in Italy,<sup>69</sup> 16 companies in Korea,<sup>70</sup> 21 companies in Russia,<sup>71</sup> nine companies in Spain,<sup>72</sup> three companies in South

Amendment), at 1–3 and Exhibit AD–BY–SUPP–3; *see also* Belarus AD Initiation Checklist.

<sup>43</sup> *See* Volume II of the Petitions, at 5 and Exhibit AD–BY–4; *see also* Belarus Amendment, at 1–3 and Exhibit AD–BY–SUPP–4; and Second Amendment to Belarus Petition, dated April 7, 2017 (Belarus 2nd Amendment), at Exhibit AD–BY–SUPP2–4; *see also* Belarus AD Initiation Checklist.

<sup>44</sup> *Id.*, at 17 and Exhibit AD–CN–9.

<sup>45</sup> *See* Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *See* Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Ukraine AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

<sup>49</sup> *See* UAE AD Initiation Checklist.

<sup>50</sup> *See* Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, and Ukraine AD Initiation Checklist.

<sup>51</sup> *See* Italy AD Initiation Checklist, Spain AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

<sup>52</sup> *See* Italy AD Initiation Checklist, Korea AD Initiation Checklist, Russia AD Initiation Checklist, South Africa AD Initiation Checklist, Spain AD Initiation Checklist, Ukraine AD Initiation Checklist, UAE AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

<sup>53</sup> *Id.*

<sup>54</sup> *See* South Africa AD Initiation Checklist, Ukraine AD Initiation Checklist, and United Kingdom AD Initiation Checklist.

<sup>55</sup> *See* Belarus AD Initiation Checklist.

<sup>56</sup> *See* Italy AD Initiation Checklist.

<sup>57</sup> *See* Korea AD Initiation Checklist.

<sup>58</sup> *See* Russia AD Initiation Checklist.

<sup>59</sup> *See* South Africa AD Initiation Checklist.

<sup>60</sup> *See* Spain AD Initiation Checklist.

<sup>61</sup> *See* Turkey AD Initiation Checklist.

<sup>62</sup> *See* Ukraine AD Initiation Checklist.

<sup>63</sup> *See* UAE AD Initiation Checklist.

<sup>64</sup> *See* United Kingdom AD Initiation Checklist.

<sup>65</sup> *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

<sup>66</sup> *See 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).

<sup>67</sup> *Id.* at 46794–95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>68</sup> *See* Volume I at Exhibit I–7; and Belarus AD Initiation Checklist.

<sup>69</sup> *Id.*; and Italy AD Initiation Checklist.

<sup>70</sup> *Id.*; and Korea AD Initiation Checklist.

<sup>71</sup> *Id.*; and Russia AD Initiation Checklist.

<sup>72</sup> *Id.*; and Spain AD Initiation Checklist.

Africa,<sup>73</sup> 22 companies in Turkey,<sup>74</sup> four companies in Ukraine,<sup>75</sup> three companies in the UAE,<sup>76</sup> and six companies in the United Kingdom,<sup>77</sup> as producers/exporters of wire rod. Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of companies is large and it cannot individually examine each company based upon the Department's resources, where appropriate, the Department intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States numbers listed with the scope in Appendix I, below. We also intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO on the record within five business days of announcement of the initiation of these investigations. 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 these investigations. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for the initial comments.

The petitioners identified only one company as a producer/exporter of wire rod in Belarus: Byelorussian Steel Works.<sup>78</sup> We currently know of no additional producers/exporters of merchandise under consideration from Belarus and the petitioners provided information from an independent third-party source as support.<sup>79</sup> Accordingly, the Department intends to examine all known producers/exporters in the investigation for Belarus (*i.e.*, the company cited above for this investigation).

In addition, with respect to the Belarus, although we intend to select the company identified in the petition as a mandatory respondent, in accordance with our standard practice for respondent selection in cases involving NME countries, other exporters/producers of wire rod from Belarus may submit a response to the Department's quantity and value (Q&V) questionnaires for consideration of respondent selection. Exporters/

producers of wire rod from Belarus can obtain a copy of the Q&V questionnaire along with filing instructions on the Enforcement and Compliance Web site at <http://www.trade.gov/enforcement/news.asp>. The Q&V response must be submitted by all Belarusian exporters/producers no later than May 1, 2017. All Q&V responses must be filed electronically via ACCESS.

Comments for the above-referenced investigations must be filed electronically using ACCESS. An electronically-filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. ET by the dates noted above. We intend to make our decision regarding respondent selection within 20 days of publication of this notice.

#### Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.<sup>80</sup> The specific requirements for submitting a separate-rate application in the Belarus investigation are outlined in detail in the application itself, which is available on the Department's Web site at <http://enforcement.trade.gov/nme/nme-sep-rate.html>. The separate-rate application will be due 30 days after publication of this initiation notice.<sup>81</sup> Exporters and producers who submit a separate-rate application and are selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of the Department's AD questionnaire as mandatory respondents. The Department requires that respondents from Belarus submit a response to both the Q&V questionnaire and the separate-rate application by their respective deadlines in order to receive consideration for separate-rate status.

#### Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all

<sup>80</sup> See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

<sup>81</sup> Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that "the Secretary may request any person to submit factual information at any time during a proceeding," this deadline is now 30 days.

separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.<sup>82</sup>

#### 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 Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and the United Kingdom 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 wire rod from Belarus, Italy, Korea, Russia, South Africa, Spain, Turkey, Ukraine, the UAE, and/or the United Kingdom are materially injuring or threatening material injury to a U.S. industry.<sup>83</sup> A negative ITC determination for any country will result in the investigation being terminated with respect to that country;<sup>84</sup> 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

<sup>82</sup> See Policy Bulletin 05.1 at 6 (emphasis added).

<sup>83</sup> See section 733(a) of the Act.

<sup>84</sup> *Id.*

<sup>73</sup> *Id.*; and South Africa AD Initiation Checklist.

<sup>74</sup> *Id.*; and Turkey AD Initiation Checklist.

<sup>75</sup> *Id.*; and Ukraine AD Initiation Checklist.

<sup>76</sup> *Id.*; and UAE AD Initiation Checklist.

<sup>77</sup> *Id.*; and United Kingdom AD Initiation Checklist.

<sup>78</sup> See Belarus AD Initiation Checklist.

<sup>79</sup> See Volume I of the Petitions at 9 and Exhibits I-7 and I-15.



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<sup>85</sup> 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.<sup>86</sup> 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. Please 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 19 CFR 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. 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. ET 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.<sup>87</sup>

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*.<sup>88</sup> 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: April 17, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix I

##### Scope of the Investigations

The merchandise covered by these investigations are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel (also known as free machining steel) products (i.e., products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are

<sup>88</sup> 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/lei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf).

not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093; 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS also may be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

[FR Doc. 2017-08397 Filed 4-25-17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-475-837; C-489-832]

#### Carbon and Alloy Steel Wire Rod From Italy and Turkey: Initiation of Countervailing Duty Investigations

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**DATES:** Effective April 17, 2017.

**FOR FURTHER INFORMATION CONTACT:** John Corrigan and Yasmin Bordas at (202) 482-7438 and (202) 482-3813, respectively (Italy); Justin Neuman and Omar Qureshi at (202) 482-0486 and (202) 482-5307, respectively (Turkey), 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 28, 2017, the Department of Commerce (the Department) received countervailing duty (CVD) Petitions concerning imports of carbon and alloy steel wire rod (wire rod) from Italy and Turkey, filed in proper form on behalf of Gerda Ameristeel US Inc., Nucor Corporation, Keystone Consolidated Industries, Inc., and Charter Steel (collectively, the petitioners). The CVD Petitions were accompanied by antidumping duty (AD) Petitions concerning imports of wire rod from each of the above countries, in addition to Belarus, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Ukraine, the United Arab Emirates, and the United

<sup>85</sup> See 19 CFR 351.301(b).

<sup>86</sup> See 19 CFR 351.301(b)(2).

<sup>87</sup> See section 782(b) of the Act.

Kingdom.<sup>1</sup> The petitioners are domestic producers of wire rod.<sup>2</sup>

On March 31, April 3, and April 4, 2017, the Department requested supplemental information pertaining to certain areas of the Petitions.<sup>3</sup> The petitioners filed responses to these requests on April 4 and April 6, 2017.<sup>4</sup>

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that the Governments of Italy (GOI) and Turkey (GOT) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to imports of wire rod from Italy and Turkey, respectively, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing wire rod in the United States. Also, consistent with section 702(b)(1) of the Act, for those alleged programs on which we are initiating a CVD investigation, the Petitions are accompanied by information reasonably available to the petitioners supporting their allegations.

<sup>1</sup> See “Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom—Petitions for the Imposition of Antidumping and Countervailing Duties,” dated March 28, 2017 (Petitions).

<sup>2</sup> *Id.*, Volume I at 2.

<sup>3</sup> See Letter from the Department, “Petition for the Imposition of Countervailing Duties on Imports of Carbon and Alloy Steel Wire Rod from Italy: Supplemental Questions,” dated March 31, 2017 (Italy CVD Supplemental Questionnaire); see also Letter from the Department, “Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, the Republic of Turkey, Ukraine, United Arab Emirates, and the United Kingdom: Supplemental Questions,” dated March 31, 2017 (General Issues Supplemental Questionnaire); see also Letter from the Department “Petition for the Imposition of Countervailing Duties on Imports of Carbon and Alloy Steel Wire Rod from Turkey: Supplemental Questions,” dated April 4, 2017 (Turkey CVD Supplemental Questionnaire).

<sup>4</sup> See Letter from Petitioners, “Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom—Petitioners’ Amendment to Volume XIII Relating to Italy Countervailing Duties,” dated April 4, 2017 (Italy CVD Supplement); see also Letter from Petitioners, “Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom—Petitioners’ Amendment to Volume I Relating to General Issues,” dated April 4, 2017 (General Issues Supplement); see also Letter from Petitioners, “Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, the Republic of South Africa, Spain, Turkey, Ukraine, United Arab Emirates, and the United Kingdom—Petitioners’ Amendment to Volume XII Relating to Turkey Countervailing Duties,” dated April 6, 2017 (Turkey CVD Supplement).

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act. The Department also finds that the petitioners demonstrated sufficient industry support with respect to the initiation of the CVD investigations that the petitioners are requesting.<sup>5</sup>

#### Periods of Investigation

Because the Petitions were filed on March 28, 2017, the period of investigation is January 1, 2016, through December 31, 2016.

#### Scope of the Investigations

The product covered by these investigations is wire rod from Italy and Turkey. For a full description of the scope of these investigations, see the “Scope of the Investigations,” in Appendix I of this notice.

#### Comments on Scope of the Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, the petitioners pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief.<sup>6</sup>

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).<sup>7</sup> The Department will consider all comments received from interested parties and, if necessary, will consult with the interested parties prior to the issuance of the preliminary determination. 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 Monday, May 8, 2017, which is the next business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on Thursday, May 18, 2017, which is 10 calendar days from the initial comments deadline.<sup>8</sup>

<sup>5</sup> See “Determination of Industry Support for the Petition” section, below.

<sup>6</sup> See General Issues Supplemental Questionnaire; see also General Issues Supplement.

<sup>7</sup> See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

<sup>8</sup> See 19 CFR 351.303(b).

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 finds 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. 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 Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>9</sup> 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 sections 702(b)(4)(A)(i) and (ii) of the Act, the Department notified representatives of the GOI and the GOT of the receipt of the Petitions, and provided representatives of the GOI and the GOT the opportunity for consultations with respect to the CVD Petitions. Consultations with the GOI and the GOT were held at the Department’s main building on April 11, 2017. The GOI submitted its consultation comments in writing to the Department on April 13, 2017.<sup>10</sup>

#### 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

<sup>9</sup> 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%20Filing%20Procedures.pdf>.

<sup>10</sup> See Letter to the Secretary from the Embassy of Italy, dated April 13, 2017.

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 the Department and the ITC must apply the same statutory definition regarding the domestic like product,<sup>11</sup> 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.<sup>12</sup>

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 Petitions).

With regard to the domestic like product, the petitioners do 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 wire rod, as defined in the scope, constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.<sup>13</sup>

In determining whether the petitioners have 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 petitioners provided 2016 production of the domestic like product for all supporters of the Petitions, and compared this to the total production of the domestic like product for the entire domestic industry.<sup>14</sup> We relied on data the petitioners provided for purposes of measuring industry support.<sup>15</sup>

Our review of the data provided in the Petitions, General Issues Supplement, and other information readily available to the Department indicates that the petitioners have established industry support for the Petitions.<sup>16</sup> 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).<sup>17</sup> 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

<sup>13</sup> For a discussion of the domestic like product analysis in this case, see Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Italy (Italy CVD Initiation Checklist), at Attachment II, Countervailing Duty Investigation Initiation Checklist: Carbon and Alloy Steel Wire Rod from Turkey (Turkey CVD Initiation Checklist), at Attachment II, and Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom (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.

<sup>14</sup> See Volume I of the Petitions, at 3 and Exhibit I-3; see also General Issues Supplement, at 4-5 and Exhibits I-SUPP-4 and I-SUPP-5.

<sup>15</sup> *Id.* For further discussion, see Italy CVD Initiation Checklist and Turkey CVD Initiation Checklist, at Attachment II.

<sup>16</sup> See Italy CVD Initiation Checklist and Turkey CVD Initiation Checklist, at Attachment II.

<sup>17</sup> See section 702(c)(4)(D) of the Act; see also Italy CVD Initiation Checklist and Turkey CVD Initiation Checklist, at Attachment II.

account for at least 25 percent of the total production of the domestic like product.<sup>18</sup> 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.<sup>19</sup> 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 petitioners filed the Petitions on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the CVD investigations they are requesting that the Department initiate.<sup>20</sup>

### Injury Test

Because Italy and Turkey 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 Italy and Turkey materially injure, or threaten material injury to, a U.S. industry.

### Allegations and Evidence of Material Injury and Causation

The petitioners allege 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, with regard to Turkey, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.<sup>21</sup>

While the allegedly subsidized imports from Italy do not individually meet the statutory negligibility threshold of three percent, the petitioners allege and provide supporting evidence that there is the potential that imports from Italy will imminently exceed the negligibility threshold and, therefore, are not negligible for purposes of a threat

<sup>18</sup> See Italy CVD Initiation Checklist and Turkey CVD Initiation Checklist, at Attachment II.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See Volume I of the Petitions, at 16-17 and Exhibit I-13.

<sup>11</sup> See section 771(10) of the Act.

<sup>12</sup> 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)).

determination.<sup>22</sup> The petitioners' arguments regarding the potential for imports to imminently exceed the negligibility threshold are consistent with the statutory criterion for "negligibility in threat analysis" under section 771(24)(A)(iv) of the Act, which provides that imports shall not be treated as negligible if there is a potential that subject imports from a country will imminently exceed the statutory requirements for negligibility.

The petitioners contend that the industry's injured condition is illustrated by reduced market share; underselling and price suppression or depression; declines in production capacity, net sales, and U.S. producers' average U.S. shipments unit value; negative impacts on domestic industry employment, including declines in wages paid to production-related workers; declines in financial performance; and lost sales and revenues.<sup>23</sup> 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.<sup>24</sup>

#### 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 petitioners supporting the allegations.

The petitioners allege that producers/exporters of wire rod in Italy and Turkey 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 CVD investigations to determine whether manufacturers, producers, and/or exporters of wire rod

from Italy and Turkey 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.<sup>25</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained in section 771(7) of the Act, which relate to determinations of material injury by the ITC.<sup>26</sup> 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.<sup>27</sup>

#### Italy

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 14 of the 15 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, see the Italy CVD Initiation Checklist.

#### Turkey

Based on our review of the petition, we find that there is sufficient information to initiate a CVD investigation on 21 of the 22 alleged programs. For a full discussion of the basis for our decision to initiate or not initiate on each program, see the Turkey 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 determination no later than 65 days after the date of this initiation.

#### Respondent Selection

The petitioners named 13 companies as producers/exporters of wire rod in Italy and 22 in Turkey.<sup>28</sup> Following standard practice in CVD investigations, the Department will, where appropriate, select respondents based on U.S. Customs and Border Protection (CBP)

data for U.S. imports of wire rod during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers. We intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five business days of the announcement of the initiation of this investigation. Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on the Department's Web site at <http://enforcement.trade.gov/apo>.

Interested parties may submit comments regarding the CBP data and respondent selection by 5:00 p.m. ET on the seventh calendar day after publication of this notice. Parties wishing to submit rebuttal comments should submit those comments five calendar days after the deadline for initial comments.

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. If respondent selection is necessary, within 20 days of publication of this notice, we intend to make our decision regarding respondent selection based upon comments received from interested parties and our analysis of the record information.

#### Distribution of Copies of the Petitions

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOT 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 702(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 wire rod from Italy and Turkey are materially injuring, or threatening material injury to, a U.S. industry.<sup>29</sup> A negative ITC determination will result in the investigation being terminated.<sup>30</sup> Otherwise, this investigation will

<sup>22</sup> *Id.*, at 18–19 and Exhibit I–13.

<sup>23</sup> *Id.*, at 10–12, 23–37, and Exhibits I–8, I–10–I–12, and I–14–I–15.

<sup>24</sup> See Italy CVD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Carbon and Alloy Steel Wire Rod from Belarus, Italy, the Republic of Korea, the Russian Federation, South Africa, Spain, Turkey, Ukraine, the United Arab Emirates, and the United Kingdom (Attachment III); see also Turkey CVD Initiation Checklist, at Attachment III.

<sup>25</sup> See Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

<sup>26</sup> See 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 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>27</sup> See *Applicability Notice*, 80 FR at 46794–95.

<sup>28</sup> See Petition, Volume I at Exhibit I–7.

<sup>29</sup> See section 703(a)(2) of the Act.

<sup>30</sup> See section 703(a)(1) of the Act.

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). 19 CFR 351.301(b) requires any party, when submitting factual information, to 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

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 expires. 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 this investigation.

### Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.<sup>31</sup> 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*.<sup>32</sup> 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 this investigation 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: April 17, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

### Appendix I

#### Scope of the Investigations

The merchandise covered by these investigations are certain hot-rolled products of carbon steel and alloy steel, in coils, of approximately round cross section, less than 19.00 mm in actual solid cross-sectional diameter. Specifically excluded are steel products possessing the above-noted physical characteristics and meeting the Harmonized Tariff Schedule of the United States (HTSUS) definitions for (a) stainless steel; (b) tool steel; (c) high-nickel steel; (d) ball bearing steel; or (e) concrete reinforcing bars and rods. Also excluded are free cutting steel

<sup>31</sup> See section 782(b) of the Act.

<sup>32</sup> 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/lei/notices/factual\\_info\\_final\\_rule\\_FAQ\\_07172013.pdf](http://enforcement.trade.gov/lei/notices/factual_info_final_rule_FAQ_07172013.pdf).

(also known as free machining steel) products (i.e., products that contain by weight one or more of the following elements: 0.1 percent or more of lead, 0.05 percent or more of bismuth, 0.08 percent or more of sulfur, more than 0.04 percent of phosphorous, more than 0.05 percent of selenium, or more than 0.01 percent of tellurium). All products meeting the physical description of subject merchandise that are not specifically excluded are included in this scope.

The products under investigation are currently classifiable under subheadings 7213.91.3011, 7213.91.3015, 7213.91.3020, 7213.91.3093, 7213.91.4500, 7213.91.6000, 7213.99.0030, 7227.20.0030, 7227.20.0080, 7227.90.6010, 7227.90.6020, 7227.90.6030, and 7227.90.6035 of the HTSUS. Products entered under subheadings 7213.99.0090 and 7227.90.6090 of the HTSUS may also be included in this scope if they meet the physical description of subject merchandise above. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these proceedings is dispositive.

[FR Doc. 2017–08212 Filed 4–25–17; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–909]

#### Certain Steel Nails From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2014–2015

**AGENCY:** Enforcement and Compliance, International Trade Administration, Commerce.

**SUMMARY:** The Department of Commerce (the Department) is amending its final results of the administrative review of the antidumping duty order on certain steel nails (nails) from the People's Republic of China (PRC) for the period is August 1, 2014, through July 31, 2015 to correct ministerial errors. The amended final weighted-average dumping margins for the reviewed firms are listed below in the section entitled, “Amended Final Results.”

**DATES:** Effective April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Susan Pulongbarit or Omar Qureshi, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202–482–4031 or 202–482–5307, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On March 20, 2017, the Department published the final results of the 2014–

2015 administrative review in the **Federal Register**.<sup>1</sup> On March 22, 2017, The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively Stanley) filed a timely allegation that the Department made a ministerial error in the *Final Results* and requested, pursuant to 19 CFR 351.224(f), that the Department correct the ministerial error. We received a timely reply to Stanley's comments from Mid Continent Steel & Wire, Inc. (the petitioner) on March 27, 2017, and a request that the Department correct an additional ministerial error.

**Scope of the Order**

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are

currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.<sup>2</sup> The HTSUS subheadings are provided for convenience and customs purposes only. The written description is dispositive.<sup>3</sup>

**Amended Final Results**

Section 751(h) of the Tariff Act of 1930, as amended (the Act), defines "ministerial error" as including "errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."<sup>4</sup> After analyzing all parties' comments, we have determined

in accordance with section 751(h) of the Act and 19 CFR 351.224(f), that certain ministerial errors were made in the *Final Results*. For a detailed discussion of these ministerial errors, as well as the Department's analysis of these errors, see Ministerial Error Memorandum.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of this administrative review of nails from the PRC. The rate for the companies not selected for individual examination is equal to the calculated margin of the sole mandatory respondent, Stanley, whose margin is not zero, *de minimis*, or based entirely on adverse facts available. The dumping margins for the administrative review are as follows:

Exporter	Weighted-average margin (percent)
The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc .....	5.78
Dezhou Hualude Hardware Products Co., Ltd .....	5.78
Hebei Cangzhou New Century Foreign Trade Co., Ltd .....	5.78
Mingguang Ruifeng Hardware Products Co., Ltd .....	5.78
Nanjing Caiqing Hardware Co., Ltd .....	5.78
Qingdao D&L Group Ltd .....	5.78
SDC International Aust. PTY. Ltd .....	5.78
Shandong Dinglong Import & Export Co., Ltd .....	5.78
Shanghai Curvet Hardware Products Co., Ltd .....	5.78
Shanghai Yueda Nails Industry Co., Ltd .....	5.78
Shanxi Hairui Trade Co., Ltd .....	5.78
Shanxi Pioneer Hardware Industrial Co., Ltd .....	5.78
Shanxi Tianli Industries Co., Ltd .....	5.78
S-Mart (Tianjin) Technology Development Co., Ltd .....	5.78
Suntec Industries Co., Ltd .....	5.78
Tianjin Jinchi Metal Products Co., Ltd .....	5.78
Tianjin Jinghai County Hongli Industry & Business Co., Ltd .....	5.78
Tianjin Universal Machinery Imp. & Exp. Corporation <sup>5</sup> .....	5.78

**Disclosure**

We intend to disclose the calculations performed for these amended final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

**Assessment Rates**

The Department shall determine and U.S. Customs Border Protection shall assess antidumping duties on all

appropriate entries covered by this review pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b).

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).<sup>6</sup> Where the

Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.<sup>7</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (i.e., 0.50 percent), the Department will

<sup>1</sup> See *Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments and Final Partial Rescission; 2014-2015*, 82 FR 14344 (March 20, 2017) (*Final Results*).

<sup>2</sup> The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, "Other articles of zinc: Other," to the language of the Order. See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding "Certain Steel Nails from the

People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling," (September 19, 2013).

<sup>3</sup> A full description of the scope of the order is contained in the memorandum from James C. Doyle, Director, Office V, Enforcement and Compliance, to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Seventh Administrative Review of Certain Steel Nails from the People's Republic of China: Ministerial Error Memorandum" (Ministerial Error Memorandum), dated concurrently with this notice and incorporated herein by reference.

<sup>4</sup> See also 19 CFR 351.224(f).

<sup>5</sup> Although, the Department initiated this administrative review on Tianjin Universal Machinery Import and Export Corp., the company name, Tianjin Universal Machinery Imp. & Exp. Corporation. was the only name listed in the business license that was submitted in the separate rate application. Accordingly, the Department clarifies that it granted a separate rate to Tianjin Universal Machinery Imp. & Exp. Corporation.

<sup>6</sup> See 19 CFR 351.212(b)(1).

<sup>7</sup> *Id.*

instruct CBP to collect the appropriate duties at the time of liquidation.<sup>8</sup> Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>9</sup> We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

Pursuant to the Department's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide entity rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide entity rate.<sup>10</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively on any entries made on or after March 20, 2017, the date of publication of the *Final Results*, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the "Amended Final Results" section (except, if the rate is zero or *de minimis*, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period. (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-Wide rate of 118.04 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

<sup>8</sup> *Id.*

<sup>9</sup> See 19 CFR 351.106(c)(2).

<sup>10</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

#### Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These amended final results and notice are issued and published in accordance with sections 751(h) and 777(i) of the Act and 19 CFR 351.224(e).

Dated: April 19, 2017.

**Ronald Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017-08421 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-DS-P**

#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-122-857, C-122-858]

#### Antidumping and Countervailing Duty Investigations of Certain Softwood Lumber Products From Canada: Preliminary Determinations of Critical Circumstances

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On November 25, 2016, the Department of Commerce (the Department) received antidumping duty (AD) and countervailing duty (CVD) petitions concerning imports of certain softwood lumber products (softwood lumber) from Canada. In the petitions, the Department received timely allegations that critical circumstances exist with respect to imports of the

merchandise under investigation. Based on information provided by the Committee Overseeing Action for Lumber International Trade Investigations (Petitioner), data placed on the record of these investigations by the mandatory and voluntary respondents, and data collected by the Department, the Department preliminarily determines that critical circumstances exist for imports of softwood lumber from certain producers and exporters from Canada.

**DATES:** Effective April 26, 2017.

#### FOR FURTHER INFORMATION CONTACT:

Stephanie Moore (for CVD) or Thomas Martin (for AD), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3692 and (202) 482-3936, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), provides that the Department will preliminarily determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect: (A) That "the alleged countervailable subsidy" is inconsistent with the Subsidies and Countervailing Measures (SCM) Agreement of the World Trade Organization; and (B) that there have been massive imports of the subject merchandise over a relatively short period. Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect: (A)(i) That there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) that the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) that there have been massive imports of the subject merchandise over a relatively short period.

Section 351.206 of the Department's regulations provides that, in general, imports must increase by at least 15 percent during the "relatively short period" to be considered "massive,"<sup>1</sup> and defines a "relatively short period" as normally being the period beginning

<sup>1</sup> See 19 CFR 351.206(h).

on the date the proceeding begins (*i.e.*, the date the petition is filed) and ending at least three months later.<sup>2</sup> The regulations also provide, however, that if the Department finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may consider a period of not less than three months from that earlier time.<sup>3</sup>

### Alleged Countervailable Subsidy Is Inconsistent With the SCM Agreement

To determine whether there exists a reasonable basis to believe or suspect that an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, the Department considered the evidence on the record pertaining to Petitioner's allegation that the Export Development Canada: Export Guarantee Program is inconsistent with the SCM Agreement. Specifically, as described in our initiation checklist,<sup>4</sup> with regard to this program, Petitioner has alleged the elements of a subsidy,<sup>5</sup> supported with information reasonably available to Petitioner, that appears to be export contingent, which would render it inconsistent with the SCM Agreement. Therefore, the Department preliminarily determines that there is a reasonable basis to believe or suspect that an alleged subsidy in the CVD investigation is inconsistent with the SCM agreement.

### History of Dumping and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise. The Department, therefore, considers that it has previously issued an AD order on softwood lumber from Canada, based on nearly identical harmonized tariff schedule numbers.<sup>6</sup> Furthermore, and with respect to determining whether there is a history of material injury, the

Department determines that it is appropriate to rely on the International Trade Commission's (ITC) section 129 affirmative threat of material injury determination, and finds a history of material injury based on this determination.<sup>7</sup> Therefore, we preliminarily find that there is a history of dumping and material injury by reason of dumped imports of the subject merchandise.

### Massive Imports

In determining whether there are "massive imports" over a "relatively short period," pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the "base period") to a comparable period of at least three months following the filing of the petition (*i.e.*, the "comparison period"). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

Based on evidence provided by Petitioner, the Department finds that, pursuant to 19 CFR 351.206(i), importers, exporters or producers had reason to believe, at some time prior to the filing of the petition, that a proceeding was likely. Specifically, the Softwood Lumber Agreement (SLA) between the United States and Canada expired on October 12, 2015, and expressly provided for a "standstill" period of 12 months after the expiration of the agreement, during which the U.S. domestic industry agreed to not file AD/

CVD petitions.<sup>8</sup> Because of the unique circumstance of the expiration of the SLA in October 2015, importers and Canadian producers/exporters were aware that potential AD/CVD petitions could be filed as early as October 12, 2016. Thus, the Department finds that, pursuant to 19 CFR 351.206(i), importers, exporters or producers had reason to believe that proceedings were likely following expiration of the SLA on October 12, 2015.

In order to determine whether there has been a massive surge in imports for each mandatory respondent (Canfor Corporation (Canfor), Resolute FP Canada Inc. (Resolute), Tolko Marketing Sales Ltd. (Tolko), West Fraser Mills Ltd. (West Fraser) and J.D. Irving (the voluntary respondent in the CVD investigation), the Department compared the total volume of shipments from October 2015 through June 2016 (*i.e.*, the comparison period) with the preceding nine-month period of January 2015 through September 2015 (*i.e.*, the base period).<sup>9</sup> For "all others," the Department compared Global Trade Atlas (GTA) data for the period October 2015 through June 2016 with the preceding nine-month period of January 2015 through September 2015.<sup>10</sup> The Department first subtracted the shipments reported by the mandatory respondents and J.D. Irving from the GTA data. Based on these comparisons, we preliminarily determine that J.D. Irving and "all others" had massive surges in imports.<sup>11</sup> The shipment data do not demonstrate massive surges in imports for Canfor, Resolute, Tolko, and West Fraser.

<sup>7</sup> On May 16, 2002, the ITC determined that an industry in the United States was threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value, leading the Department to publish antidumping and countervailing duty orders on softwood lumber from Canada. Subsequently, the Government of Canada initiated a dispute settlement proceeding against the United States at the World Trade Organization, resulting in findings, *inter alia*, that the ITC did not act in conformity with the United States' obligations under the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Measures. Accordingly, pursuant to section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538), the ITC took action that would render its original determination not inconsistent with the findings of the dispute settlement panel. The ITC again determined that an industry in the United States was threatened with material injury by reason of imports from Canada of softwood lumber found to be subsidized and sold in the United States at less than fair value. See U.S. International Trade Commission, *Softwood Lumber from Canada: Investigation Nos. 701-TA-414 and 731-TA-928 (Section 129 Consistency Determination)*, Pub. 3740 (Nov. 2004); see also *Amended Orders*.

<sup>8</sup> See *Petitions* at Volume I, pp. 70–73.

<sup>9</sup> Because we only have data from the respondents dating back to January 2015, we intend to solicit shipment data for an equal number of months prior to January 2015 as the base period to compare to the most recent shipment data available through the months of the preliminary determinations.

<sup>10</sup> The GTA data includes the following harmonized tariff schedule numbers: 4407.10.01.01; 4407.10.01.02; 4407.10.01.15; 4407.10.01.16; 4407.10.01.17; 4407.10.01.18; 4407.10.01.19; 4407.10.01.20; 4407.10.01.42; 4407.10.01.43; 4407.10.01.44; 4407.10.01.45; 4407.10.01.46; 4407.10.01.47; 4407.10.01.48; 4407.10.01.49; 4407.10.01.52; 4407.10.01.53; 4407.10.01.54; 4407.10.01.55; 4407.10.01.56; 4407.10.01.57; 4407.10.01.58; 4407.10.01.59; 4407.10.01.64; 4407.10.01.65; 4407.10.01.66; 4407.10.01.67; 4407.10.01.68; 4407.10.01.69; 4407.10.01.74; 4407.10.01.75; 4407.10.01.76; 4407.10.01.77; 4407.10.01.82; 4407.10.01.83; 4407.10.01.92; 4407.10.01.93; 4409.10.05.00; 4409.10.10.20; 4409.10.10.40; 4409.10.10.60; 4409.10.10.80; 4409.10.20.00; 4409.10.90.20; 4409.10.90.40; and 4418.90.25.00.

<sup>11</sup> See the AD and CVD Preliminary Critical Circumstances Memoranda, dated concurrently with this notice.

<sup>2</sup> See 19 CFR 351.206(i).

<sup>3</sup> *Id.*

<sup>4</sup> See CVD Initiation Checklist, dated December 15, 2016 at 37.

<sup>5</sup> See *Petitions for the Imposition of Antidumping Duties and Countervailing Duties on Imports of Certain Softwood Lumber Products from Canada*, dated November 25, 2016 (*Petitions*) at Volume III, pp. 231–236.

<sup>6</sup> See *Amendment to Antidumping and Countervailing Duty Orders on Certain Softwood Lumber Products from Canada*, 69 FR 75916 (December 20, 2004) (*Amended Orders*).



## Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of softwood lumber shipped by J.D. Irving and “all others.” We preliminarily determine that critical circumstances do not exist with respect to Canfor, Resolute, Tolko, and West Fraser.

## Final Critical Circumstances Determinations

We will issue final determinations concerning critical circumstances when we issue our final subsidy and less-than-fair-value determinations. All interested parties will have the opportunity to address the Department’s determinations with regard to critical circumstances in case briefs to be submitted after completion of the preliminary subsidy and less than fair value determinations.

## International Trade Commission Notification

In accordance with sections 703(f) and 733(f) of the Act, we will notify the ITC of our determinations.

## Suspension of Liquidation

In accordance with section 703(e)(2) of the Act, because we have preliminarily found that critical circumstances exist with regard to imports exported by certain producers and exporters, if we make an affirmative preliminary determination that countervailable subsidies have been provided to these same producers/exporters at above *de minimis* rates,<sup>12</sup> we will instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (e.g., the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination that countervailable subsidies have been provided at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary subsidy rates reflected in the preliminary determination published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

In accordance with section 733(e)(2) of the Act, because we have preliminarily found that critical circumstances exist with regard to

imports exported by certain producers and exporters, if we make an affirmative preliminary determination that sales at less than fair value have been made by these same producers/exporters at above *de minimis* rates, we will instruct CBP to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (e.g., the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination of sales at less than fair value at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary dumping margins reflected in the preliminary determination published in the **Federal Register**. This suspension of liquidation will remain in effect until further notice.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.206(C)(2).

Dated: April 13, 2017.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2017-08469 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XF319**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Coast Boulevard Improvements Project, La Jolla, California

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

**ACTION:** Proposed incidental harassment authorization (IHA); request for comments.

**SUMMARY:** NMFS has received a request from the City of San Diego for authorization to take marine mammals incidental to Coast Boulevard improvements in La Jolla, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to incidentally take marine mammals during the specified activities.

**DATES:** Comments and information must be received no later than May 26, 2017.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to [ITP.Carduner@noaa.gov](mailto:ITP.Carduner@noaa.gov).

**Instructions:** NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm) without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

### FOR FURTHER INFORMATION CONTACT:

Jordan Carduner, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm). In case of problems accessing these documents, please call the contact listed above.

### SUPPLEMENTARY INFORMATION:

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements

<sup>12</sup> The preliminary subsidy determination is currently scheduled for April 24, 2017.

pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined “negligible impact” in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term “take” means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

#### National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion.

We will review all comments submitted in response to this notice prior to concluding our NEPA process in making a final decision on the IHA request.

#### Summary of Request

NMFS received a request from the City of San Diego (City) for an IHA to take marine mammals incidental to Coast Boulevard improvements in La Jolla, California. The City’s request was for harassment only and NMFS concurs that mortality is not expected to result from this activity. Therefore, an IHA is appropriate.

The City’s application for incidental take authorization was received on December 16, 2016. On March 1, 2017, we deemed the City’s application for authorization to be adequate and complete. The planned activity is not expected to exceed one year, hence we do not expect subsequent MMPA incidental harassment authorizations would be issued for this particular activity.

The planned activities include improvements to an existing public parking lot, sidewalk, and landscaping areas located on the bluff tops above Children’s Pool, a public beach located in La Jolla, California. Species that are expected to be taken by the planned activity include harbor seal, California sea lion, and northern elephant seal. Take by Level B harassment only is expected; no injury or mortality of marine mammals is expected to result from the proposed activity. This would be the first IHA issued for this activity, if issued. The City applied for, and was granted, IHAs in 2013 and 2015 (NMFS 2013; 2014; 2015) for a lifeguard station demolition and construction project at Children’s Pool beach. NMFS published notices in the **Federal Register** announcing the issuance of these IHAs on July 8, 2013 (78 FR 40705), June 6, 2014 (79 FR 32699), and July 13, 2015 (80 FR 39999), respectively. The City also applied for, and was granted, an IHA in 2016 (NMFS 2016) for a sand sampling project at Children’s Pool beach. NMFS published a notice in the **Federal Register** announcing the issuance of the IHA on June 3, 2016 (81FR 35739).

#### Description of Proposed Activity

##### Overview

The City of San Diego plans to conduct improvements to an existing public parking lot, sidewalk, and landscaping areas located on the bluff tops above Children’s Pool to upgrade public access and safety. Demolition activities would include the removal of existing parking lot paving; concrete curb, gutter, and sidewalk; and the removal of existing irrigation and plant materials. Construction activities would include subgrade preparation, asphalt paving, and marking of parking stalls; pouring of concrete curb, gutter, and sidewalk; construction of rock walls, installation of fencing, placement of landscape boulders, installation of landscaping and irrigation; and finishing and clean up. The City has requested an IHA for incidental take, via Level B harassment only, of harbor seals that routinely haul out on the beach below the project, as well as California

sea lions and northern elephant seals that occasionally haul out on the beach.

The City has determined that noise from demolition and construction associated with the planned project has the potential to result in behavioral harassment of pinnipeds on Children’s Pool. No injury or mortality of marine mammals is expected as a result of the planned activities. The expectation that behavioral harassment of pinnipeds would result from the planned activities is based on monitoring reports from the recent demolition and construction of the Children’s Pool lifeguard station project, for which the City was issued Incidental Harassment Authorizations in 2013, 2014 and 2015 (Hanan & Associates 2016).

##### Dates and Duration

The planned project would occur from June 1, 2017 through December 14, 2017. Activities would occur Monday through Saturday only, and no work would be planned on all applicable California and Federal holidays. There would be a total of 164 available days during which project activities could occur. No construction would occur during the Seal Popping Season Moratorium (December 15 to May 15) and for an additional two weeks to accommodate lactation and weaning of late season pups. Thus construction would not occur from December 15th to May 29th. The IHA, if issued, would be valid from June 1, 2017 through December 14, 2017.

##### Specified Geographic Region

The location of the project would be La Jolla, California. All planned project related activities would occur atop the 20 to 40-foot bluffs above Children’s Pool beach, adjacent to the Children’s Pool Lifeguard Station located at 827½ Coast Boulevard, La Jolla, California (See Figure 1 of the City’s IHA application).

##### Detailed Description of Specific Activities

Children’s Pool beach was created in 1932 by building a breakwater wall that allowed for a protected pool for swimming. Since then, the pool has partially filled with sand and the beach has widened to approximately 50 meter (m) (164 feet (ft)) at low tide. The planned project would include improvements to an existing public parking lot, sidewalk, and landscaping areas located on top of a coastal bluff above Children’s Pool beach. Components of the project include the demolition and construction of an asphalt parking lot; concrete curb, gutter, and sidewalk; placement of

landscape boulders; and the delivery and hauling away of materials. These components of the project would require the use of a variety of heavy equipment, machinery, and trucks, such as concrete breaker, jackhammer,

backhoe, bobcat, dump trucks, cement/pump truck, paver, and roller. See Table 1 for a description of the various project components and potential associated sound source levels (see “Potential Effects of Specified Activities on Marine

Mammals and their Habitat” later in this document for a discussion of potential effects of acoustic sources on marine mammals).

TABLE 1—ACTIVITIES PLANNED DURING THE PROPOSED PROJECT AND ESTIMATED DURATION AND MAXIMUM SOUND LEVELS

Task	Related activities	Equipment required	Maximum sound level from activities, estimated at 1m (dB re 20 µPa) <sup>1</sup>	Estimated dates and duration (weeks)
Mobilization & temporary facilities.	Install: temporary perimeter fencing, temporary utilities, temporary office trailer (if needed), temporary sanitary facilities.	truck, backhoe, trailer, small auger, hand/power tools.	100	June 1–June 30 (4 weeks)
Demolition & site clearing.	Remove hardscape (planters, curb and sidewalk) and landscaping, debris to be hauled via Coast Boulevard.	excavator, hydraulic ram, jackhammer, trucks, hand/power tools.	110	July 3–July 14 (2 weeks)
Site preparation & utilities.	Rough grade site, modify underground utilities if necessary.	loader, backhoe, truck	110	July 17–August 11 (4 weeks)
Site improvements .....	Construct concrete walls, curbs, and planters, fine grade, irrigation, hardscape, landscape, hand rail.	backhoe, truck, hand/power tools, concrete pump/truck, fork lift.	110	August 14–November 3 (12 weeks)
Final inspection, demobilization.	Remove construction equipment, inspection, make corrections.	truck, hand/power tools	100	November 6–December 1 (4 weeks)

<sup>1</sup> Tierra Data 2016

The equipment planned for use during the proposed project is very similar to that used during the demolition and construction of the Children’s Pool lifeguard station project. Based on monitoring reports associated with IHAs issued for the demolition and construction of the Children’s Pool lifeguard station project, equipment used for that project caused sound levels that resulted harassment (Level B) of pinnipeds at Children’s Pool beach. The highest sound levels estimated during construction of the Children’s Pool lifeguard station were 100 to 110 decibels (dB) root mean squared (rms). Results of acoustic monitoring during the lifeguard station project showed peak values of 91 to 103 dB rms within 15 to 20 m (49 to 66 ft) of construction activities (Hanan & Associates 2016).

Children’s Pool is designated as a shared-use beach. The beach and surrounding waters are used for swimming, surfing, kayaking, diving, tide pooling, and nature watching. Harbor seals, in particular, draw many visitors. During the harbor seal pupping season (December 15 through May 15), the beach is closed to the public. Outside of the pupping season, beach access and recreational uses are permitted by the City, provided that there is no direct harassment of harbor seals. A guideline rope strung along the upper part of the beach, as well as signage, encourage the public to respect

the seals in the area and view them at a safe distance. Studies indicate that harbor seals are habituated to human presence at Children’s Pool (Tierra Data 2015); however, habituation or reaction to human activity depends on the individual seal and the circumstances.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see “Proposed Mitigation” and “Proposed Monitoring and Reporting”).

**Description of Marine Mammals in the Area of Specified Activities**

Three species are considered to co-occur with the City’s planned activities: Harbor seals (*Phoca vitulina*), which are by far the dominant observed marine mammal in the project area, as well as California sea lions (*Zalophus californianus*) and northern elephant seals (*Mirounga angustirostris*) which also occasionally haul out in the project area, in far lower numbers. This section provides summary information regarding local occurrence of these species. We have reviewed the City’s detailed species descriptions, including life history information, for accuracy and completeness and refer the reader to Sections 3 and 4 of the City’s IHA application, as well as to NMFS’s Stock Assessment Reports (SAR; [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/)), instead of reprinting all of the information here. Additional general information about

these species (e.g., physical and behavioral descriptions) may be found on NMFS’s Web site ([www.nmfs.noaa.gov/pr/species/mammals/](http://www.nmfs.noaa.gov/pr/species/mammals/)).

Northern fur seals (*Callorhinus ursinus*) and Guadalupe fur seals (*Arctocephalus townsendi*) have been observed at beaches near the project location on rare occasions, and a northern fur seal was recently observed hauled out at La Jolla Cove, less than a mile from Children’s Pool beach (pers comm D. Hanan, Hanan & Associates, to D. Youngkin, NMFS, Feb 4, 2016). Beginning in January 2015, elevated strandings of Guadalupe fur seal pups and juveniles were observed in California. The Working Group on Marine Mammal Unusual Mortality Events determined that the ongoing stranding event meets the criteria for an Unusual Mortality event (UME) and declared strandings of Guadalupe fur seals from 2015 through 2017 to be one continuous UME. The causes and mechanisms of this UME remain under investigation. Fur seals do not generally to haul out in urban mainland beaches such as Children’s Pool, and their presence would likely be attributed to sickness or injury if they were observed in the project location. Therefore, their occurrence at Children’s Pool would be considered extralimital and would not be expected. Thus these species are not considered further in this proposed

IHA. The planned activities would not be conducted if marine mammal species other than those proposed for authorization in this document were present on Children’s Pool.

Table 2 lists all species with expected potential for occurrence in the project location and summarizes information related to the population or stock, including PBR, where known. For taxonomy, we follow Committee on Taxonomy (2016). For status of species, we provide information regarding U.S. regulatory status under the MMPA and ESA. Abundance estimates presented here represent the total number of individuals that make up a given stock

or the total number estimated within a particular study area. NMFS’s stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. PBR, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population, is considered in concert with known sources of ongoing anthropogenic

mortality to assess the population-level effects of the anticipated mortality from a specific project (as described in NMFS’s SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality are included here as gross indicators of the status of the species and other threats.

All values presented in Table 2 are the most recent available at the time of publication and are available in NMFS’s SARs (e.g., Carretta *et al.*, 2016). Please see the SARs, available at [www.nmfs.noaa.gov/pr/sars](http://www.nmfs.noaa.gov/pr/sars), for more detailed accounts of these stocks’ status and abundance.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; Strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR <sup>3</sup>	Annual M/SI <sup>4</sup>	Relative occurrence in project area; season of occurrence
<b>Order Carnivora—Superfamily Pinnipedia</b>						
<b>Family Otariidae (eared seals and sea lions)</b>						
California sea lion .....	U.S. ....	-; N .....	296,750 (n/a; 153,337; 2011).	9,200	389	Abundant; year-round
<b>Family Phocidae (earless seals)</b>						
Harbor seal .....	California .....	-; N .....	30,968 (n/a; 27,348; 2012)	1,641	43	Rare; year-round
Northern elephant seal .....	California breeding	-; N .....	179,000 (n/a; 81,368; 2010)	4,882	8.8	Rare; year-round

<sup>1</sup> Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/). CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance. In some cases, CV is not applicable.

<sup>3</sup> Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

<sup>4</sup> These values, found in NMFS’s SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike).

**Harbor Seals**

Harbor seals inhabit coastal and estuarine waters and shoreline areas of the northern hemisphere from temperate to polar regions. The eastern North Pacific subspecies is found from Baja California north to the Aleutian Islands and into the Bering Sea. Multiple lines of evidence support the existence of geographic structure among harbor seal populations from California to Alaska (Carretta *et al.*, 2016). However, because stock boundaries are difficult to meaningfully draw from a biological perspective, three separate harbor seal stocks are recognized for management purposes along the west coast of the continental U.S.: (1) Washington inland waters (2) Oregon and Washington coast, and (3) California (Carretta *et al.*, 2016). Placement of a stock boundary at the California-Oregon border is not based on biology but is considered a political and jurisdictional convenience (Carretta *et al.*, 2016). In addition, harbor seals may occur in Mexican

waters, but these animals are not considered part of the California stock. Only the California stock is expected to be found in the project area.

Harbor seals are not protected under the Endangered Species Act (ESA); the California stock is not listed as depleted under the MMPA, and is not considered a strategic stock under the MMPA because annual human-caused mortality (43) is significantly less than the calculated potential biological removal (PBR; 1,641) (Carretta *et al.*, 2016). The population appears to be stabilizing at what may be its carrying capacity and fishery mortality is declining. The best abundance estimate of the California stock of harbor seals is 30,968 and the minimum population size of this stock is 27,348 individuals (Carretta *et al.*, 2016).

The beaches and rocks at, or near, the Children’s Pool are known haul out sites for harbor seals. Starting in the mid-1990s there was an increase in numbers of harbor seals using the beaches and rocks in the area around Children’s Pool

(Yochem and Stewart 1998). As a result, the City commissioned several studies for harbor seal abundance trends at this site (Yochem and Stewart 1998; Hanan & Associates 2004, 2011). Abundances at any given time may range from a low of 0 to 15 seals to a maximum that rarely exceeds 200 seals at Children’s Pool, and 250 individuals in the vicinity (Linder 2011; Hanan & Associates 2014).

When abundances are low, seals tend to cluster on the western side of Children’s Pool, and when abundances are high, the seals spread out along the beach. A limiting factor to the maximum number of individuals observed at Children’s Pool at any given time likely relates to the area available for haulouts (Linder 2011). Several factors influence the variability in harbor seal abundance, including daily foraging and resting patterns, season, weather conditions, and movements by transient individuals. Generally, the highest abundances occur during the months of April and May, at the end of the

pupping season and beginning of the molting season (Linder 2011).

Radio tagging and photographic studies have identified that only a portion of seals utilizing a haulout site are present at any specific moment or day (Hanan 1996, 2005; Gilbert et al. 2005; Harvey and Goley 2011; Linder 2011; Hanan & Associates 2014). These studies further indicate that seals are constantly moving along the coast, including to/from offshore islands (California Channel Islands, Las Islas Coronados). Linder (2011) estimated that there may be as many as 600 harbor seals using Children's Pool beach during a year associated with the coastal movements of transient individuals, and suggested that the haul out at Children's Pool Beach is possibly part of a regional network of interconnected resting and pupping sites.

#### *California Sea Lion*

California sea lions range from the Gulf of California north to the Gulf of Alaska, with breeding areas located in the Gulf of California, western Baja California, and southern California. Five genetically distinct geographic populations have been identified: (1) Pacific Temperate, (2) Pacific Subtropical, (3) Southern Gulf of California, (4) Central Gulf of California and (5) Northern Gulf of California (Schramm *et al.*, 2009). Rookeries for the Pacific Temperate population are found within U.S. waters and just south of the U.S.-Mexico border, and animals belonging to this population may be found from the Gulf of Alaska to Mexican waters off Baja California. Animals belonging to other populations (*e.g.*, Pacific Subtropical) may range into U.S. waters during non-breeding periods. For management purposes, a stock of California sea lions comprising those animals at rookeries within the U.S. is defined (*i.e.*, the U.S. stock of California sea lions) (Carretta *et al.*, 2016). Pup production at the Coronado Islands rookery in Mexican waters is considered an insignificant contribution to the overall size of the Pacific Temperate population (Lowry and Maravilla-Chavez, 2005).

California sea lions are not protected under the ESA and the U.S. stock of California sea lions is not listed as depleted under the MMPA. Total annual human-caused mortality (389) is substantially less than the PBR (estimated at 9,200 per year); therefore, California sea lions are not considered a strategic stock under the MMPA. There are indications that the California sea lion may have reached or is approaching carrying capacity, although more data are needed to confirm that

leveling in growth persists (Carretta *et al.*, 2016). The best abundance estimate of the U.S. stock is 296,750 and the minimum population size of this stock is 153,337 individuals (Carretta *et al.*, 2016).

Beginning in January 2013, elevated strandings of California sea lion pups were observed in southern California, with live sea lion strandings nearly three times higher than the historical average. Findings to date indicate that a likely contributor to the large number of stranded, malnourished pups was a change in the availability of sea lion prey for nursing mothers, especially sardines. The Working Group on Marine Mammal Unusual Mortality Events determined that the ongoing stranding event meets the criteria for a UME and declared California sea lion strandings from 2013 through 2016 to be one continuous UME. The causes and mechanisms of this event remain under investigation ([www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm](http://www.nmfs.noaa.gov/pr/health/mmume/californiasealions2013.htm)).

California sea lions have been observed in the water, or on the beach or rocks at and near Children's Pool, though these areas are used only occasionally as haulout locations for the species (Yochem and Stewart 1998; Hanan & Associates 2004, 2011; Linder 2011). Monitoring associated with the Children's Pool Lifeguard Station construction project from June 28, 2015–June 27, 2016 documented a total of 71 California sea lions on Children's Pool beach, as well as 83 California sea lions on seal rock (an outcropping approximately 91 m north of the beach); five California sea lions on South Casa Beach; and one California sea lion on the offshore reef off South Casa Beach (Hanan & Associates 2016). Observers recorded data only during construction, so it is possible there were more days throughout the year in which California sea lions hauled out on the beach. Evaluation of Children's Pool docent data from 2014 to 2016 (Seal Conservancy 2016), indicates that California sea lions were observed on Children's Pool beach on 67 days in 2014, 14 days in 2015, and 95 days in 2016.

#### *Northern Elephant Seals*

Northern elephant seals gather at breeding areas, located primarily on offshore islands of Baja California and California, from approximately December to March before dispersing for feeding. Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, while females feed at sea south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.*, 1993). Adults then return

to land between March and August to molt, with males returning later than females, before dispersing again to their respective feeding areas between molting and the winter breeding season. Populations of northern elephant seals in the U.S. and Mexico are derived from a few tens or hundreds of individuals surviving in Mexico after being nearly hunted to extinction (Stewart *et al.*, 1994). Given the recent derivation of most rookeries, no genetic differentiation would be expected. Although movement and genetic exchange continues between rookeries, most elephant seals return to their natal rookeries when they start breeding (Huber *et al.*, 1991). The California breeding population is now demographically isolated from the Baja California population and is considered to be a separate stock.

Northern elephant seals are not protected under the ESA and the California breeding population is not listed as depleted under the MMPA. Total annual human-caused mortality (8.8) is substantially less than the PBR (estimated at 4,882 per year); therefore, northern elephant seals are not considered a strategic stock under the MMPA. Modeling of pup counts indicates that the population has reached its Maximum Net Productivity Level, but has not yet reached carrying capacity (Carretta *et al.*, 2016). The best abundance estimate of the California breeding population of northern elephant seals is 179,000 and the minimum population size of this stock is 81,368 individuals (Carretta *et al.*, 2016).

Northern elephant seals have been observed in the water, or on the beach or rocks at and near Children's Pool, though these areas are used only occasionally as haulout locations for the species (Yochem and Stewart 1998; Hanan & Associates 2004, 2011; Linder 2011). During monitoring associated with the Children's Pool Lifeguard Station construction project, juvenile northern elephant seals were documented on Children's Pool beach on a total of 26 days in the period from June 28, 2015–June 27, 2016 (Hanan & Associates 2016), and 28 days in the period from June 28, 2014–June 27, 2015 (Hanan & Associates 2015). Observers recorded data only during construction, so it is possible there were more days throughout the year in which elephant seals hauled out on the beach. Children's Pool docent data indicates that Northern elephant seals used the beach as a haulout location on 38 days in 2014 and 36 days in 2015 (Seal Conservancy 2016).

### Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The “Estimated Take by Incidental Harassment” section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The “Negligible Impact Analysis and Determination” section will consider the content of this section, the “Estimated Take by Incidental Harassment” section, and the “Proposed Mitigation” section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

#### Description of Sound Sources

Acoustic sources associated with the City’s proposed activities are expected to include various types of construction and demolition equipment, such as jackhammers, concrete saws, cement pumps, and hand tools (Table 1). Sound sources may be pulsed or non-pulsed.

Pulsed sound sources (*e.g.*, sonic booms, explosions, gunshots, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.*, rapid rise time). Examples of non-pulsed sounds include those produced by rocket launches and landings, vessels, aircraft, machinery operations such as drilling or dredging, and vibratory pile driving. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds and attenuate (decrease) more rapidly in shallower water. Amplitude is the height of the sound pressure wave or the ‘loudness’ of a sound and is typically measured using the decibel scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal ( $\mu\text{Pa}$ ). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1  $\mu\text{Pa}$ ). The received level is the sound level at the listener’s position. Note that all underwater sound levels in this document are referenced to a pressure of 1  $\mu\text{Pa}$  and all airborne sound levels in this document are referenced to a pressure of 20  $\mu\text{Pa}$ .

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse, and is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

#### Acoustic Effects

Here, we first provide background information on marine mammal hearing before discussing the potential effects of acoustic sources on marine mammals.

To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all

marine mammal species have equal hearing capabilities (*e.g.*, Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz, with best hearing estimated to be from 100 Hz to 8 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz, with best hearing from 10 to less than 100 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus*; including two members of the genus *Lagenorhynchus*, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz, with best hearing between 1–50 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz, with best hearing between 2–48 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range

(Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Three marine mammal species (one otariid and two phocid pinnipeds) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2.

The effects of sounds on marine mammals are dependent on several factors, including the species, size, behavior (feeding, nursing, resting, etc.), and depth (if underwater) of the animal; the intensity and duration of the sound; and the sound propagation properties of the environment. Impacts to marine species can result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.*, 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of sounds on marine mammals. Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.*, 1973).

The effects of sounds from the proposed activities are expected to result in behavioral disturbance of marine mammals. Due to the expected sound levels of the equipment proposed for use and the distance of the planned activity from marine mammal habitat, the effects of sounds from the proposed activities are not expected to result in temporary or permanent hearing impairment (TTS and PTS, respectively), non-auditory physical or physiological effects, or masking in marine mammals. Data from monitoring reports associated with IHAs issued previously for similar activities in the same location as the planned activities provides further support for the assertion that TTS, PTS, non-auditory physical or physiological effects, and masking are not likely to occur (Hanan & Associates 2014; 2015; 2016). Therefore, TTS, PTS, non-auditory physical or physiological effects, and masking are not discussed further in this section.

#### *Disturbance Reactions*

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Behavioral responses to sound are highly variable and context-specific and reactions, if any, depend on species, state of maturity, experience, current activity,

reproductive state, auditory sensitivity, time of day, and many other factors (Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007).

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC, 2003; Wartzok *et al.*, 2003).

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.*, 2004; Wartzok *et al.*, 2003; Nowacek *et al.*, 2007).

The onset of noise can result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include (Richardson *et al.*, 1995): Reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses.

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.*, 2007).

Marine mammals that occur in the project area could be exposed to airborne sounds associated with construction and demolition activities that have the potential to result in behavioral harassment, depending on an animal's distance from the sound. Airborne sound could potentially affect pinnipeds that are hauled out. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon their habitat and move further from the source. Hauled out pinnipeds may flush into the water, which can potentially result in pup abandonment. Site-specific monitoring data described below indicate that pup abandonment is not likely to occur at this site as a result of the specified activity.

#### *Behavioral Responses of Pinnipeds to Construction and Demolition*

The City has monitored pinniped responses to construction at Children's Pool beach for the past three years as a requirement of previously issued IHAs for construction of the lifeguard station on the bluffs above Children's Pool (NMFS 2013; 2014; 2015). The equipment associated with the planned construction and demolition activities at Coast Boulevard would be very similar to the equipment associated with the IHAs issued previously for the lifeguard station construction project, sound levels are expected to be substantially similar, and the project location and marine mammal species affected are expected to be the same. Thus, we rely on observational data on responses of pinnipeds to demolition and construction of the lifeguard station at Children's Pool beach in drawing conclusions about expected pinniped responses to sound associated with the planned project.

NMFS previously issued three consecutive IHAs to the City of San Diego for the incidental take of marine mammals associated with the demolition of the existing lifeguard station at Children's Pool beach and the construction of a new lifeguard station at the same location, from June 2013 through June 2016 (NMFS 2013; 2014; 2015). The first IHA was effective June 28, 2013 through June 27, 2014; the second IHA was valid June 28, 2014 through June 27, 2015; the third IHA was valid June 28, 2015 through June 27, 2016. All of the IHAs authorized take of Pacific harbor seals, California

sea lions, and northern elephant seals, in the form of Level B harassment, incidental to demolition and construction activities.

From 2013–2016, protected species observers collected data over a total of 3,376 hourly counts at seven sites around the project and Children’s Pool beach. Observed reactions of pinnipeds at Children’s Pool to demolition and construction of the lifeguard station ranged from no response to heads-up alerts, from startle responses to some movements on land, and some movements into the water (Hanan & Associates 2014; 2015; 2016). There were no documented occurrences of take by Level A harassment throughout the three years of monitoring (Hanan & Associates 2014; 2015; 2016). Data from the three years of monitoring also suggests there was no site abandonment on the part of harbor seals a result of the project (Hanan & Associates 2014; 2015; 2016). Based on the data from these three previously issued IHAs, we expect that any behavioral responses by pinnipeds to the planned project would be very similar to those that resulted from the previously authorized lifeguard station project: From no response to heads-up alerts, startle responses, some movements on land, and some movements into the water (flushing).

**Estimated Take by Incidental Harassment**

This section provides an estimate of the number of incidental takes proposed

for authorization through this IHA, which will inform both NMFS’ consideration of whether the number of takes is “small” and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to sounds associated with the planned construction and demolition activities. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized. The death of a marine mammal is also a type of incidental take. However, in the case of the planned project it is unlikely that injurious or lethal takes would occur even in the absence of the planned mitigation and monitoring measures, and no mortality is anticipated or proposed to be authorized for this

activity. The current NMFS thresholds for behavioral harassment of pinnipeds from airborne noise are shown in Table 3.

**TABLE 3—CURRENT NMFS CRITERIA FOR PINNIPED HARASSMENT RESULTING FROM EXPOSURE TO AIRBORNE SOUND**

Species	Level B harassment threshold	Level A harassment threshold
Harbor seals	90 dB re 20 μPa.	Not defined
Other pinniped species.	100 dB re 20 μPa.	Not defined

NMFS currently uses a three-tiered scale to determine whether the response of a pinniped on land to acoustic or visual stimuli is considered an alert, a movement, or a flush. NMFS considers the behaviors that meet the definitions of both movements and flushes to qualify as behavioral harassment. Thus a pinniped on land is considered by NMFS to have been behaviorally harassed if it moves greater than two times its body length, or if the animal is already moving and changes direction and/or speed, or if the animal flushes from land into the water. Animals that become alert without such movements are not considered harassed. See Table 4 for a summary of the pinniped disturbance scale.

**TABLE 4—LEVELS OF PINNIPED BEHAVIORAL DISTURBANCE ON LAND**

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal’s body length.
2	Movement	Movements away from the source of disturbance, ranging from short withdrawals at least twice the animal’s body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound. In practice, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment and, when duration of the

activity is considered, it can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities such as the proposed project, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site is stronger than the deterrence presented by the harassing activity.

The take calculations presented here rely on the best information currently available for marine mammal populations in the Children’s Pool area. Below we describe how the take was estimated for the planned project.

*Pacific Harbor Seal*

The take estimate for harbor seal was based on the following steps:

- (1) Estimate the total area (m<sup>2</sup>) of harbor seal haulout habitat available at Children’s Pool;
- (2) Estimate the total area of available haulout habitat expected to be ensounded to the airborne Level B



harassment threshold for harbor seals (90 dB re 20  $\mu$ Pa) based on total haulout area and the percentage of total haulout area expected to be ensonified to the Level B harassment threshold;

(3) Estimate the daily number of seals exposed to sounds above Level B harassment threshold by multiplying the total area of haulout habitat expected to be ensonified to the Level B threshold by the expected daily number of seals on Children's Pool;

(4) Estimate the total number of anticipated harbor seals taken over the duration of the project by multiplying the daily number of seals exposed to noise above the Level B harassment threshold by the number of total project days in which project-related sounds may exceed the Level B harassment threshold.

As described above, Children's Pool is designated as a shared-use beach. The beach and surrounding waters are used for swimming, surfing, kayaking, diving, tide pooling, and nature watching, thus the beach is shared between humans and pinnipeds. To discourage people from harassing pinnipeds hauled out on the beach, a guideline rope, oriented parallel to the water, bisects the beach into upper (western) and lower (eastern) beach areas; people are encouraged to stay on the western side of the guideline rope, allowing seals to use the eastern section of beach that provides access to the water. The City's estimate of available pinniped habitat was based on the total area of the beach between the guideline rope and the mean lower low water line. Thus, the area considered for this analysis to be available as haulout habitat is the total area east of the rope and west of the mean lower low water line, while the area west of the rope is assumed to be unavailable as pinniped habitat (See Figure 5 in the IHA application for the location of the guideline rope, and the area assumed to be available haulout habitat). The City estimated that there are 2,509 m<sup>2</sup> east of the guideline rope; therefore it is assumed that there is a total of 2,509 m<sup>2</sup> of available pinniped habitat on Children's Pool (Figure 5 in IHA application).

The City estimated the area of available harbor seal habitat at Children's Pool beach that would be ensonified to the Level B harassment threshold by estimating the distance to the Level B harassment threshold from sounds associated with the planned activities, then calculating the percentage of available haulout habitat at Children's Pool that would be ensonified to that threshold based on the total available habitat and the

distance to the Level B harassment threshold.

To estimate the distance to the in-air Level B harassment threshold for harbor seals (90 dB rms) for the planned project, the City first used a spherical spreading loss model, assuming average atmospheric conditions. The spreading loss model predicted that the 90 dB isopleth would be reached at 10 m (33 ft). However, data from in situ recordings conducted during the lifeguard station project at Children's Pool indicated that peak sound levels of 90 to 103 dB were recorded at distances of 15 m to 20 m (49 to 66 ft) from the source when the loudest construction equipment (source levels ranging from 100 to 110 dB) was operating. The City estimated that the loudest potential sound sources associated with the planned project would be approximately 110 dB rms (Table 1), based on manufacturer specifications and previous recordings of similar equipment used during the lifeguard station project at Children's Pool (Hanan & Associates 2014; 2015; 2016). Therefore, the City estimated that for the sound sources expected to result in the largest isopleths (those with SLs estimated at up to 110 dB), the area expected to be ensonified to the in-air Level B harassment threshold for harbor seals (90 dB rms) would extend to approximately 20 m from the sound source. To be conservative, the City used this distance (20 m) based on the data from previous site-specific monitoring, rather than the results of the spherical spreading loss model, to estimate the predicted distance to the in-air Level B harassment threshold for harbor seals.

Based on the estimated distance to the in-air Level B harassment threshold for harbor seals (20 m from the sound source), the City estimated 647 m<sup>2</sup> of total available harbor seal habitat at Children's Pool beach would be ensonified to the Level B harassment threshold, the City therefore estimated that approximately 25.8 percent (647/2,509) of available harbor seal haulout habitat at Children's Pool beach would be ensonified to the Level B harassment threshold (Figure 5 in IHA application). This information has been used to derive the take estimate only; the entire beach would be observed in order to document potential actual take.

The estimated daily take of harbor seals was based on the number of harbor seals expected to occur daily in the area ensonified to the Level B harassment threshold. In their IHA application, the City estimated that 200 harbor seals would be present on Children's Pool beach per day, based on literature that

reported this number as the maximum number of seals recorded at Children's Pool (Linder 2011). However, NMFS believes it is more appropriate to use the average number of seals observed on Children's Pool beach, as opposed to the maximum number of seals, to estimate the likely number of takes of harbor seals as a result of the planned project. During 3,376 hourly counts associated with monitoring for IHAs issued for construction and demolition at the lifeguard station at Children's Pool in 2013–14, 2014–15, and 2015–16, there was an average of 54.5 harbor seals (including pups) recorded daily on Children's Pool beach (pers. comm., D. Hanan, Hanan & Associates, to J. Carduner, NMFS, April 04, 2017). We therefore estimated that 55 harbor seals would occur on Children's Pool per day, and used this number to estimate take of harbor seals as a result of the planned project. Based on an estimate of 55 total harbor seals on Children's Pool per day, and an estimated 25.8 percent of total haulout habitat ensonified to the Level B harassment threshold for harbor seals, we estimated that an average of 14.2 (rounded to 15) takes of harbor seals by Level B harassment would occur per day.

The City estimated that the total duration of the project would be 164 days. However, activities involving equipment that could result in sound source levels of 101–110 dB would occur on a maximum of 108 project days (pers. comm., D. Langsford, Tierra Data, to, J. Carduner, NMFS, April 03, 2017). Based on the distance of the project to Children's Pool and previous monitoring reports, we believe it is unlikely that project-related activities with expected source levels at or below 100 dB rms would result in sound exposure levels at or above 90 dB among any pinnipeds at Children's Pool. Planned project-related activities would occur on top of a natural cliff in an area of increasing elevation above the beach, therefore we do not believe visual stimuli from the project would result in behavioral harassment of any marine mammals. Therefore, we do not expect that activities with expected source levels of 100 dB and below would result in take of marine mammals. Thus, our take estimate is based on the number of days in which source levels associated with the planned project could be between 100 and 110 dB rms. Based on an estimate of 15 takes of harbor seals per day by Level B harassment, over a total of 108 days the project would be expected to result in a total of 1,620 takes of harbor seals by Level B harassment. We therefore propose to

authorize a total of 1,620 incidental takes of harbor seals by Level B harassment only. The City requested authorization for the 8,528 takes of harbor seals, however, based on the rationale described above, we propose to authorize 1,620 incidental takes of 1,620 harbor seals.

*California Sea Lion*

As described above, California sea lions are occasional visitors to Children’s Pool. The most reliable estimates of likely California sea lion occurrence in the project area come from monitoring reports associated with IHAs issued previously for demolition and construction of the lifeguard station at Children’s Pool. In 2015–16 there were 71 observations of California sea lions on Children’s Pool over 209 days of monitoring, for an average of one California sea lion observed on Children’s Pool approximately every three days. Based on this ratio, we estimate that a total of 55 observations of California sea lions on Children’s Pool during the entire duration of the project (164 days); however as described

above we do not think take is likely to occur on days in which source levels are below 100 dB. We expect one take of California sea lion would occur for every 3 days of the project in which source levels are anticipated to be between 101–110 dB (108 total days). We therefore propose to authorize 36 incidental takes of California sea lions by Level B harassment only. This is considered a conservative estimate as the threshold for Level B harassment for California sea lions is different than that for harbor seals (Table 3). The City requested authorization for 100 takes of California sea lions, however we instead propose to authorize 36 incidental takes of California sea lions.

*Northern Elephant Seal*

As described above, northern elephant seals are occasional visitors to Children’s Pool. The most reliable estimates of likely northern elephant seal occurrence in the project area come from monitoring reports associated with IHAs issued previously for demolition and construction of the lifeguard station at Children’s Pool. In 2015–16 there

were 26 observations of northern elephant seals on Children’s Pool over 209 days of monitoring, for an average of one northern elephant seal observed on Children’s Pool approximately every eight days. Based on this ratio, we estimate a total of 20 northern elephant seals would be observed on Children’s Pool during the entire duration of the project (164 days); however as described above we do not think take is likely to occur on days in which source levels are below 100 dB. We expect one northern elephant seal take would occur for every eight days of the project in which source levels are anticipated to be between 101–110 dB (108 total days). We therefore propose to authorize 14 incidental takes of northern elephant seals by Level B harassment only. This is considered a conservative estimate as the threshold for Level B harassment for northern elephant seals is different than that for harbor seals (Table 3). The City requested authorization for 50 takes of northern elephant seals, however we instead propose to authorize 14 incidental takes of northern elephant seals.

TABLE 5—SUMMARY OF ESTIMATED NUMBERS OF MARINE MAMMALS POTENTIALLY TAKEN BY THE PLANNED PROJECT

Species	Level A takes	Level B takes	Total
Harbor seal .....	0	1,620	1,620
California sea lion .....	0	36	36
Northern elephant seal .....	0	14	14

**Effects of Specified Activities on Subsistence Uses of Marine Mammals**

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Proposed Mitigation**

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological)

of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully balance two primary factors: (1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat—which considers the nature of the potential adverse impact being mitigated (likelihood, scope, range), as well as the likelihood that the measure will be effective if implemented; and the likelihood of effective implementation, and; (2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity,

personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to activities expected to result in the take of marine mammals

(this goal may contribute to 1, above, or to reducing harassment takes only).

4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

#### *Mitigation for Marine Mammals and Their Habitat*

The City has proposed several mitigation measures. These measures include the following:

- Moratorium during harbor seal pupping season: Demolition and construction would be prohibited during the Pacific harbor seal pupping season (December 15th to May 15th) and for an additional two weeks to accommodate lactation and weaning of late season pups. Thus construction would be prohibited from December 15th to May 29th. This measure is designed to avoid any potential adverse impacts to pups that may otherwise occur, such as abandonment by mothers as a result of harassment.

- Activities limited to daylight hours only: Construction and demolition would be limited to daylight hours only (7 a.m. to 7 p.m., or 30 minutes before sunset depending on time of year). This measure is designed to facilitate the ability of MMOs to effectively monitor potential instances of harassment and to accurately document behavioral responses of pinnipeds to project-related activities.

- Timing constraints for very loud equipment: To minimize potential impacts to marine mammals, construction and demolition activity involving use of very loud equipment (e.g., jackhammers) would be scheduled during the daily period of lowest pinniped haul-out occurrence, between the hours of 8:30 a.m. to 3:30 p.m., to the maximum extent practical. This measure is designed to minimize the number of pinnipeds exposed to sounds that may result in harassment.

Construction and demolition may be extended from 7 a.m. to 7 p.m. (daylight hours only) to help ensure the project is completed in 2017, prior to the moratorium during the harbor seal pupping season starting December 15th, so as to reduce the overall duration of the project.

- Marine mammal observers (MMO): Trained MMOs would be used to detect and document project-related impacts to marine mammals, including any behavioral responses to the project. This measure is designed to facilitate the City's ability to increase the understanding of the effects of the action on marine mammal species and stocks. More information about this measure is contained in the "Proposed Monitoring" section below.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

#### **Proposed Monitoring and Reporting**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density).
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the

action; or (4) biological or behavioral context of exposure (e.g., age, calving or feeding areas).

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.

- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.

- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).

- Mitigation and monitoring effectiveness.

#### *Proposed Monitoring*

The City has developed a Monitoring Plan specific to the project which establishes protocols for both acoustic and marine mammal monitoring. The objectives of the Monitoring Plan are to observe and document real-time sound levels in the project area, to document observed behavioral responses to project activities, and to record instances of marine mammal harassment. Monitoring would be conducted before, during, and after project activities to evaluate the impacts of the project on marine mammals. The Monitoring Plan can be found in Appendix C of the City's IHA application.

The Monitoring Plan encompasses both acoustic monitoring and marine mammal monitoring. Marine mammal monitoring would be conducted to assess the number and species, behavior, and responses of marine mammals to project-related activities as well as other sources of disturbance, as applicable. Acoustic monitoring would measure in-air sound pressure levels during ambient conditions and during project activities to measure sound levels associated with the project and to determine distances within which Level B acoustic harassment disturbance are expected to occur. More details are provided below.

#### *Acoustic Monitoring*

Monitors would collect real-time acoustic data of construction activities to determine SPL values during demolition and construction activities, and to determine distances to zones within which SPLs are expected to meet or exceed airborne Level B harassment thresholds for harbor seals and other pinnipeds. Environmental data would also be collected to provide information on the weather, visibility, sea state, and

tide conditions during monitoring surveys.

Sound level meters would be used to document SPLs at near-field and far-field locations during all surveys, and to determine the distances to Level B harassment thresholds. Far-field locations will include the western end of the beach, the middle of the guideline rope and the eastern edge of the beach. The total number and locations of the monitoring stations would be determined during each survey based on the location of construction activities and likelihood for sound levels to meet or exceed in-air SPL harassment thresholds in areas where marine mammals are observed at Children's Pool. Refer to Section 3 of the Monitoring Plan for further details on the acoustic monitoring plan.

#### *Marine Mammal Monitoring*

Marine mammal monitoring would be conducted by qualified MMOs to document behavioral responses of marine mammals to the planned project. Monitors would document the behavior of marine mammals, the number and types of responses to disturbance, and the apparent cause of any reactions. Marine mammals displaying behavioral responses to disturbance would be assessed for the apparent cause of disturbance. All responses to stimuli related to the project would be documented; responses that rise to the level of behavioral harassment (Table 4) would be documented as takes.

Marine mammal observations may be made from vantage points on the beach or from overlook areas that provide an unobstructed view of the beach. Monitoring on the beach would be behind the guideline rope to minimize potential disturbance to hauled out marine mammals.

The following data would be collected during the marine mammal monitoring surveys:

- Dates and times of marine mammal observations.
- Location of observations.
- Construction activities occurring during each observation period. Any substantial change in construction activities (especially cessation) during observation periods should be noted.
- Human activity in the area; number of people on the beach, adjacent overlooks, and in the water.
- Counts by species of pinnipeds, and if possible sex and age class.
- Number and type of responses to disturbance, such as alert, flush, vocalization, or other with a description.
- Apparent cause of reaction.

The extent of marine mammal monitoring required would depend on recorded sound levels of the activities performed; sound levels would be verified through acoustic monitoring as described above. At the start of each new phase of demolition and construction (*i.e.*, same type of activity and equipment), a full day of marine mammal monitoring would occur. This monitoring would include a Pre-Construction Activity Survey, hourly Construction Activity Surveys, and a Post-Construction Activity Survey. Pre-Construction Activity Surveys would include recordings of the times of observations, environmental conditions, and maximum ambient SPLs at the recording location at the top of the bluff adjacent to the project site, and at the three far-field locations, and would occur at least 30 minutes prior to the start of construction activities. Hourly Construction Activity Surveys would record times of observations, environmental conditions, and maximum SPLs at near-field and far-field locations. Post-Construction Activity Surveys would record times of observations, environmental conditions, and maximum ambient SPLs at all monitoring locations surveyed during the Construction Activity Surveys. Marine mammal monitoring data will be collected, as noted above. The number of days of subsequent monitoring required after the first day of monitoring for each new construction phase would depend on the results of acoustic monitoring, as follows:

(a) If Acoustic monitoring on the first day of a new phase of construction documents sound levels of 90 dB rms or greater at any far-field location, then daily monitoring would be required throughout that phase of construction.

(b) If Acoustic monitoring on the first day of a new phase of construction documents sound levels of 90 dB rms or greater at the near-field location, but not at any far-field location, then a minimum of two additional days of monitoring would be required to confirm far-field sound levels remain less than 90 dB rms for construction phase durations of less than 4 weeks. Monitoring would be conducted weekly to confirm far-field sound levels remain less than 90 dB rms for construction phase durations of greater than 4 weeks. If during the additional monitoring, sound levels of 90 dB or greater are recorded at any far-field location, then daily monitoring would be required until the end of that construction phase.

(c) If Acoustic monitoring on the first day of a new phase of construction documents sound levels of less than 90 dB rms at the near-field location(s), then

one additional day of monitoring would be conducted to confirm near-field sound levels remain less than 90 dB rms. If a sound level of greater than 90 dB rms is measured at the near-field location on the second day of monitoring, then additional days of monitoring would be conducted consistent with the specification listed under item (b) above.

Marine mammal monitoring would be conducted by a qualified MMO with the following minimum qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface, with the ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- A minimum of a Bachelor's degree in biological science, wildlife management, mammalogy, or related field;
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).
- Experience or training in the field identification of marine mammals, and identification of marine mammal behavior;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area, as needed; and
- Writing skills sufficient to prepare a report of observations.

As noted above, Guadalupe and northern fur seals would be considered extralimital to the project area; however, as fur seals have been occasionally observed in the area, the MMO would ensure that take of fur seals is avoided. In the event that a fur seal or another species of marine mammal for which take is not authorized in the IHA, if issued, are observed either on the rocks, beach, or in the water at Children's Pool prior to commencement of activities, the MMO would alert the stranding network, as the occurrence of these species would typically indicate a sick/injured animal, and activities would be postponed until coordination with the stranding network is complete (including any potential 24-hour or 48-hour wait/observation period) and/or the animal either leaves, or is collected by the stranding network.

Marine mammal monitoring protocols are described in greater detail in Section 4 of the City's Monitoring Plan.

### Proposed Reporting

A final monitoring report would include data collected during marine mammal monitoring and acoustic and environmental monitoring as described above. The monitoring report would include a narrative description of project related activities, counts of marine mammals by species, sex and age class, a summary of marine mammal species/count data, a summary of marine mammal responses to project-related disturbance, and responses to other types of disturbances. The monitoring report would also include a discussion of seasonal and daily variations in the abundance of marine mammals at Children's Pool, the relative percentage of marine mammals observed to react to construction activities and their observed reactions, and the number of marine mammals taken as a result of the project based on the criteria shown in Table 4.

A draft report would be submitted to NMFS within 60 calendar days of the completion of acoustic measurements and marine mammal monitoring. The results would be summarized in tabular/graphical forms and include descriptions of acoustic sound levels and marine mammal observations according to type of construction activity and equipment. A final report would be prepared and submitted to NMFS within 30 days following receipt of comments on the draft report from NMFS. Proposed reporting measures are described in greater detail in Section 6 of the City's Monitoring Plan.

If issued, this would be the first IHA issued for the planned activity. Monitoring reports from IHAs issued to the City in 2013, 2014, and 2015 for the lifeguard station construction project at Children's Pool reported that pinniped responses to that project ranged from no response to heads-up alerts, from startle responses to some movements on land, and some movements into the water (Hanan & Associates 2014; 2015; 2016). There were no documented occurrences of Level A takes throughout the three years of monitoring (Hanan & Associates 2014; 2015; 2016). Data from the three years of monitoring indicates no site abandonment by harbor seals as a result of the project (Hanan & Associates 2014; 2015; 2016). Monitoring reports from previous IHAs issued to the City for lifeguard tower construction at Children's Pool can be found on our Web site at: [www.nmfs.noaa.gov/pr/permits/incidental/construction.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm). The monitoring report from the previous IHA issued to the City for a sand quality study at Children's Pool can be found

on our Web site at: [www.nmfs.noaa.gov/pr/permits/incidental/research.htm](http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm).

### Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects).

An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.*, intensity, duration), the context of any responses (*e.g.*, critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

If a marine mammal responds to a stimulus by changing its behavior (*e.g.*, through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.*, Lusseau and Bejder 2007; Weilgart 2007).

Although the City's planned activities may disturb pinnipeds hauled out at Children's Pool, any project-related impacts are expected to occur to a small, localized group of marine mammals, in relation to the overall stocks of marine mammals considered here. Pinnipeds would likely become alert or, at most, flush into the water in response to

sounds from the planned project. Disturbance is not expected to occur during particularly sensitive times for any marine mammal species, as mitigation measures have been specifically designed to avoid project-related activity during harbor seal pupping season to eliminate the possibility for pup injury or mother-pup separation. No injury, serious injury, or mortality is anticipated, nor is the proposed action likely to result in long-term impacts such as permanent abandonment of the haulout (Hanan & Associates 2016).

Children's Pool is not known as an important feeding area for harbor seals, but does serve as a harbor seal rookery. Therefore, if displacement of seals or adverse effects to pups were an expected outcome of the planned activity, impacts to the stock could potentially result. However, site abandonment is not expected to occur as a result of the planned project. We base this expectation on results of previous monitoring reports from the three consecutive IHAs issued to the City for construction and demolition of the lifeguard station at Children's Pool. Over three-plus years of consecutive monitoring (2013–2016) there was no site abandonment by harbor seals as a result of the project (Hanan & Associates 2014; 2015; 2016). Adverse effects to pups are not expected to occur. The moratorium on project-related activity during the harbor seal pupping season (December 15–May 15) is expected to minimize any potential adverse effects to pups such as mother-pup separation. Takes of harbor seal as a result of the project are expected to be low relative to stock size (approximately five percent). Additionally, as there are an estimated 600 harbor seals using Children's Pool beach during a year (Linder 2011), proposed authorized takes of harbor seals (Table 5) are expected to be repeated incidences of take to a smaller number of individuals, and not individuals taken, as described above. These takes are not expected to interfere with breeding, sheltering or feeding. For the reasons stated above, we do not expect the planned project to affect annual rates of recruitment or survival for harbor seals.

Children's Pool does not represent an important feeding or breeding area for either northern elephant seals or California sea lion, and neither species uses the project location as a pupping site. Takes of both species are expected to be very low relative to the stock sizes (less than one percent of the stock for each species) and no take by Level A harassment is anticipated to occur as a result of the project for either northern

elephant seals or California sea lions. Takes that occur are expected to be in the form of behavioral harassment, specifically changes in direction or possibly flushing to the water. These takes are not expected to interfere with breeding, sheltering or feeding. For the reasons stated above, we do not expect the planned project to affect annual rates of recruitment or survival for northern elephant seals or California sea lions.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized.
- No injury is expected. Over the course of 3,376 hourly counts associated with monitoring for IHAs issued to the City for construction and demolition of the lifeguard station at Children’s Pool in 2013–14, 2014–15, and 2015–16, no takes by Level A harassment were documented. As the planned project would entail equipment with similar expected sound levels to those that occurred during the lifeguard station project at Children’s Pool, but would occur further from the haulout location than the lifeguard station project, we do not expect take by Level A harassment to occur as a result of the planned project.
- Behavioral disturbance—Takes are expected to be in the form of behavioral disturbance only. Based on the sound levels anticipated and based on the monitoring reports from previous IHAs issued for similar activities at the same location, behavioral responses are expected to range from no response to alerts, to movements or changes in direction, to possible movements into the water (flushes). Planned mitigation described above is expected to limit the number and/or severity of behavioral responses, and those that occur are not expected to be severe.
- Important Areas—As described above, there are no important feeding, breeding or pupping areas that would be affected by the planned project for northern elephant seals and California

sea lions. For harbor seal, Children’s Pool represents a pupping location. However, as described above, mitigation measures including the moratorium during pupping season (December 15 to May 15) are expected to avoid any potential impacts to pups, such as mother-pup separation. Data from the three years of monitoring suggests that despite documented instances of harassment resulting from the lifeguard station project, there was no site abandonment a result of the project (Hanan & Associates 2014; 2015; 2016). Therefore, the planned project is not expected to negatively affect pups of any species, and is not expected to result in any impacts to annual rates of recruitment or survival.

- Species/Stock scale—As described above, the planned project would impact only a very small percentage of the stocks (approximately five percent for harbor seal, less than one percent for northern elephant seal and California sea lion) and would only impact all marine mammal stocks over a very small portion of their ranges.
- Species/stock status—No marine mammal species for which take authorization is proposed are listed as threatened or endangered under the ESA and no mammal stocks for which take authorization is proposed are determined to be strategic or depleted under the MMPA.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

**Small Numbers**

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of

the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals.

The numbers of marine mammals authorized to be taken for harbor seal, California sea lion, and northern elephant seal, would be considered small relative to the relevant stocks or populations (approximately five percent for harbor seal and less than one percent for northern elephant seal and California sea lion) even if each estimated take occurred to a new individual. However we believe it is extremely unlikely that each estimated take would occur to a new individual, and more likely that multiple takes would accrue to the same individuals.

As described above, depending on the amount of information available to characterize daily and seasonal movement and distribution of affected marine mammals, it can be difficult to distinguish between the number of individuals harassed and the instances of harassment, and this can result in a take estimate that overestimates the number of individuals harassed. In particular, for stationary activities, such as the proposed project, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual. This is especially true for those individuals display some degree of residency or site fidelity and the impetus to use the site is stronger than the deterrence presented by the harassing activity, as is the case with harbor seals that use Children’s Pool as a haulout.

For the reasons described above, we expect that there will almost certainly be some overlap in individuals present day-to-day at the project site, and the proposed total numbers of authorized takes are expected to occur only within a small portion of the overall regional stocks. Thus while we propose to authorize the instances of incidental take shown in Table 6, we believe that the number of individual marine mammals that would be incidentally taken by the proposed project would be substantially lower than these numbers.

TABLE 6—ESTIMATED NUMBERS OF TAKE AND PERCENTAGES OF MARINE MAMMAL STOCKS THAT MAY BE TAKEN

Species	Proposed Level B take authorized	Stock abundance estimate <sup>1</sup>	Percentage of stock or population (percent)
Harbor seal .....	1,620	30,968	5
California sea lion .....	36	296,750	<1

TABLE 6—ESTIMATED NUMBERS OF TAKE AND PERCENTAGES OF MARINE MAMMAL STOCKS THAT MAY BE TAKEN—  
Continued

Species	Proposed Level B take authorized	Stock abundance estimate <sup>1</sup>	Percentage of stock or population (percent)
Northern elephant seal .....	14	179,000	<1

<sup>1</sup> NMFS 2015 marine mammal stock assessment reports (Carretta *et al.*, 2016) available online at: [www.nmfs.noaa.gov/pr/sars/](http://www.nmfs.noaa.gov/pr/sars/).

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

**Unmitigable Adverse Impact Analysis and Determination**

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

**Endangered Species Act (ESA)**

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally with our ESA Interagency Cooperation Division whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

**Proposed Authorization**

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the City of San Diego for conducting demolition and construction at Coast Boulevard, La Jolla, California, from June 1, 2017 through December 14, 2017, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA

itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from June 1, 2017 through December 14, 2017. This IHA is valid only for demolition and construction activities associated with the public parking lot, sidewalk, and landscaping improvement project at Coast Boulevard in La Jolla, California.

*2. General Conditions*

(a) A copy of this IHA must be in the possession of the City, its designees, and work crew personnel operating under the authority of this IHA.

(b) The species authorized for taking are the Pacific harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), and northern elephant seal (*Mirounga angustirostris*).

(c) The taking, by Level B harassment only, is limited to the species listed in condition 2(b).

(d) The take by injury (Level A harassment), serious injury, or death, or the taking of any other species of marine mammal not listed in condition 2(b), is prohibited and may result in the modification, suspension, or revocation of this IHA.

(e) The City shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, and acoustical monitoring team prior to the start of all demolition and construction activities, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

*3. Mitigation Measures*

The holder of this Authorization is required to implement the following mitigation measures.

(a) Demolition and construction shall be prohibited during the Pacific harbor seal pupping season (December 15th to May 15th) and for an additional two weeks to accommodate lactation and weaning of late season pups.

(b) Demolition and construction shall be limited to daylight hours only (7:00 a.m. to 7:00 p.m., or 30 minutes before sunset depending on time of year).

(c) Construction and demolition activity involving use of very loud

equipment (*e.g.*, jackhammers) shall be scheduled between the hours of 8:30 a.m. to 3:30 p.m., to the maximum extent practical, but may be extended from 7:00 a.m. to 7:00 p.m. (daylight hours only).

(d) Monitoring shall be conducted by a trained marine mammal observer (MMO).

(i) The MMO shall have no other construction-related tasks while conducting monitoring and shall be trained on species identification, how to observe, and how to fill out the data sheets prior to any construction or demolition activities.

(ii) Monitoring shall take place from 30 minutes prior to initiation of demolition or construction activity through 30 minutes post-completion of such activity.

(iii) The MMO shall have the following minimum qualifications:

1. Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

2. A minimum of a Bachelor's degree in biological science, wildlife management, mammalogy, or related field;

3. Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

4. Experience or training in the field identification of marine mammals, and identification of marine mammal behavior;

5. Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;

6. Writing skills sufficient to prepare a report of observations; and

7. Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

*4. Monitoring*

The holder of this Authorization is required to implement the following monitoring measures:

(a) The City shall collect sighting data and shall record observed behavioral responses to project activities for marine mammal species observed in the region of activity during the period of activity;

(b) All visual marine mammal information shall be recorded as described in the Monitoring Plan (Appendix C, Section 4 of the IHA Application) and shall include the following:

(i) Dates and times of marine mammal observations;

(ii) Location of observations (description);

(iii) Construction activities occurring during each observation period including any substantial change in construction activities;

(iv) Human activity in the area;

(v) Counts by species of pinnipeds, and if possible sex and age class;

(vi) Number and type of marine mammal responses to disturbance; and

(vii) Apparent causes of marine mammal responses (*e.g.*, construction project, aircraft, human activity, other pinniped, other animal, swimmer/diver, watercraft, or other with a description).

(c) In the event that a fur seal, is observed on the rocks, beach, or in the water prior to commencement of activities, the MMO shall alert the stranding network and all activities shall be postponed until coordination with the stranding network is complete (including any potential 24-hour or 48-hour wait/observation period) and/or the animal either leaves, or is collected by the stranding network.

(d) Acoustic recordings shall include the following:

(i) One location (at minimum) will be monitored close to the construction site (near field) and adjacent to the edge of the bluff overlooking Children's Pool. This will be a mobile station that will move based on the actual location of construction activities;

(ii) If the loudest construction activities are more than 15 m (49 ft) from the edge of the bluff, acoustic data also will be recorded at an additional near-field location closer to the construction/demolition activities;

(iii) Three fixed monitoring stations will be established parallel to the guideline rope (far-field);

(iv) If SPLs of 90 dB rms or greater are measured at any far-field monitoring station, additional monitoring will be conducted to determine the far-field extent of the 90 dB isopleth, and 100 dB isopleth, as applicable; and

(v) Acoustic monitor shall record time of observations, environmental conditions, and SPLs at applicable monitoring stations 30 minutes prior to the start of demolition/construction,

every hour during demolition/construction, and 30 minutes after cessation of demolition/construction activities.

(e) At the start of each new phase of construction, a full day of acoustic monitoring shall occur. The number of days of monitoring required after the first full day of monitoring for each new construction phase shall depend on results of acoustic monitoring, as follows:

(i) If acoustic monitoring on the first day of a new phase of construction documents sound levels of 90 dB rms or greater at any far-field location, daily monitoring shall be required throughout that phase of construction;

(ii) If acoustic monitoring on the first day of a new phase of construction documents sound levels of 90 dB rms or greater at the near-field location, but not at any far-field location, then a minimum of two additional days of monitoring shall be required to confirm far-field sound levels remain less than 90 dB rms for construction phase durations of less than 4 weeks. Acoustic monitoring shall be conducted weekly to confirm far-field sound levels remain less than 90 dB rms for construction phase durations of greater than 4 weeks. If during the additional monitoring, sound levels of 90 dB or greater are recorded at any far-field location, then daily monitoring shall be required until the end of that construction phase; and

(iii) If Acoustic monitoring on the first day of a new phase of construction documents sound levels of less than 90 dB rms at the near-field location(s), then one additional day of monitoring shall be conducted to confirm near-field sound levels remain less than 90 dB rms. If a sound level of greater than 90 dB rms is measured at the near-field location on the second day of monitoring, additional days of monitoring shall be conducted consistent with the specification listed under item 4(d)(ii).

#### 5. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal and acoustic monitoring or sixty days prior to the issuance of any subsequent IHA for this project, whichever comes first;

(b) Submit a final report within 30 days following resolution of comments on the draft report from NMFS. This report must contain the informational elements described in the Monitoring Plan at minimum, and shall also include:

(i) Results of the marine mammal monitoring plan including the elements described in 4(b); and

(ii) Results of acoustic monitoring as described in the Monitoring Plan.

(c) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as injury or mortality, the City will immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS. The report must include the following information:

1. Time and date of the incident;
2. Description of the incident;
3. Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;
5. Species identification or description of the animal(s) involved;
6. Fate of the animal(s); and
7. Photographs or video footage of the animal(s).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the City to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City may not resume their activities until notified by NMFS.

(ii) In the event that the City discovers an injured or dead marine mammal, and the MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.*, in less than a moderate state of decomposition), the City will immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS.

The report must include the same information identified in 5(c)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the City to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that the City discovers an injured or dead marine mammal, and the MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City will report the incident to the Office of Protected



Resources, NMFS, and the West Coast Regional Stranding Coordinator, NMFS, within 24 hours of the discovery. The City will provide photographs or video footage or other documentation of the stranded animal sighting to NMFS.

This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

#### Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed demolition and construction at Coast Boulevard, La Jolla, California. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: April 18, 2017.

**Donna S. Wieting,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2017-08402 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Submission for OMB Review; Comment Request; Initial Patent Applications

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

*Agency:* United States Patent and Trademark Office, Department of Commerce.

*Title:* Initial Patent Applications.

*OMB Control Number:* 0651-0032.

*Form Number(s):* PTO/SB/01, PTO/SB/01A, PTO/SB/02, PTO/SB/02A, PTO/SB/02B, PTO/SB/02CN, PTO/SB/02DE, PTO/SB/02ES, PTO/SB/02FR, PTO/SB/02IT, PTO/SB/02JP, PTO/SB/02KR, PTO/SB/02LR, PTO/SB/02NL, PTO/SB/02RU, PTO/SB/02SE, PTO/SB/03, PTO/SB/03A, PTO/SB/04, PTO/SB/06, PTO/SB/07, PTO/SB/14 EFS-Web, PTO/SB/16, PTO/SB/16 EFS-Web, PTO/SB/17, PTO/SB/29, PTO/SB/29A, PTO/SB/101, PTO/SB/102, PTO/SB/103, PTO/SB/104, PTO/SB/105, PTO/SB/106, PTO/SB/107, PTO/SB/108, PTO/SB/109, PTO/SB/110, PTO/AIA/01,

PTO/AIA/02, PTO/AIA/03, PTO/AIA/04, PTO/AIA/08, PTO/AIA/09, PTO/AIA/10, PTO/AIA/11, PTO/AIA/14, PTO/AIA/15, PTO/AIA/18, PTO/AIA/19, PTO/AIA/01CN, PTO/AIA/01DE, PTO/AIA/01ES, PTO/AIA/01FR, PTO/AIA/01IT, PTO/AIA/01JP, PTO/AIA/01KR, PTO/AIA/01NL, PTO/AIA/01RU, PTO/AIA/01SE, PTO/AIA/02CN, PTO/AIA/02DE, PTO/AIA/02ES, PTO/AIA/02FR, PTO/AIA/02IT, PTO/AIA/02JP, PTO/AIA/02KR, PTO/AIA/02NL, PTO/AIA/02RU, and PTO/AIA/02SE.

*Type of Request:* Regular.

*Number of Respondents:* 636,003.

*Average Hours per Respondent:* The USPTO estimate that it takes the public approximately between 30 minutes (0.50 hours) to 40 hours to complete this information, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the application, petition, or paper submissions, and submit the completed request to the USPTO.

*Burden Hours:* 15,757,081.50 hours.

*Cost Burden:* \$1,127,541,338.53.

*Needs and Uses:* This collection of information is required by, *inter alia*, 35 U.S.C. 131 and 37 CFR 1.16 through 1.84 and 1.495(b). Each patent application must provide sufficient information to allow the USPTO to examine properly the application, petition, or paper to determine whether the application, petition, or paper meets the criteria set forth in the patent statutes and regulations. The various fee and application transmittal forms, the declarations, the cover sheets, the petitions, and the papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-PLT (AIA)) permit applicants to supply all of the information necessary to process the application and enables the USPTO to ensure that all of the information has been provided in order to process the application.

*Frequency:* On occasion.

*Affected Public:* Individuals or households; businesses or other for-profits; non-profit institutions; and the Federal Government.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A.

Fraiser, email:

*Nicholas A. Fraiser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through [reginfo.gov](http://reginfo.gov). Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email:*

*InformationCollection@upsto.gov.* Include "0651-0032 copy request" in the subject line of the message.

- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 26, 2017 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas\_A.Fraiser@omb.eop.gov*, or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

**Marcie Lovett,**

*Records and Information Governance  
Division Director, OCTO, United States Patent  
and Trademark Office.*

[FR Doc. 2017-08419 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### Submission for OMB Review; Comment Request; Patent Trial Appeal Board (PTAB) Actions

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

*Agency:* United States Patent and Trademark Office, Commerce.

*Title:* Patent Trial Appeal Board (PTAB) Actions.

*OMB Control Number:* 0651-0063.

*Form Number(s):* None.

*Type of Request:* Revision of a currently existing collection.

*Number of Respondents:* 23,660.

*Average Hours per Response:* Between 2 and 32 hours, depending upon the instrument used.

*Burden Hours:* 555,098 hours.

*Cost Burden:* \$46,049,937.65.

*Needs and Uses:* The Patent Trial and Appeal Board (PTAB or Board) is established by statute under 35 U.S.C. 6. This statute directs that PTAB "shall on written appeal of an applicant, review adverse decisions of examiners upon applications for patent and shall determine priority and patentability of invention in interferences." PTAB has the authority, under pre-AIA sections of the Patent Act, *i.e.*, 35 U.S.C. 134, 135, 306, and 315, to decide *ex parte* and *inter partes* appeals and interferences. The membership of the Board is

established under 35 U.S.C. 6. This collection permits applicants to prepare appeal and reply briefs which set forth the claims, issues, and arguments on appeal to the PTAB and permits applicants to file amendments to cancel pending, rejected claims that they do not wish to be considered on appeal by the Board. Applicants may request that the PTAB reconsider its decision by filing a request for rehearing before the PTAB. Parties may also petition the Chief Administrative Patent Judge on matters pending before the Board. The PTAB uses the information to aid in rendering a decision on the claims, issues, and arguments submitted by the applicant, to determine which claims are on appeal, to decide whether to grant or deny a request for reconsideration of a decision, and to determine whether the necessary information has been provided to grant the petition. There are no forms associated with the items in this collection; however, they are governed by the rules in Part 41 and failure to comply with the appropriate rule may result in the dismissal of the appeal or denial of entry of the paper.

*Affected Public:* Businesses or other for-profits; not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*OMB Desk Officer:* Nicholas A. Fraser, email:

*Nicholas\_A.\_Fraser@omb.eop.gov.*

Once submitted, the request will be publicly available in electronic format through *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Further information can be obtained by:

- *Email:*

*InformationCollection@uspto.gov.*

Include "0651-0063 copy request" in the subject line of the message.

- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before May 26, 2017 to Nicholas A. Fraser, OMB Desk Officer, via email to *Nicholas\_A.\_Fraser@omb.eop.gov*, or by fax to 202-395-5167, marked to the attention of Nicholas A. Fraser.

Dated: April 14, 2017.

**Marcie Lovett,**

*Records and Information Governance  
Division Director, OCTO, United States Patent  
and Trademark Office.*

[FR Doc. 2017-08420 Filed 4-25-17; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Health Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Health Board, Neurological/Behavioral Health Subcommittee will take place.

**DATES:** Open to the public Tuesday, May 16, 2017 from 12:00 p.m. to 2:00 p.m.

**ADDRESSES:** The address of the open meeting is the Defense Health Headquarters (DHHQ), Pavilion Salons B-C, 7700 Arlington Blvd., Falls Church, Virginia 22042 (escort required; see guidance in **SUPPLEMENTARY INFORMATION**, "Public's Accessibility to the Meeting").

**FOR FURTHER INFORMATION CONTACT:**

CAPT Juliann Althoff; Camille Gaviola, (703) 681-6653 (Voice), (703) 681-9539 (Facsimile),

*juliann.m.althoff.mil@mail.mil* (Email).

*camille.m.gaviola.civ@mail.mil* (Email).

Mailing address is 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042. Web site: *http://www.health.mil/dhb*. 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.

*Availability of Materials for the Meeting:* A copy of the agenda or any updates to the agenda for the May 16, 2017 meeting, as well as any other materials presented in the meeting, may be obtained at the meeting.

*Purpose of the Meeting:* The Department of Defense is publishing this notice to announce the following

Federal Advisory Committee meeting of the Neurological/Behavioral Health Subcommittee ("the Subcommittee") of the Defense Health Board (DHB). The DHB provides independent advice and recommendations to maximize the safety and quality of, as well as access to, health care for DoD health care beneficiaries. The Subcommittee provides recommendations and advice to the DHB on matters pertaining to psychological/mental health issues and neurological symptoms or conditions. The Subcommittee is examining opportunities to improve the provision of behavioral health care and related services for children of members of the Armed Forces to better promote the health of this beneficiary population. The purpose of the meeting is for the Subcommittee members to receive public comments concerning pediatric behavioral health care in the Military Health System during an open forum, focusing on the following:

- Evaluate the quality of and access to behavioral health care under the TRICARE program for children, including intensive outpatient and partial hospitalization services.

- Measure the impact of permanent changes of station and other service-related relocations on the continuity of health care services received by children who have special medical or behavioral health needs.

- Identify the extent to which children receive developmentally appropriate and age appropriate health care services in both the direct care and purchased care components.

- Evaluate whether children have ready access to specialty pediatric care. The DoD has invited members of the Department of Defense Military Family Readiness Council and the DHB Health Care Delivery Subcommittee to attend the meeting in their capacity as members of the public due to their ongoing work regarding pediatric health care for DoD beneficiaries.

*Agenda:* Pursuant to 5 U.S.C. 552b and 41 CFR 102-3.140 through 102-3.165 and subject to availability of space, the Subcommittee meeting is open to the public from 12:00 p.m. to 2:00 p.m. on May 16, 2017. The Subcommittee will receive public comments on pediatric-related health services issues. The Designated Federal Officer (DFO), in consultation with the Subcommittee Chair, will allot time for members of the public to present their issues for review and discussion, restricting speaking time to 2-3 minutes per person. Members of the public must sign up to speak (see guidance in **SUPPLEMENTARY INFORMATION**, "Public Comments").

**Meeting Accessibility:** Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.140 through 102–3.165 and subject to availability of space, 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 register no later than 12:00 p.m. on Tuesday, May 9, 2017 using the electronic registration available at the following link: <http://www.surveymoz.com/s3/3442415/May-16-2017-Public-Attendee-Registration> or by contacting Ms. Kendal Brown at (703) 681–6670 or [kendal.l.brown2.ctr@mail.mil](mailto:kendal.l.brown2.ctr@mail.mil).

**Special Accommodations:** Individuals requiring special accommodations to access the public meeting should contact Ms. Kendal Brown at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

**Written Statements:** Any member of the public wishing to provide comments to the Subcommittee may do so in accordance with section 10(a)(3) of the Federal Advisory Committee Act, 41 CFR 102–3.105(j) and 102–3.140, and the procedures described in this notice. Written statements may be submitted to the DHB Alternate DFO, Ms. Camille Gaviola, at [camille.m.gaviola.civ@mail.mil](mailto:camille.m.gaviola.civ@mail.mil) and should be no longer than two type-written pages and include the issue, a short discussion, and a recommended course of action. Supporting documentation may also be included, to establish the appropriate historical context and to provide any necessary background information. If the written statement is not received at least five (5) business days prior to the meeting, the DFO may choose to postpone consideration of the statement until the next open meeting. The DFO will review all timely submissions with the Subcommittee Chair and ensure they are provided to members of the Subcommittee before the meeting that is subject to this notice.

**Public Comments:** Members of the public must sign up to speak by contacting Ms. Kendal Brown at (703) 681–6670 or [kendal.l.brown2.ctr@mail.mil](mailto:kendal.l.brown2.ctr@mail.mil) or by signing up at the reception table at the meeting. Public comments will be received by the Subcommittee in order of sign-up and within the time limits of the meeting. Those who provide public comment are strongly encouraged to also provide written statements to support their comments (see guidance in “Written Statements” section).

Dated: April 21, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2017–08417 Filed 4–25–17; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Charter Renewal of Department of Defense Federal Advisory Committee

**AGENCY:** Department of Defense.

**ACTION:** Renewal of Federal Advisory Committee.

**SUMMARY:** The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Reserve Forces Policy Board (“the Board”).

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

**SUPPLEMENTARY INFORMATION:** The Board’s charter is being renewed under the provisions of 10 U.S.C. 175 and 10301 and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board’s charter and contact information for the Board’s Designated Federal Officer (DFO) can be found at <http://www.facadatabase.gov/>.

The Board shall provide to the Secretary of Defense, for transmittal to the President and the Congress, an annual report on any reserve component matters that the Board considers appropriate to include. The Board shall serve as an independent adviser to the Secretary of Defense to provide advice and recommendations on strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the reserve components. The Board may act on those matters referred to it by the Chair and on any matter raised by a member of the Board or the Secretary of Defense.

Under the provisions of 10 U.S.C. 10301(c), the Board shall be composed of 20 members. All members of the Board are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. All members are entitled to reimbursement for official Board-related travel and per diem.

The public or interested organizations may submit written statements to the

Board membership about the Board’s mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: April 21, 2017.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2017–08422 Filed 4–25–17; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

#### Withdrawal of Notice of Intent To Prepare an Environmental Impact Statement for the Gregory Canyon Landfill Project, San Diego County, California

**AGENCY:** U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of Intent; withdrawal.

**SUMMARY:** The U.S. Army Corps of Engineers (Corps), Los Angeles District, is issuing this notice to advise Federal, state, and local governmental agencies and the public that the Corps is withdrawing its Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Gregory Canyon Landfill Project located in San Diego County, California (Corps File No. SPL–2010–00354).

**ADDRESSES:** U.S. Army Corps of Engineers, Los Angeles District, Carlsbad Field Office (Attn: Michelle Lynch), 5900 La Place Court, Suite 100, Carlsbad, California 92008.

**FOR FURTHER INFORMATION CONTACT:** Michelle Lynch, South Coast Branch Chief, Carlsbad Field Office. Email address: [michelle.r.lynch@usace.army.mil](mailto:michelle.r.lynch@usace.army.mil).

**SUPPLEMENTARY INFORMATION:** The Corps published an NOI in the **Federal Register** on May 7, 2010 (75 FR 25218) to prepare a Draft EIS pursuant to the National Environmental Policy Act for the proposed Gregory Canyon Landfill Project. A public scoping meeting was held on June 3, 2010 to solicit public input on the scope of analysis; significant issues to be evaluated in the Draft EIS; direct, indirect and cumulative impacts resulting from the proposed action; and proposed alternatives. The Corps published a

Notice of Availability (NOA) for the Draft EIS for the Gregory Canyon Landfill Project on December 14, 2012 (77 FR 74470) and held a public hearing on January 31, 2013. The Draft EIS was circulated for public comments for 125 days, ending on April 15, 2013. However, the Corps withdrew the DA permit application on April 28, 2014 pursuant to 33 CFR 325.2(d)(5), due to a lack of essential information needed from the applicant to continue with the permit application evaluation process. The applicant subsequently provided the essential information and a new DA permit application, and the Corps issued a Public Notice for the updated application on September 24, 2015 with a 30-day comment period. Since that time, the project proponent has withdrawn its Department of the Army permit application and is no longer actively pursuing the proposed project. Therefore, the Corps is withdrawing the Draft EIS for the Gregory Canyon Landfill Project.

**David J. Castanon,**

*Chief, Regulatory Division, Los Angeles District.*

[FR Doc. 2017-08429 Filed 4-25-17; 8:45 am]

BILLING CODE 3720-58-P

## DEPARTMENT OF EDUCATION

### Proposed Waiver and Extension of the Project Period for the Native American Career and Technical Education Program

[Catalog of Federal Domestic Assistance (CFDA) Number: 84.101A.]

**AGENCY:** Office of Career, Technical, and Adult Education, Department of Education.

**ACTION:** Proposed waiver and extension of the project period.

**SUMMARY:** For the Native American Career and Technical Education Program (NACTEP), the Secretary proposes to: (1) Waive the requirements in 34 CFR 75.261(a) and (c)(2) that generally prohibit project extensions involving the obligation of additional Federal funds; and (2) extend the project periods for the current 30 NACTEP grantees for an additional 12 months under the existing program authority. This proposed waiver and extension would allow the 30 current NACTEP grantees to seek fiscal year (FY) 2017 continuation awards for project periods through FY 2018 under the existing program authority.

**DATES:** We must receive your comments on or before May 26, 2017.

**ADDRESSES:** Address all comments regarding this proposed extension and waiver to Gwen Washington, room 11076, or Linda Mayo, Room 11075, U.S. Department of Education, 400 Maryland Avenue SW., Potomac Center Plaza (PCP), Washington, DC 20202-7241. If you prefer to send your comments by email, use one of the following addresses: *gwen.washington@ed.gov* or *linda.mayo@ed.gov*. You must include "Proposed Waiver and Extension for NACTEP" in the subject line of your message.

**FOR FURTHER INFORMATION CONTACT:** Gwen Washington by telephone at (202) 245-7790 or by email at *gwen.washington@ed.gov*. You may also contact Linda Mayo by telephone at (202) 245-7792 or by email at *linda.mayo@ed.gov*. If you use a telecommunications device for the deaf (TDD), or a text telephone (TTY), call the Federal Relay Service, toll free, at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

*Invitation To Comment:* We invite you to submit comments regarding this proposed waiver and extension of the project period.

During and after the project period, you may inspect all public comments about this proposed waiver and extension in Room 11076 or Room 11075, PCP, 550 12th Street SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week, except Federal holidays.

*Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record:* On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

#### Background

The NACTEP, as authorized by section 116 of the Carl D. Perkins Career and Technical Education Act of 2006 (the Act), provides grants to improve career and technical education programs that are consistent with the purposes of the Act and that benefit Native Americans and Alaska Natives. The Act also provides that NACTEP programs should build on the efforts of States and localities to develop challenging academic and technical standards and to assist students in meeting such

standards, including preparation for high-skill, high-wage, or high-demand occupations in emerging or established professions. (20 U.S.C. 2301(1)).

In addition, programs are required to provide technical assistance that promotes leadership, initial preparation, and professional development and improves the quality of career and technical education teachers, faculty, administrators, and counselors. (20 U.S.C. 2301(5)).

Additionally, NACTEP programs generally support partnerships among secondary schools, postsecondary institutions, baccalaureate degree-granting institutions, area career and technical education schools, local workforce investment boards, business and industry, and intermediaries, as well as provide, in conjunction with other education and training programs, individuals with opportunities throughout their lives to develop the knowledge and skills needed to keep the United States competitive. (20 U.S.C. 2301(6) and (7)).

On February 26, 2013, we published in the **Federal Register** (78 FR 13030) a notice inviting applications under NACTEP (2013 NIA), to operate career and technical education programs, as authorized by section 116(a) through (g) of the Act. (20 U.S.C. 2326(a)-(g)).

In FY 2013, the Department funded two-year awards to NACTEP projects that were scheduled to end in FY 2015. On February 10, 2015, we published in the **Federal Register** (80 FR 7439), a proposed waiver and extension of the project period for the NACTEP grants. In that notice, we stated that we did not believe it would be in the public interest to hold a new NACTEP competition in FY 2015, due to the potential for changes in the authorizing legislation for NACTEP beyond 2015, resulting in projects that might then operate for just one year. Following that notice and consideration of the comments received in response to it, on July 6, 2015, we published in the **Federal Register** (80 FR 38440), a notice of final waiver and extension of the project period for the NACTEP, waiving the requirements of 34 CFR 75.261(a) and (c)(2) that generally prohibit project period extensions involving the obligation of additional Federal funds. Therefore, the NACTEP grantees were permitted to request an extension of the project period for up to an additional 24 months.

In this notice, we are proposing to waive the requirements in 34 CFR 75.261(a) and (c)(2) in order to allow the Department to consider current grantee requests to extend the project period for an additional 12 months. Given that

these funds expire by September 30, 2017, there would be limited time to conduct a NACTEP competition and provide the new administration sufficient time to determine its career and technical education priorities. Therefore, the Department believes it is in the best interest of the public to extend the existing grants for an additional 12 months.

If this proposed waiver becomes final through a notice of final waiver and extension of the project period published in the **Federal Register**: (1) The requirements applicable to continuation awards for current NACTEP grantees set forth in the 2013 NIA and the requirements in 34 CFR 75.253 would apply to any continuation awards sought by current NACTEP grantees; (2) we will make decisions regarding the continuation awards based on grantee program narratives, budgets and budget narratives, and program performance reports and the requirements in 34 CFR 75.253; and (3) we will not announce a new competition or make new awards in FY 2017.

The proposed waiver and project period extension would not exempt the current NACTEP grantees from the appropriation account closing provisions of 31 U.S.C. 1552(a), nor would they extend the availability of funds previously awarded to current NACTEP grantees. As a result of 31 U.S.C. 1552(a), appropriations available for a limited period may be used for payment of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the U.S. Department of the Treasury and is unavailable for restoration for any purpose (31 U.S.C. 1552(b)).

### Regulatory Flexibility Act Certification

The Secretary certifies that the proposed waiver and extension and the activities required to support additional months of funding would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by this proposed waiver and extension are the 30 currently funded NACTEP grantees and any other potential applicants. The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the extension of an existing project imposes minimal compliance costs, and the activities required to support the additional years of funding would not impose additional regulatory

burdens or require unnecessary Federal supervision.

### Paperwork Reduction Act of 1995

This notice of proposed waiver and extension contains information collection requirements approved by OMB under control number 1830-0542; this proposed waiver and extension does not cause any changes to the approved OMB information collection.

### Intergovernmental Review

The NACTEP is not subject to Executive Order 12372 and regulations in 34 CFR part 79.

**Accessible Format:** Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site, you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Kim R. Ford,**

*Delegated the Duties of the Assistant Secretary for Career, Technical, and Adult Education.*

[FR Doc. 2017-08449 Filed 4-25-17; 8:45 am]

**BILLING CODE 4000-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-xxxx]

### Information Collection Being Reviewed by the Federal Communications Commission

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as

required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before June 26, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

### SUPPLEMENTARY INFORMATION:

*OMB Control No.:* 3060-xxxx.

*Title:* Section 97.303(g)(2), Notification Requirement.

*Form No.:* N/A.

*Type of Review:* New collection.

*Respondents:* Individuals or households.

*Number of Respondents and Responses:* 1,000 respondents and 1,000 responses.

*Estimated Time per Response:* 10 minutes (0.167 hours).

*Frequency of Response:* Third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained

47 U.S.C. 154(i), 161, 301, 302, 303(e), 303(f), 303(r), 304, 307 and 332(b).

*Total Annual Burden:* 167 hours.

*Total Annual Cost:* No cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:*

There is no need for confidentiality with this collection of information.

*Needs and Uses:* The Commission will submit this information collection to the Office of Management and Budget (OMB) as a new collection after this 60 day comment period to obtain the full three-year clearance from OMB.

On March 29, 2017 the Federal Communications Commission released a Report and Order, Amendment of Parts 2, 15, 80, 90, 97, and 101 of the Commission's Rules Regarding Implementation of the Final Acts of the World Radiocommunication Conference (Geneva, 2012)(WRC-12), Other Allocation Issues, and Related Rule Updates, ET Docket No. 15-99, FCC 17-33, which inter alia, amends the Commission's rules for the Amateur Radio Service to provide for frequency sharing requirements in the 135.7-137.8 kHz (2200 meter) and 472-479 kHz (630 meter) bands. These rules will ensure the compatibility of amateur radio operations and Power Line Carrier (PLC) systems that operate in these bands, and will promote the shared use of these bands. As background, in the larger 9-490 kHz band, electric utilities operate PLC systems on power transmission lines for communications important to the reliability and security of electric service to the public. The Commission found that the identification of transmission lines are not always readily identifiable and that amateur operators may not be able to determine whether PLC systems operate in the relevant bands on the subject transmission lines. For these reasons, the Commission adopted a notification process to ensure that amateur stations seeking to operate in these bands are located outside of a minimum separation distance.

Specifically, the information collection requirements contained in Section 97.303(g)(2) requires prior to commencement of operations in these bands, amateur operators must notify the Utilities Telecom Council (UTC) of their intent by submitting their call signs, intended band or bands of operation, and the coordinates of their antenna's fixed location. Amateur stations will be permitted to commence operations after a 30-day period unless UTC notifies the applicant that its requested location is located within one kilometer of PLC systems operating in the same or overlapping frequencies.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2017-08434 Filed 4-25-17; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:30 p.m. on Monday, April 24, 2017, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Thomas J. Curry (Comptroller of the Currency), concurred in by Director Richard Cordray (Director, Consumer Financial Protection Bureau), and Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(B)).

Dated: April 24, 2017.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2017-08537 Filed 4-24-17; 4:15 pm]

**BILLING CODE 6714-01-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreement are available through the Commission's Web site ([www.fmc.gov](http://www.fmc.gov)) or by contacting the Office of

Agreements at (202)-523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov).

*Agreement No.:* 011290-041.

*Title:* International Vessel Operators Dangerous Goods Association Agreement.

*Parties:* Aliança Navegacao e Logistica Ltda.; APL Co. PTE Ltd.; Atlantic Container Line AB; Bermuda Container Line; China Shipping Container Lines Co., Ltd.; COSCO Container Lines Company Limited; Crowley Maritime Corporation; Evergreen Line Joint Service Agreement; (Taiwan) Ltd.; Hamburg-Südamerikanische Dampfschiffahrts-Gesellschaft KG; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Horizon Lines, LLC; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Kawasaki Kisen Kaisha Ltd.; Maersk Line A/S; Marine Transport Management, Inc.; Maruba SCA; Matson Navigation Company; Mitsui O.S.K. Lines, Ltd.; National Shipping Co. of Saudi Arabia; Nippon Yusen Kaisha Line; Orient Overseas Container Line Limited; Seaboard Marine Ltd.; Senator Lines GmbH; Tropical Shipping & Construction Co., Ltd.; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

*Filing Party:* Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 Nineteenth Street NW.; Washington, DC 20036.

*Synopsis:* The Amendment would delete Horizon Lines, LLC; Maruba SCA; Senator Lines GmbH; Zim Integrated Shipping Services, Ltd.; China Shipping Container Lines Co., Ltd.; and Hanjin Shipping Co., Ltd. as parties to the Agreement. The Amendment would add Wallenius Wilhelmsen Logistics and Wan Hai Lines Ltd. as parties to the Agreement, and change the name of the carrier formerly known as The National Shipping Company of Saudi Arabia to Bahri General Cargo.

By Order of the Federal Maritime Commission.

Dated: April 21, 2017.

**Rachel E. Dickon,**

*Assistant Secretary.*

[FR Doc. 2017-08443 Filed 4-25-17; 8:45 am]

**BILLING CODE 6731-AA-P**

## FEDERAL MARITIME COMMISSION

[Docket No. 17-03]

**Antonio Egberto Carneiro Lima v. Fastway Moving and Storage, Inc., d/b/a Dream Cargo, d/b/a Fastway, d/b/a Fastway Moving, et al.; Notice of Filing of Complaint and Assignment**

Notice is given that a complaint has been filed with the Federal Maritime

Commission (Commission) by Antonio Egberto Carneiro Lima, hereinafter "Complainant," against Fastway Moving and Storage, Inc., d/b/a Dream Cargo, d/b/a Fastway, d/b/a Fastway Moving; Fastway Moving and Services Corp.; Fastway Moving and Trading Corp.; Abreu Lopes Transportes LTDA; and Abreu Logistics USA, LLC d/b/a Abreu Logistics & Cargo, hereinafter "Respondents." Complainant states that Respondents are New Jersey and Florida corporations which "operate interchangeably as one business and are inexorably intertwined" and that Fastway Moving, Inc. is an FMC licensed non-vessel operating common carrier.

Complainant states he utilized Respondents' "services to transport approximately 33 cubic meters of household goods by water between the United States and Brazil." Complainant alleges that Respondents allowed illegal items to be included with Complainant's household goods which caused the IRS to block the release of said items in Brazil. Complainant alleges that despite paying for the "complete services" package with Respondent "the Fastway Entities", he had to personally work to resolve the matter with the IRS, pay the port fees, container, storage and other fees associated with his shipment.

Complainant files this claim "as a result of Respondents' violation of COGSA, the Shipping Act, and the FMC's regulations pursuant to COGSA and the Shipping Act at 46 CFR part 515." Specifically, complainant alleges that the Respondents:

"a. [failed] to establish or observe just and reasonable practices related to the receiving, handling, or delivering of property in violation of 46 U.S.C. 41102(c);

b. [allowed] a person or persons to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighting, false measurement, or other unjust or unfair device or means in violation of 46 U.S.C. 41104(1);

c. [provided] a service in the liner trade that is not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of [Title 46], in violation of 46 U.S.C. 41104(2)(A);

d. knowingly and willfully [accepted] cargo from and [transported] cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of Title 46 and a bond, insurance, or other surety as required by section 40902 of Title 46, in violation of 46 U.S.C. 41104(11); and

e. any other charge of this type or of similar nature that is found to be unlawful under the circumstances."

Complainant seeks reparations in the amount of \$129,872.22, and other relief. The full text of the complaint can be found in the Commission's Electronic Reading Room at [www.fmc.gov/17-03/](http://www.fmc.gov/17-03/).

This proceeding has been assigned to the Office of Administrative Law Judges. The initial decision of the presiding officer in this proceeding shall be issued by April 20, 2018, and the final decision of the Commission shall be issued by November 5 2018.

**Rachel E. Dickon,**

*Assistant Secretary.*

[FR Doc. 2017-08386 Filed 4-25-17; 8:45 am]

**BILLING CODE 6731-AA-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 12, 2017.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *William M. Parks and Ruth M. Parks, individually, and as co-trustees of the Ann F. Parks Special Trust Number One, Muscatine, Iowa; Ann F. Parks Special Trust Number One, individually, Muscatine, Iowa; Carrie A. Zorich, Daniel P. Stein, and Timothy J. Stein, all individually, and as co-trustees of the Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein, Muscatine, Iowa; Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein, individually, Muscatine, Iowa; Daniel P. Stein as trustee of the Daniel P. Stein Revocable Trust dated October 7, 2008, James P. Stein Trust Number One, and the Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein,*

*Muscatine, Iowa; James P. Stein as trustee of the James P. Stein Revocable Trust dated December 16, 2005 and the Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein, Muscatine, Iowa; Timothy J. Stein as trustee of the Timothy J. Stein Revocable Trust dated August 10, 2012, James P. Stein Trust Number One, and the Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein, Lakeway, Texas; Carrie A. Zorich as trustee of the Carrie A. Zorich Revocable Trust dated July 23, 2007, James P. Stein Trust Number One, and the Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein, Muscatine, Iowa; Maryann Bramhall-Lambert as trustee of the GST Exempt Trust for benefit of James P. Stein Family, Iowa City, Iowa; Ruth M. Parks as trustee of the William M. Parks Family Intergenerational Trust, William M. Parks Family Intergenerational Trust II, John Lee Parks, II Family Intergenerational Trust, and the Ann F. Parks and John L. Parks Intergenerational Trust FBO JLP II; William M. Parks as trustee of the John Lee Parks, II Family Intergenerational Trust and the Ann F. Parks and John L. Parks Intergenerational Trust FBO JLP II; John L. Parks, II as trustee of the Ann F. Parks and John L. Parks Intergenerational Trust FBO WMP; GST Exempt Trust for benefit of James P. Stein Family, Muscatine, Iowa; Daniel P. Stein Revocable Trust dated October 7, 2008, Muscatine, Iowa; James P. Stein Revocable Trust dated December 16, 2005, Muscatine, Iowa; Timothy J. Stein Revocable Trust dated August 10, 2012, Lakeway, Texas; Carrie A. Zorich Revocable Trust dated July 23, 2007, Muscatine, Iowa; James P. Stein Trust Number One, Muscatine, Iowa; William M. Parks Family Intergenerational Trust, Muscatine, Iowa; William M. Parks Family Intergenerational Trust II, Muscatine, Iowa; John Lee Parks, II Family Intergenerational Trust, Muscatine, Iowa; Ann F. Parks and John L. Parks Intergenerational Trust FBO WMP, Muscatine, Iowa; Ann F. Parks and John L. Parks Intergenerational Trust FBO JLP II, Muscatine, Iowa; Thomas L. Lambert, Iowa City, Iowa; in addition to, James P. Stein; Timothy J. Stein; Carrie A. Zorich; Daniel P. Stein; Benjamin L. Parks, Iowa City, Iowa; William M. Parks; and Ruth M. Parks, Muscatine, Iowa, as members of Sawyer Group Family Council which votes and retain voting shares owned by the Ann F. Parks Special Trust Number One; GST Exempt Trust for benefit of James P. Stein Family; Daniel P. Stein Revocable Trust dated October 7, 2008;*

*James P. Stein Revocable Trust dated December 16, 2005; Timothy J. Stein Revocable Trust dated August 10, 2012; Carrie A. Zorich Revocable Trust dated July 23, 2007; James P. Stein Trust Number One; Inter Vivos Stock Trust of Simon G. Stein IV FBO James P. Stein; William M. Parks Family Intergenerational Trust; William M. Parks Family Intergenerational Trust II; John Lee Parks, II Family Intergenerational Trust; Ann F. Parks and John L. Parks Intergenerational Trust FBO WMP; and the Ann F. Parks and John L. Parks Intergenerational Trust FBO JLP II, as a group acting in concert, to retain voting shares of Central Bancshares, Inc. and thereby indirectly retain voting shares of CBI Bank & Trust, Muscatine, Iowa, and The Farmers and Mechanics Bank, Galesburg, Illinois.*

Board of Governors of the Federal Reserve System, April 21, 2017.

**Michele T. Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2017-08425 Filed 4-25-17; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Unless otherwise noted, comments regarding each of these applications

must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 2017.

*A. Federal Reserve Bank of Atlanta* (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to [Applications.Comments@atl.frb.org](mailto:Applications.Comments@atl.frb.org):

1. *Investar Holding Corporation*, Baton Rouge, Louisiana; to merge with Citizens Bancshares, Inc., and thereby acquire Citizen's Bank, both of Ville Platte, Louisiana.

Board of Governors of the Federal Reserve System, April 20, 2017.

**Margaret M. Shanks,**

*Secretary of the Board.*

[FR Doc. 2017-08370 Filed 4-25-17; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 22, 2017.

*A. Federal Reserve Bank of Minneapolis* (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *First Financial Corporation*, Arthur, North Dakota; to acquire 100 percent of the voting shares of First State Bank of Warner, Warner, South Dakota.

*B. Federal Reserve Bank of San Francisco* (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105-1579:

1. *California BanCorp*; to become a bank holding company by acquiring 100 percent of the voting shares of California Bank of Commerce, both of Lafayette, California.

Board of Governors of the Federal Reserve System, April 21, 2017.

**Michele T. Fennell,**

*Assistant Secretary of the Board.*

[FR Doc. 2017-08426 Filed 4-25-17; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 11, 2017.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *James P Cravens Stock Trust, James P Cravens Trustee, Sanborn, Iowa, and Marilyn Lee Cravens Stock Trust, Marilyn Lee Cravens Trustee, Sanborn, Iowa, as individuals and as a group acting in concert the Cravens Family Control group consisting of James P Cravens Stock Trust, James P Cravens Trustee, Sanborn, Iowa, Marilyn Lee Cravens Stock Trust, Marilyn Lee Cravens Trustee, Sanborn, Iowa, Emilie G Cravens, Manhattan, Kansas, and Catherine J Cravens, Arlington, Virginia;* to acquire voting shares of San Bancorp, Sanborn, Iowa, and thereby indirectly control Sanborn Savings Bank, Sanborn, Iowa.



Board of Governors of the Federal Reserve System, April 20, 2017.  
**Margaret M. Shanks,**  
*Secretary of the Board.*  
 [FR Doc. 2017-08369 Filed 4-25-17; 8:45 am]  
**BILLING CODE 6210-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Comment Request**

*Title:* Accomplishments of the Domestic Violence Hotline, Online Connections and Text (ADVHOCaT) Study.

*OMB No.:* 0970-0468.

*Description:* The National Domestic Violence Hotline (The Hotline) and loveisrespect (LIR), which are supported

by the Division of Family Violence Prevention and Services within the Family and Youth Services Bureau (FYSB) of the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), serve as partners in the intervention, prevention, and resource assistance efforts of the network of family violence, domestic violence, and dating violence service providers. To describe the activities and accomplishments of The Hotline and LIR and develop potential new or revised performance measures, the ACF Office of Planning, Research and Evaluation (OPRE) and FYSB are proposing a data collection activity as part of the Accomplishments of the Domestic Violence Hotline, Online Connections and Text (ADVHOCaT) Study.

As part of the ongoing program activities and monitoring for The Hotline and LIR, ACF proposes to

collect additional information via voluntary phone, chat, and Web-based surveys of individuals who contact The Hotline and LIR. Participants will complete an exit survey at the end of their contact with The Hotline and LIR, and a follow-up survey approximately two weeks later. The survey will include questions about reasons for contacting The Hotline/LIR, whether needs were met, satisfaction with services received, and helpfulness of information provided. This data collection builds on a previous data collection that was focused on understanding the preferred mode of contact by those who contact The Hotline and LIR. This new information will inform future efforts to monitor and improve the performance of domestic violence hotlines and provide hotline services.

*Respondents:* Individuals aged 18 and older who contact The Hotline and LIR via phone or chat.

**ANNUAL BURDEN ESTIMATES**

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
The Hotline/LIR Baseline Survey .....	2,200	1,100	1	0.15	165
The Hotline/LIR Follow Up Survey .....	2,200	1,100	1	.01	110

*Estimated Total Annual Burden Hours:* 275 hours.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: [OPREinfocollection@acf.hhs.gov](mailto:OPREinfocollection@acf.hhs.gov).

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: [OIRA\\_SUBMISSION@OMB.EOP.GOV](mailto:OIRA_SUBMISSION@OMB.EOP.GOV), Attn:

Desk Officer for the Administration for Children and Families.

**Mary Jones,**  
*ACF/OPRE, Certifying Officer.*  
 [FR Doc. 2017-08401 Filed 4-25-17; 8:45 am]  
**BILLING CODE 4184-32-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Community Living; Agency Information Collection Activities: Proposed Collection; Public Comment Request; Protection and Advocacy for Traumatic Brain Injury (PATBI) Program Performance Report**

**AGENCY:** Administration for Community Living, HHS.

**ACTION:** Notice.

**SUMMARY:** The Administration on Disability is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506 (c)(2)(A) of the Paperwork Reduction Act of 1995. This notice collects comments on the information collection requirements

related to a new data collection (ICR New).

**DATES:** Submit written comments on the collection of information by May 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information by fax 202.395.5806 or by email to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov), Attn: OMB Desk Officer for ACL.

**FOR FURTHER INFORMATION CONTACT:** Wilma Roberts, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, 330 C Street SW., Washington, DC 20201, by email: [Wilma.Roberts@acl.hhs.gov](mailto:Wilma.Roberts@acl.hhs.gov) or phone 202-795-7449.

**SUPPLEMENTARY INFORMATION:** ACL has submitted the following proposed collection of information to OMB for review and clearance. The Children's Health Act of 2000, 42 U.S.C. Section 300d-53(h), requires the Protection and Advocacy (P&A) System in each State to annually prepare and submit to the Secretary a report that includes documentation of the progress they have made in serving individuals with traumatic brain injury. AIDD will review the program performance reports

(PPRs) for compliance and for program outcomes. AIDD also will aggregate the information in the PPRs into a national profile of programmatic activities and accomplishments. Information from these reports is shared with the public through postings to the *ACL.gov* Web site. The information will also allow AIDD to track accomplishments against performance goals and determine areas where technical assistance is needed to comply with Federal requirements or improve performance. The annual PPRs are reviewed by federal staff for compliance and performance in established outcome areas. Information in the PPRs is analyzed to create a national profile of programmatic compliance, outcomes, and goals and priorities for P&A Systems for tracking accomplishments, goals and to determine areas of technical assistance the P&As need related to compliance with Federal requirements and program performance. Information collected in the unified report will inform AIDD of trends in P&A advocacy, collaboration

with other federally-funded entities, and identify best practices for efficient use of federal funds.

**Comments in Response to the 60 Day Federal Register Notice**

A notice was published in the **Federal Register** in Vol. 82, No. 10, pages 4888–4889, on January 17, 2017, announcing that ACL was requesting approval of a new data collection. ACL has not received any comments expressing concern related to the new PPR reporting forms for the P&A program. However, additional technical changes were made to the PATBI PPR template to clarify certain information collection items in the form. In Part I, section C(1)—Public Relations and Outreach, ACL added the language “racial and ethnic” before the word “minority” to the section C(1) question, “Describe the agency’s outreach efforts to previously unserved or underserved individuals, including minority communities” to make sure the question is clear. In Part II, section B, item 14.5 was updated to

“TANF” from “Welfare Reform,” and item 16 was updated to “Other Government Benefits/Services” from “Government Benefits/Services.” Last, Part II, section H, item 2 was updated to “American Indian/Alaska Native” from “American Indian/Alaskan Native.”

The PPR will allow federal staff to review the programs performance and achievement and assist where technical assistance is needed. Additionally, information contained in the PPR provides performance measures based on the annual reports. The performance data is reported to Congress under the Government Performance and Results Act Modernization Act (GPRAMA).

The proposed Protection and or Traumatic Brain Injury (PATBI) Program Performance Report (PPR) form can be found on the AIDD Web site at: [https://acl.gov/Programs/AIDD/Program\\_Resource\\_Search/Results\\_PA.aspx](https://acl.gov/Programs/AIDD/Program_Resource_Search/Results_PA.aspx).

ACL estimates the burden hours for this collection of information as follows:

**ANNUAL BURDEN ESTIMATES**

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
PATBI PPR .....	57	1	16	912

Dated: April 20, 2017.

**Daniel P. Berger,**  
*Acting Administrator and Assistant Secretary for Aging.*  
 [FR Doc. 2017–08435 Filed 4–25–17; 8:45 am]  
**BILLING CODE 4154–01–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Community Living**

**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Funding Opportunity Announcement and Grant Application Template for ACL Discretionary Grant Programs**

**AGENCY:** Administration for Community Living (ACL), HHS.  
**ACTION:** Notice.

**SUMMARY:** The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995.

This 30-day notice collects comments on the information collection requirements related to a Revision of a Currently Approved Collection (ICR Rev).

**DATES:** Submit written comments on the collection of information by May 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information by fax 202.395.5806 or by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

**FOR FURTHER INFORMATION CONTACT:** Mark Snyderman at (202) 795–7439 or [mark.snyderman@acl.hhs.gov](mailto:mark.snyderman@acl.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance. ACL is requesting an extension of the currently approved data collection with modifications. The Funding Opportunity Announcement and Application Instructions Template are for use with all ACL competitions for discretionary grant programs. The

template provides the requirements and instructions for the submission of an application for discretionary grants funding opportunities.

ACL is publishing this **Federal Register** Notice for the public to review and comment on the ACL Standard Funding Opportunity Announcement (FOA) (0985–0018) form. ACL seeks to make a small number of minor edits to the current Funding Opportunity Announcement (FOA) template form. The edits are intended to clarify and simplify the form used to solicit applicants who wish to perform activities related to the various programs offered by ACL, either through a grant or cooperative agreement. The edits consist of correcting grammatical errors, removing duplicative language, and allowing for the option to add program specific instructions to the project summary and abstract.

**Comments in Response to the 60-Day Federal Register Notice**

A 60-day **Federal Register** Notice was published in the **Federal Register** on February 1, 2017 (Vol. 82, Number 20; pp. 8940–8941). In response to the notice, the Department received two

comments, one with 57 signatories. The commenters were concerned that the template did not reference an eight percent cap on the indirect cost rate associated with training programs. Instead, the notice included language from the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called “Uniform Guidance”), which were implemented in fiscal year 2015 (<https://www.grants.gov/web/grants/learn-grants/grant-policies/omb-uniform->

[guidance-2014.html](https://www.grants.gov/web/grants/learn-grants/grant-policies/omb-uniform-guidance-2014.html)). This language requires agencies to accept the indirect cost rate negotiated with their agency, and the requirement applies to all grant making agencies in the Federal Government. However, the HHS Grants Policy Administration Manual (GPAM) and Grants Policy Statement (GPS) provide that the indirect cost rate for training grants is capped at eight percent. ACL has reviewed all pertinent information and has determined that no change is necessary to the FOA template. This notice is for a generic

template that is used by all ACL grant applicants. Requirements associated with particular programs are included in the specific FOAs for those programs. The UCEDD programs were designated as training programs in the past as part of the specific FOA for these programs. The proposed template may be found on the ACL Web site at [https://acl.gov/Funding\\_Opportunities/Announcements/docs/ACL\\_PA\\_Template\\_FINAL.docx](https://acl.gov/Funding_Opportunities/Announcements/docs/ACL_PA_Template_FINAL.docx).

	Number of competitions	Applicants per FOA	Number of respondents	Frequency of response per year	Average hour burden per respondent	Total estimated data burden
NIDIL RR .....	16	16	256	1	220	56,320
Other ACL .....	34	14.5	493	1	48	23,664
						79,984

*Estimated Number of Responses:* 749 annually. *Total Estimated Burden Hours:* 79,984.

Dated: April 20, 2017.

**Daniel P. Berger,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2017-08436 Filed 4-25-17; 8:45 am]

**BILLING CODE 4154-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Request for Comment on the NSDUH Redesign**

**AGENCY:** Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

**ACTION:** Request for comment.

**SUMMARY:** This document is a request for comment on National Survey on Drug Use and Health (NSDUH) redesign. The Department of Health and Human Services, as part of its continuing effort to produce current data, as well as 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: Comment Close Date:** To be considered, comments must be received at the addresses provided below no later than 60 calendar days from the date of publication in the **Federal Register**.

**ADDRESSES:** You may submit electronic comments to [NSDUH\\_Redesign@samhsa.hhs.gov](mailto:NSDUH_Redesign@samhsa.hhs.gov).

**FOR FURTHER INFORMATION CONTACT:** [NSDUH\\_Redesign@samhsa.hhs.gov](mailto:NSDUH_Redesign@samhsa.hhs.gov).

**SUPPLEMENTARY INFORMATION: Inspection of Public Comments:** Comments submitted in response to this notice will be used in the development of specific survey redesign options. Comments, including any personally identifiable or confidential business information included in comments submitted in response to this notice, will be summarized and/or included in NSDUH redesign reports.

**Background**

NSDUH is a national survey of the U.S. civilian, non-institutionalized population aged 12 or older. The NSDUH data collection is essential for meeting a critical objective of SAMHSA’s mission—to maintain current data on the prevalence of substance use and mental health problems in the United States. NSDUH is authorized by Section 505 of the Public Health Service Act (42 U.S.C. 290aa-4—Data Collection) which authorizes annual data collection for monitoring the prevalence of illicit substance use and mental health problems, as well as the misuse of licit substances in the U.S. population. NSDUH was conducted on a periodic basis from 1971 to 1988 and has been conducted annually since 1990.

Information collected through NSDUH has multiple applications, including (1) advancing the study of the epidemiology of substance use and mental health; (2) monitoring substance use and mental health trends and

patterns; (3) identifying licit and illicit substances being used and misused; (4) studying the use of health care resources for treatment of substance use disorders and mental health problems; (5) assisting Federal, State and local agencies in the allocation of resources; and (6) supporting the proper design and implementation of substance misuse prevention, treatment, and rehabilitation programs. In order to continue meeting data users’ needs, SAMHSA’s Center for Behavioral Health Statistics and Quality (CBHSQ) must periodically update NSDUH content and methodology to reflect the changing field of substance use and mental health along with data collection best practices. Any redesign will help to ensure NSDUH continues to produce accurate and current data with efficiency.

**Redesign Issues for NSDUH**

It is important for NSDUH to remain policy relevant and to be a source of reliable information. The impetus for any future NSDUH redesign is to ensure that NSDUH continues to capture substance use, substance use disorder, and mental health concepts accurately, precisely, and in ways that reflect the state of the field as it advances (*e.g.*, updating, adding and removing content to reflect evolving data needs; adapting new approaches for reducing nonresponse). In addition, the redesigned NSDUH should track trends from its inception onward and have flexibility to address changing data needs, to adjust to shifting budgets and to allow occasional adjustments to the sample and questionnaire without putting trend data at risk.

A redesign for NSDUH will require considerable effort and will break trends with earlier NSDUH data where new estimates could not be compared to those from previous years. It is essential to take sufficient time to develop and validate any redesigned measures to avoid the need for further near-term changes with the potential for additional, unanticipated breaks in data trends. The last partial redesign was implemented in 2015. SAMHSA is now exploring the possibility of another redesign sometime in the future.

#### Request for Comments

This notice is a general solicitation of comments from the public. Proposed changes should meet the following criteria:

- Because NSDUH is a general population survey and includes individuals 12 years and older, questions must be understandable to a person with a 6th grade reading level.
- Each question must have analytic utility. That is, questions must be useful either to estimate prevalence or as a key component in statistical analyses, such as studies of the potential impact of policies.
- Questions must apply to enough respondents that precise estimation is possible (*i.e.*, behaviors, experiences and attitudes must be prevalent enough to ensure reliable estimates).
- Questions should generate data for aggregated analyses, not to assess the efficacy of a particular treatment program.
- Questions should be useful in tracking trends or changes in treatment behavior even when policies change.
- When adding new questions, current questions must be identified for deletion, so there is no increase in respondent burden; survey administration time should average no more than 1 hour.
- Any new questions should be administrable according to NSDUH survey procedures and as part of the redesigned NSDUH questionnaire. Under current practices, this means new questions would be administered using audio computer-assisted self-interviewing [ACASI]), allow no parent proxy reports for youth respondents, and entail no special sampling requirements or changes to household screening questions.

- Any changes would be made at the beginning of any future redesign, and will not be changed again until the next redesign in order to be able to maintain trend data.

Issues of interest for public comment include but are not limited to the following:

- Timing of redesign since it will lead to a break in trends across the board
- Whether and which questionnaire topic areas will add to the utility of the NSDUH
- Potential barriers in developing questions for identified questionnaire topic areas
- Additional topic areas of interest
- Topics and questions to drop from the NSDUH
- Input on feasibility, cost, data accuracy and data completeness for questionnaire and methodological revisions under consideration

All comments should be received by June 26, 2017.

**Summer King,**  
*Statistician.*

[FR Doc. 2017-08400 Filed 4-25-17; 8:45 am]

**BILLING CODE 4162-20-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

#### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276-1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

#### Proposed Project: Access to Recovery (ATR) Program (OMB No. 0930-0266)—Reinstatement

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Substance Abuse Treatment (CSAT) is charged with the Access to Recovery (ATR) program which will allow grantees (States, Territories, the District of Columbia and Tribal Organizations) a means to implement voucher programs for substance abuse clinical treatment and recovery support services. The ATR data collection (OMB No. 0930-0266) will be a reinstatement from the previous approval that expires on May 31, 2017. There will be no changes to the two client-level tools.

The goals of the ATR program are to: (1) Provide client choice among substance abuse clinical treatment and recovery support service providers, (2) expand access to a comprehensive array of clinical treatment and recovery support options (including faith-based programmatic options), and (3) increase substance abuse treatment capacity. Monitoring outcomes, tracking costs, and preventing waste, fraud and abuse to ensure accountability and effectiveness in the use of Federal funds are also important elements of the ATR program. Grantees, as a contingency of their award, are responsible for collecting Voucher Information (VI) and Voucher Transaction (VT) data from their clients.

The primary purpose of this data collection activity is to meet the reporting requirements of the Government Performance and Results Act (GPRA) by allowing SAMHSA to quantify the effects and accomplishments of SAMHSA programs. The following table is an estimated annual response burden for this effort.

ESTIMATES OF ANNUALIZED HOUR BURDEN<sup>1</sup>

Center/form/respondent type	Number of respondent	Responses per respondent	Total responses	Hours per response	Total hour burden	Total wage cost	Total hour cost/respondent <sup>1</sup>
Voucher information and transaction .....	53,333	1.5	80,000	.03	2,400	\$18.40	\$44,160

<sup>1</sup> This table represents the maximum additional burden if adult respondents for ATR provide responses/data at an estimated hourly wage (from 2010 Bureau of Labor Statistics).

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57-B, Rockville, Maryland 20857, OR email a copy to [summer.king@samhsa.hhs.gov](mailto:summer.king@samhsa.hhs.gov). Written comments should be received by June 26, 2017.

**Summer King,**  
Statistician.

[FR Doc. 2017-08399 Filed 4-25-17; 8:45 am]

BILLING CODE 4162-20-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID: FEMA-2017-0007; OMB No. 1660-0029]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request; Approval and Coordination of Requirements To Use the NETC for Extracurricular and Training Activities

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

**DATES:** Comments must be submitted on or before May 26, 2017.

**ADDRESSES:** Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland

Security, Federal Emergency Management Agency, and sent via electronic mail to [oir.submission@omb.eop.gov](mailto:oir.submission@omb.eop.gov).

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472-3100, or email address [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** This proposed information collection previously published in the **Federal Register** on February 6, 2017 at 82 FR 9388 with a 60 day public comment period. FEMA received one request for a copy of the proposed information collection by the public. The Agency responded to this comment and provided the most up-to-date copy of the proposed information collection to the requester. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

#### Collection of Information

*Title:* Approval and Coordination of Requirements To Use the NETC for Extracurricular and Training Activities.

*Type of Information Collection:* Revision of a currently approved information collection.

*OMB Number:* 1660-0029.

*Form Titles and Numbers:* FEMA Form 119-17-1, Request for Housing Accommodations; FEMA Form 119-17-2, Request for Use of NETC Facilities.

*Abstract:* FEMA established the National Emergency Training Center (NETC), located in Emmitsburg, Maryland to offer training for the purpose of emergency preparedness. The NETC site has facilities and housing available for those participating in emergency preparedness. When training space and/or housing is required for those attending the training, a request for use of these areas must be made in advance and this collection provides the mechanism for such requests to be made.

*Affected Public:* Not-for-profit institutions; Federal Government; State, Local or Tribal Government; individuals or households; and business or other for-profit.

*Estimated Number of Respondents:* 60.

*Estimated Total Annual Burden Hours:* 120 hours.

*Estimated Cost:* The estimated annual cost to respondents for the hour burden is \$407.04. The annual costs to respondents' operations and maintenance costs for technical services is \$956.40. There are no annual start-up or capital costs. The cost to the Federal Government is \$1,014.60.

Dated: April 12, 2017.

**Tammi Hines,**

Records Management Program Chief (Acting), Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017-08376 Filed 4-25-17; 8:45 am]

BILLING CODE 9111-45-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID: FEMA-2017-0008; OMB No. 1660-0118]

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request; Homeland Security Exercise and Evaluation Program (HSEEP) Documentation

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort and resources used by respondents to respond) and cost, and

the actual data collection instruments FEMA will use.

**DATES:** Comments must be submitted on or before May 26, 2017.

**ADDRESSES:** Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to [oir.submission@omb.eop.gov](mailto:oir.submission@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472-3100, or email address [FEMA-Information-Collections-Management@fema.dhs.gov](mailto:FEMA-Information-Collections-Management@fema.dhs.gov).

**SUPPLEMENTARY INFORMATION:** This information collection previously published in the **Federal Register** on February 7, 2017 at 82 FR 9584 with a 60 day public comment period. No comments were received. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

**Collection of Information**

*Title:* Homeland Security Exercise and Evaluation Program (HSEEP) Documentation.

*Type of Information Collection:* Revision of a currently approved information collection.

*OMB Number:* 1660-0118.

*Form Titles and Numbers:* FEMA Form 091-0, After Action Report/Improvement Plan (AAR/IP); FEMA Form 008-0-26, Multi-Year Training Exercise Plan (TEP); FEMA Form 008-0-27, National Exercise Program (NEP) Nomination Form.

*Abstract:* The Homeland Security Exercise and Evaluation Program (HSEEP) Documentation collection provides reporting on the results of preparedness exercises and provides assessments of the respondents' capabilities so that strengths and areas for improvement are identified, corrected, and shared as appropriate prior to a real incident. This information is also required to be submitted as part of certain FEMA grant programs.

*Affected Public:* State, Local, or Tribal Government.

*Estimated Number of Respondents:* 268.

*Estimated Total Annual Burden*

*Hours:* 23,208 hours.

*Estimated Cost:* The estimated annual cost to respondents for the hour burden is \$1,494,947.96. There are no annual costs to respondents operations and maintenance costs for technical services. There is no annual start-up or capital costs. The cost to the Federal Government is \$60,896.80.

Dated: April 19, 2017.

**Tammi Hines,**

*Records Management Program Chief (Acting), Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2017-08373 Filed 4-25-17; 8:45 am]

**BILLING CODE 9111-46-P**

following permits to conduct activities with endangered and threatened species under the authority of the Endangered Species Act (Act), as amended. With some exceptions, the Act prohibits activities involving listed species unless a Federal permit is issued that allows such activity. We provide this list for the convenience of the public as a summary of our permit issuances for the second half of calendar year 2016.

**FOR FURTHER INFORMATION CONTACT:** See the contact information in the Permits Issued section.

**SUPPLEMENTARY INFORMATION:** We have issued the following permits to conduct activities with endangered and threatened species in response to recovery permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). These permits were issued between July 1, 2016, and December 31, 2016. Each permit was issued only after we determined that it was applied for in good faith, that granting the permit would not be to the disadvantage of the listed species, that the proposed activities were for scientific research or would benefit the recovery or the enhancement of survival of the species, and that the terms and conditions of the permits were consistent with the purposes and policy set forth in the Act.

**Permits Issued**

*Region 1 (Pacific Region: Hawaii, Idaho, Oregon (Except for the Klamath Basin), Washington, American Samoa, Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Trust Territories)*

The following permits were applied for and issued in Region 1. For more information about any of the following permits, contact the Recovery Permit Coordinator by email at [PermitsR1ES@fws.gov](mailto:PermitsR1ES@fws.gov) or by telephone at 503-231-6131.

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-HQ-ES-2017-N026; FF09E42000 178 FXES11130900000]**

**Endangered Species; Issuance of Recovery Permits**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of recovery permits.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have issued the

Permit No.	Date issued	Applicant name
841627 .....	07/01/16	GERHARDT, RICHARD P.
95620B .....	07/01/16	REYNOLDS, TIMOTHY D.
026280 .....	07/18/16	U.S. FOREST SERVICE, PACIFIC NORTHWEST RESEARCH STATION.
22353B .....	07/27/16	CENTER FOR NATURAL LANDS MANAGEMENT.
67017A .....	07/27/16	NOAA/NMFS/NORTHWEST FISHERIES SCIENCE CENTER.
64022A .....	08/03/16	CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON.
67121B .....	09/09/16	PACIFIC RIM CONSERVATION.
84876A .....	09/13/16	ANDERSEN AIR FORCE BASE, 36 CES/CEV.
060179 .....	09/29/16	ZOOLOGICAL SOCIETY OF SAN DIEGO.
227268 .....	10/20/16	COLUMBIA RIVER INTER-TRIBAL FISH COMMISSION.
030394 .....	10/20/16	KING COUNTY DEPARTMENT OF NATURAL RESOURCES AND PARKS.
02971C .....	10/28/16	WELLER, STEPHEN G.
049004 .....	10/28/16	BUREAU OF INDIAN AFFAIRS.
022743 .....	10/28/16	GRANT COUNTY PUBLIC UTILITY DISTRICT NO. 2.
09155B .....	11/16/16	HA, RENEE ROBINETTE.
06431C .....	12/07/16	BLESSING, BONNIE J.

Permit No.	Date issued	Applicant name
08598C .....	12/23/16	THE INSTITUTE FOR BIRD POPULATIONS.

*Region 2 (Southwest Region: Arizona, New Mexico, Oklahoma, and Texas)*

The following permits were applied for and issued in Region 2. For more

information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR2ES@*

*fws.gov* or by telephone at 505-248-6665.

Permit No.	Date issued	Applicant name
053083 .....	07/01/16	KUTZ, JULIE A.
067868 .....	07/11/16	CORONADO NATIONAL MEMORIAL.
89853B .....	07/11/16	MORE-HLA, RACHEL A.
91694B .....	07/11/16	CRAMER, STEVEN S.
88214B .....	07/11/16	MACEY, JOHN N.
65178A .....	07/11/16	REIDY, JENNIFER L.
106816 .....	07/19/16	DOUGLAS HIGH SCHOOL.
89854B .....	07/19/16	STONE, SHAWN P.
827726 .....	07/19/16	U.S. FOREST SERVICE—TONTO NATIONAL FOREST.
89697B .....	07/19/16	DATRI, CRYSTAL W.
41814B .....	07/19/16	TUCSON AUDUBON SOCIETY.
843513 .....	07/19/16	USDA FS—KAIBAB NATIONAL FOREST.
87818B .....	08/01/16	GREGORY, MELANIE L.
88789B .....	08/01/16	DAVIS, SHARON N.
91812B .....	08/01/16	AGOSTO, MINALY.
92103B .....	08/01/16	MCBRYAR, MARY A.
84375B .....	08/01/16	JOHNSON, MARY E.
89699B .....	08/01/16	SAM HOUSTON STATE UNIVERSITY.
63200B .....	08/01/16	AUDUBON ARIZONA.
082492 .....	08/05/16	HATHCOCK, CHARLES D.
802211 .....	08/29/16	TEXAS STATE UNIVERSITY—SAN MARCOS.
64710A .....	09/06/16	JACKSON, JACOB T.
35437B .....	09/07/16	USDA FOREST SERVICE—SANTA FE NATIONAL FOREST.
051832 .....	09/07/16	PHOENIX ZOO.
071287 .....	09/09/16	CHRISTMAN, BRUCE L.
819491 .....	09/09/16	ECOSPHERE ENVIRONMENTAL SERVICES.
028605 .....	09/09/16	SWCA ENVIRONMENTAL CONSULTANTS—FLAGSTAFF.
60111B .....	09/09/16	ROBB, NATALIE J.
094375 .....	09/09/16	AZIMUTH FORESTRY SERVICES, INC.
099278 .....	09/09/16	FRED PHILLIPS CONSULTING.
88788B .....	09/09/16	SUMMERLIN, JEFFERSON B.
43746A .....	09/14/16	NORTHERN ARIZONA UNIVERSITY.
99156B .....	09/14/16	BALISTRERI, MICHAEL C.
98651B .....	09/14/16	DELGADO, EDGARDO L.
94245B .....	09/14/16	POWERS, JARROD J.
00536C .....	09/14/16	COBURN, FRANCIS S.
009926 .....	11/08/16	GULF SOUTH RESEARCH CORPORATION.
168185 .....	11/08/16	COX/MCLAIN ENVIRONMENTAL CONSULTING, INC.
054791 .....	11/08/16	MARSHALL, BRYCE L.
67491A .....	11/08/16	PERMITS WEST, INC.
95116B .....	11/08/16	UNIVERSITY OF ARIZONA.
02962C .....	11/08/16	CAPPS, ERIKA MACLYNN.
00482C .....	11/08/16	DILLSAVER, WILLIAM J.
99159B .....	11/08/16	ELLIS, ELI J.
00479C .....	11/08/16	JOHNSON, KEVIN L.
00480C .....	11/08/16	SEIDEN, CHRISTOPHER J.
83692A .....	11/08/16	SPHERE 3 ENVIRONMENTAL, INC.
91831B .....	11/08/16	VICENIK, CODY J.
02952C .....	11/08/16	WESTWARD ENVIRONMENTAL, INC.
35147A .....	11/08/16	NEWSTEAD, DAVID J.
004439 .....	11/14/16	ALBUQUERQUE BIOLOGICAL PARK.
829996 .....	11/18/16	HOUSTON ZOO, INC.
836329 .....	12/30/16	BLANTON & ASSOCIATES.

*Region 3 (Midwest Region: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin)*

The following permits were applied for and issued in Region 3. For more

information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR3ES@*

*fws.gov* or by telephone at 612-713-5343.

Permit No.	Date issued	Applicant name
02378A .....	07/01/16	U.S. ARMY CORPS OF ENGINEERS.
181256 .....	07/01/16	LEWIS ENVIRONMENTAL CONSULTING, LLC.
03495B .....	07/01/16	HAMMOND, KRISTINA R.
85231B .....	07/01/16	KALAMAZOO NATURE CENTER.
06873B .....	07/05/16	CARSON, ANDREW R.
64080B .....	07/05/16	MICHIGAN STATE UNIVERSITY.
31355B .....	07/06/16	HINES, BROOKE A.
71821A .....	07/06/16	ZANATTA, DAVID T.
77313A .....	07/06/16	EGRET ENVIRONMENTAL CONSULTING, LLC.
049738 .....	07/07/16	THIRD ROCK CONSULTANTS, LLC.
217351 .....	07/07/16	U.S. FOREST SERVICE.
08603A .....	07/07/16	MALCOSKY, MICHELLE.
62311A .....	07/07/16	GILMORE, MARY B.
64071B .....	07/08/16	ZUERCHER, GERALD L.
130900 .....	07/11/16	ENVIROSCIENCE, INC.
43605A .....	07/12/16	COX, DANIEL R.
206783 .....	07/13/16	PERDICAS, MARLO M.
06801A .....	07/18/16	PITTSBURGH WILDLIFE & ENVIRONMENTAL, INC.
24334B .....	07/18/16	HATCH, SHAYLYN K.
60999A .....	07/19/16	MILLER, LEVI D.
43541A .....	07/22/16	CUTHBERT, FRANCESCA J.
89557A .....	07/22/16	TRC COMPANIES, INC.
88224B .....	07/22/16	SNAVELY, JOSEPH C.
03450B .....	07/25/16	BASIGER, ERIN L.
85229B .....	07/26/16	STONE, JEFFREY L.
71041B .....	07/27/16	KUCZYNSKA, IWONA.
182436 .....	07/29/16	ILLINOIS NATURAL HISTORY SURVEY.
38821A .....	07/29/16	STANTEC CONSULTING SERVICES.
042946 .....	07/29/16	SOUTHERN ILLINOIS UNIVERSITY.
15027A .....	08/02/16	STANTEC CONSULTING SERVICES, INC.
206781 .....	08/02/16	ECOLOGICAL SPECIALISTS, INC.
38835A .....	08/02/16	LAND CONSERVANCY OF WEST MICHIGAN.
207523 .....	08/02/16	THE NATURE CONSERVANCY—MICHIGAN CHAPTER.
02365A .....	08/12/16	ROBBINS, LYNN W.
98111A .....	08/15/16	OHIO DEPARTMENT OF TRANSPORTATION.
113009 .....	08/15/16	AHLSTEDT, STEVEN A.
829986 .....	08/16/16	THE FIELD MUSEUM OF NATURAL HISTORY.
94321A .....	08/16/16	O'NEILL, BRIAN J.
92978B .....	08/23/16	HELMS & ASSOCIATES.
08603A .....	08/24/16	MALCOSKY, MICHELLE.
72098B .....	08/29/16	LUTHER COLLEGE WIND ENERGY PROJECT LLC.
02373A .....	08/30/16	ENVIRONMENTAL SOLUTIONS AND INNOVATIONS, INC.
07358A .....	08/31/16	CIVIL AND ENVIRONMENTAL CONSULTANTS, INC.
81968B .....	09/02/16	HART, CURTIS M.
35517B .....	09/06/16	ARNOLD, BRYAN D.
62311A .....	09/06/16	GILMORE, MARY B.
85232B .....	09/09/16	KAISER, ZACHARY.
838715 .....	09/09/16	THE NATURE CONSERVANCY, OHIO.
06820A .....	09/14/16	BENEDICT, RUSSELL A.
06873B .....	09/19/16	CARSON, ANDREW R.
10887A .....	09/19/16	U.S. GEOLOGICAL SURVEY.
94330A .....	09/20/16	KREBS, ROBERT A.
85228B .....	09/21/16	SCHRODER, ERIC S.
99056B .....	09/22/16	WELLS, MARION E.
98057A .....	10/03/16	MILLS, LYNDIA M.
38842A .....	10/11/16	SANDERS ENVIRONMENTAL INC.
31355B .....	10/11/16	HINES, BROOKE A.
217351 .....	10/11/16	U.S. FOREST SERVICE.
06844A .....	10/13/16	U.S. ENVIRONMENTAL PROTECTION AGENCY.
088720 .....	10/14/16	WATTERS, GEORGE T.
839763 .....	10/19/16	WHITAKER, JOHN O.
049738 .....	10/19/16	THIRD ROCK CONSULTANTS, LLC.
27915B .....	10/19/16	WILDLIFE SPECIALISTS, LLC.
85233B .....	10/20/16	COLATSKIE, SHELLY N.
98674B .....	10/20/16	GERDES, CHEYENNE L.
99052B .....	10/28/16	EKO CONSULTING LLC.
88353B .....	10/28/16	DE LA CRUZ, JESSE L.
98673B .....	10/31/16	LAYNE, JASON T.
99058B .....	10/31/16	FLINN, JOSHUA R.
81974B .....	11/02/16	THE BOARD OF TRUSTEES OF EASTERN ILLINOIS UNIVERSITY.
35521B .....	11/02/16	WESTERN ECOSYSTEMS TECHNOLOGY, INC.
98294A .....	11/03/16	NORMANDEAU ASSOCIATES, INC.
71718A .....	11/10/16	STEFFEN, BRADLEY J.
03495B .....	11/10/16	HAMMOND, KRISTINA R.



Permit No.	Date issued	Applicant name
04399C .....	11/14/16	CLEVELAND MUSEUM OF NATURAL HISTORY.
64238B .....	11/21/16	KARSK, JOCELYN.
01320C .....	11/21/16	CONFORTIN, KRISTI A.
77313A .....	11/23/16	EGRET ENVIRONMENTAL CONSULTING, LLC.
31355B .....	11/28/16	HINES, BROOKE A.
86150B .....	11/28/16	PALMER, GEOFFREY H.
99051B .....	12/02/16	ISKALI, GONIELA.
98294A .....	12/27/16	NORMANDEAU ASSOCIATES, INC.
99059B .....	12/6/16	UNIVERSITY OF WISCONSIN—MADISON.
174388 .....	12/12/16	METROPOLITAN PARK DISTRICT OF THE TOLEDO AREA.
06778A .....	12/27/16	SHAWNEE NATIONAL FOREST.

*Region 4 (Southeast Region: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, Commonwealth of Puerto Rico, and the U.S. Virgin Islands)*

information about any of the following permits, contact the Recovery Permit Coordinator by email at [PermitsR4ES@fws.gov](mailto:PermitsR4ES@fws.gov) or by telephone at 404-679-7140.

The following permits were applied for and issued in Region 4. For more

Permit No.	Date issued	Applicant name
56749B .....	07/26/16	MOORE, PATRICK R.
34882A .....	07/31/16	BAILEY, MARK A.
108990 .....	08/03/16	SPEARS, RONALD E.
064856 .....	08/10/16	FARRIS, TRENT A.
98486B .....	08/10/16	UNIVERSITY OF MISSISSIPPI BIOLOGY DEPARTMENT.
12392A .....	08/11/16	INSTITUTE FOR MARINE MAMMAL STUDIES.
00442C .....	08/15/16	SIPOS, MICHAEL P.
99347B .....	08/15/16	TEXAS TECH UNIVERSITY.
142806 .....	09/13/16	COX, JAMES A.
206872 .....	09/15/16	O'KEEFE, JOY M.
040792 .....	09/16/16	SAVANNAH RIVER—U.S. FOREST SERVICE.
78650B .....	09/16/16	SCHMIDT, CASSIE P.
99265B .....	09/16/16	JOHNSTON, CAROL E.
102324 .....	09/21/16	DICKINSON, THOMAS E.
88778B .....	09/21/16	LAMB, JOHN W.
016270 .....	09/22/16	FORT BENNING CONSERVATION BRANCH.
091705 .....	09/23/16	NORTH CAROLINA BOTANICAL GARDEN.
824723 .....	09/25/16	BOWMAN, REED.
38397A .....	09/25/16	CRAVEN, KATHRYN S.
125557 .....	10/24/16	ALLEN, BARBARA P.
021030 .....	10/25/16	RUDZINSKI, STANLEY B.
079972 .....	10/27/16	BAKA, ERIC J.
822525 .....	10/28/16	MCGLINCY, JOE A.
145561 .....	10/31/16	ENVIRON INTERNATIONAL CORPORATION.
02165C .....	11/07/16	STOUT, ISAAC J.
136808 .....	11/07/16	LOGGERHEAD MARINELIFE CENTER.
084047 .....	11/09/16	ST. JOHNS RIVER WATER MANAGEMENT DISTRICT.
206777 .....	11/10/16	RALPH COSTA'S WOODPECKER OUTFIT, LLC.
50652A .....	11/14/16	BOLT, MARY R.
130300 .....	11/16/16	JOHNSON, PAUL D.
03305C .....	11/18/16	U.S. ARMY CORPS OF ENGINEERS, MEMPHIS DISTRICT.
142294 .....	11/19/16	HOLIMON, WILLIAM (BILL) C.
31355B .....	11/28/16	HINES, BROOKE A.
48582B .....	12/13/16	CHASE, KIM R.
81430B .....	12/13/16	WALLACE, HEATHER L.
801914 .....	12/15/16	SAVANNAH RIVER ECOLOGY LAB.

*Region 5 (Northeast Region: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia)*

information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR5ES@fws.gov* or by telephone 703-358-2402.

The following permits were applied for and issued in Region 5. For more

Permit No.	Date issued	Applicant name
01150C .....	7/6/16	NOAA FISHERIES SERVICE.
01359C .....	8/24/16	UNIVERSITY OF MAINE.
01719C .....	8/26/16	MOSER, G.A.
06380C .....	10/6/16	NATIONAL MARINE FISHERIES SERVICE.
014668C .....	12/14/16	SEA TURTLE RECOVERY.

*Region 6 (Mountain-Prairie Region: Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming)*

information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR6ES@fws.gov* or by telephone 719-628-2670.

The following permits were applied for and issued in Region 6. For more

Permit No.	Date issued	Applicant name
97230B .....	08/04/16	NORTH DAKOTA STATE UNIVERSITY.
00442C .....	08/15/16	SIPOS, MICHAEL.
99347B .....	08/15/16	TEXAS TECH UNIVERSITY.
049109 .....	10/15/16	RED BUTTE BOTANIC GARDEN AND ARBORETUM.
03159C .....	11/09/16	MONTANA NATURAL HERITAGE PROGRAM.
79842A .....	11/09/16	WHITE, JEREMY A.
047250 .....	11/14/16	MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS.
06447C .....	11/14/16	MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS.
06375C .....	11/14/16	NATURAL RESOURCES CONSERVATION SERVICE.
047808 .....	11/15/16	NATIONAL PARK SERVICE.
051828 .....	11/15/16	SMITHSONIAN NATIONAL ZOOLOGICAL PARK.

*Region 7 (Alaska Region)*

No permits were applied for and issued in Region 7 during this time period. For more information about any permits, contact the Recovery Permit Coordinator by email at *PermitsR7ES@*

*fws.gov* or by telephone at 907-786-3323.

*Region 8 (Pacific Southwest Region: California, Nevada, and the Klamath Basin Portion of Oregon)*

The following permits were applied for and issued in Region 8. For more

information about any of the following permits, contact the Recovery Permit Coordinator by email at *PermitsR8ES@fws.gov* or by telephone at 760-431-9440.

Permit No.	Date issued	Applicant name
217148 .....	07/07/16	DEL PIZZO, PATRICK W.
839480 .....	07/07/16	ZEMBAL, RICHARD L.
795930 .....	07/07/16	TANSLEY TEAM, INCORPORATED.
018179 .....	07/07/16	ARCATA FISH AND WILDLIFE OFFICE.
62708B .....	07/08/16	HALTERMAN, MARY M.
17841A .....	07/08/16	TETRA TECH, INC.
63378B .....	07/08/16	U.S. FOREST SERVICE PACIFIC SOUTHWEST RESEARCH STATION, REDWOOD SCIENCES LABORATORY.
758175 .....	07/11/16	GRIFFITH WILDLIFE BIOLOGY.
084606 .....	07/13/16	MOSKOVITZ, DAVID F.
67570A .....	07/13/16	HANSHEW, BRETT A.
39142A .....	07/13/16	STANFORD UNIVERSITY/HHMI.
73946B .....	07/14/16	PARKER, AUSTIN D.
74377B .....	07/14/16	WALSH, SHANNON E.
45776A .....	07/14/16	COYLE, MATT P.
72119B .....	07/20/16	DALLMANN, SETH D.
61720B .....	07/20/16	RESOURCE CONSERVATION DISTRICT OF SANTA CRUZ COUNTY.
017549 .....	07/22/16	WHITFIELD, MARY J.
055013 .....	07/22/16	U.S. FOREST SERVICE, SAN BERNARDINO NATIONAL FOREST.
72296B .....	07/22/16	MINTZER, JASON M.

Permit No.	Date issued	Applicant name
60153B .....	07/22/16	BELK, MARY S.
802450 .....	07/26/16	DAVENPORT, ARTHUR E.
67555A .....	07/27/16	SHAFFER, SHANNAN.
018180 .....	07/27/16	POINT REYES NATIONAL SEASHORE.
157221 .....	07/28/16	UNIVERSITY OF CALIFORNIA BERKELEY.
039321 .....	08/05/16	FISCHER, KYLIE.
745541 .....	08/05/16	SJM BIOLOGICAL CONSULTANTS INC.
56891A .....	08/05/16	ABRAMS, RUSH.
161512 .....	08/05/16	DOYLE, DARRIN P.
797233 .....	08/08/16	ENTOMOLOGICAL CONSULTING SERVICES, LTD.
30908B .....	08/11/16	RIVER PARTNERS.
141359 .....	08/11/16	STRINGER, STEPHEN M.
800291 .....	08/15/16	WALLACE, ANNE C.
17827A .....	08/15/16	SUMMIT LAKE PAIUTE TRIBE.
87850B .....	08/16/16	MACK, JEREMY S.
796271 .....	08/17/16	DODD, SHANA C.
67390A .....	08/17/16	SMITH, BENJAMIN J.
040193 .....	08/18/16	GOLIGHTLY, DR. RICHARD T.
44855A .....	08/18/16	SCHEUERMAN, CLINT M.
815144 .....	08/18/16	THOMPSON, ROSEMARY A.
139634 .....	08/22/16	LIDDICOAT, THOMAS S.
030659 .....	08/22/16	US GEOLOGICAL SURVEY.
211100 .....	08/23/16	PARADIS, KIMBERLY K.
82155B .....	08/23/16	PAGE, JOHANNA C.
84209B .....	08/23/16	NATIONAL SECURITY TECHNOLOGIES, LLC.
92799B .....	09/15/16	FAIRCHILD, KARL C.
139628 .....	09/22/16	GARCIA AND ASSOCIATES.
64144A .....	09/22/16	MASTRELLI, EMILY M.
001075 .....	10/03/16	BLAIN, MARC T.
74803B .....	10/03/16	ROSIE, DANIEL J.
92905B .....	10/04/16	BERRY, BRIAN J.
43597A .....	10/04/16	MCLAUGHLIN, DANA H.
74393B .....	10/05/16	UNIVERSITY OF NEVADA, LAS VEGAS.
038716 .....	10/12/16	WEGSCHEIDER, FRANK J.
64547A .....	10/12/16	USGS, BISHOP FIELD STATION.
839078 .....	10/14/16	LANGDON, SPENCER K.
86356B .....	10/14/16	SEAWORLD LLC.
005535 .....	10/14/16	GOODLETT, GILBERT O.
800931 .....	10/14/16	KENNEY, GWENDOLYN.
80703A .....	10/14/16	REIMERS, SETH B.
78055B .....	10/27/16	MATTHEWS, ROBERT K.
78388B .....	10/27/16	WESTERN SLOPE WILDLIFE LLC.
188803 .....	11/14/16	USFWS—LODI FISH AND WILDLIFE OFFICE.
795934 .....	11/21/16	ICF JONES & STOKES, INC.
031850 .....	11/21/16	CUMMINGS, GRETCHEN B.
052159 .....	11/21/16	AHRENS, JEFFREY L.
92462A .....	11/21/16	QUILLEY, RYAN G.
093591 .....	11/21/16	ROBB, LINDA M.
85604B .....	11/21/16	ROELAND, KIMBERLY N.
144964 .....	11/21/16	JANSEN, DEREK S.
74753B .....	11/21/16	NISICH, STEFANIE M.
86213B .....	11/21/16	ROSETO, ALAN D.
134370 .....	11/21/16	PRIMROSE, BRANT C.
797665 .....	12/21/16	RECON ENVIRONMENTAL, INC.
048739 .....	12/21/16	CORDOVA, DANIEL A.
012137 .....	12/21/16	FORT HUNTER LIGGETT, DEPARTMENT OF THE ARMY.
200340 .....	12/21/16	HATCH, ANDREW R.
096745 .....	12/21/16	LARSON, SCOTT.
040541 .....	12/21/16	EAST BAY MUNICIPAL UTILITY DISTRICT.
810768 .....	12/22/16	HARMSWORTH ASSOCIATES.
225974 .....	12/22/16	MIDPENINSULA REGIONAL OPEN SPACE DISTRICT.
785564 .....	12/28/16	BUMGARDNER BIOLOGICAL CONSULTING.
134334 .....	12/28/16	HULSE, LINCOLN R.
067064 .....	12/28/16	MESSETT, LINDSAY A.
85771B .....	12/28/16	MULLEN, KAREN M.
86222B .....	12/28/16	RIPPERGER, ETHAN J.
86278B .....	12/28/16	ANDERSON, ANDREW J.
85618B .....	12/28/16	BIOLOGICAL RESOURCES SERVICES LLC.
86906B .....	12/28/16	DOI—NPS—YOSEMITE NATIONAL PARK.
072650 .....	12/28/16	MICHAUD—LAIRD, JENNIFER C.
94977A .....	12/28/16	ROBERTSON, THEODORE D.
84210B .....	12/28/16	STORCK, AMY E.
181714 .....	12/28/16	JOHNSON, PIETER TJ.
090990 .....	12/28/16	SANTA CATALINA ISLAND CONSERVANCY.

Permit No.	Date issued	Applicant name
86449B .....	12/28/16	SANDMEIER, FRANZISKA C.
052404 .....	12/29/16	PALKOVIC, AMY L.
88748B .....	12/29/16	WALTHER, ERIKA L.
825573 .....	12/29/16	CYPHER, BRIAN L.

### Availability of Documents

The **Federal Register** documents publishing the receipt of applications for these permits may be viewed here: <https://www.fws.gov/policy/frsystem/default.cfm>. Documents and other information submitted with these applications are available for review subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents. For detailed information regarding a particular permit, please contact the Region that issued the permit.

### Authority

We provide this notice under the authority of section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: March 17, 2017.

### Don Morgan,

Chief, Branch of Recovery and State Grants.

[FR Doc. 2017-08368 Filed 4-25-17; 8:45 am]

BILLING CODE 4333-15-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2017-N027;  
FXES11130100000-178-FF01E00000]

### Endangered Species; Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications and availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications

for a permit to conduct activities intended to recover and enhance the survival of endangered species. With some exceptions, the Endangered Species Act of 1973, as amended (Act) prohibits certain activities that may impact endangered species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing these permits.

**DATES:** To ensure consideration, please send your written comments by May 26, 2017.

**ADDRESSES:** Please specify the permit you are interested in by number (*e.g.*, Permit No. TE-123456).

- *Email:* [permitsR1ES@fws.gov](mailto:permitsR1ES@fws.gov).

Please refer to the respective permit number (*e.g.*, Permit No. TE-123456) in the subject line of the message.

- *U.S. Mail:* Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Pacific Regional Office, 911 NE 11th Avenue, Portland, OR 97232-4181.

### FOR FURTHER INFORMATION CONTACT:

Colleen Henson, Recovery Permits Coordinator, at the above address or email, or by telephone (503-231-6131) or fax (503-231-6243).

### SUPPLEMENTARY INFORMATION:

#### Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The Act and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

### Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the permit number for the application when submitting comments.

Documents and other information submitted with these applications are available for review by any party who submits a written request to the Program Manager for Restoration and Endangered Species Classification at the address listed in the **ADDRESSES** section of this notice. Requests must be submitted within 30 days of the date of publication of this notice. Release of documents is subject to the requirements of the Privacy Act (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

### Permit Applications

Proposed activities in the following permit requests are for the recovery and enhancement of survival of the species.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE-014497 ....	Haleakala National Park, Kula, Hawaii.	<i>Nothoecstrum latifolium</i> ('aiea), <i>Joinvillea ascendens ascendens</i> ('ohe), <i>Cyclosorus boydiae</i> (Boyds maiden fern), <i>Ochrosia haleakalae</i> (Holei), <i>Ranunculus hawaiiensis</i> (makou), <i>Ranunculus mauiensis</i> (makou), <i>Microlepis strigosa</i> var. <i>mauiensis</i> (Maui fern), <i>Calamagrostis expansa</i> (Maui reedgrass), <i>Gardenia remyi</i> (nanu), <i>Phyllostegia brevidens</i> (no common name (NCN)), <i>Sanicula sandwicensis</i> (NCN), <i>Schiedea diffusa</i> ssp. <i>diffusa</i> (NCN), <i>Schiedea diffusa</i> ssp. <i>diffusa</i> (NCN).	Island of Maui .....	Remove and reduce to possession.	Survey, collect, propagate, and outplant.	Amend.
TE-19239B ...	Washington Department of Fish and Wildlife, Olympia, Washington.	Taylor's checkerspot butterfly ( <i>Euphydryas editha taylori</i> ).	Oregon and Washington.	Assess population genetics and identify/confirm the location of new populations.	Capture, handle, release, biosample, collect voucher specimens.	Amend.
TE-22353B ...	Center for Natural Lands Management, Temecula, California.	Taylor's checkerspot butterfly ( <i>Euphydryas editha taylori</i> ).	Oregon and Washington.	Survey, larval predation monitoring, oviposition monitoring, camera monitoring.	Capture, handle, release, survey, monitor.	Amend.
TE-19045C ...	Hawaii Division of Forestry and Wildlife, Honolulu, Hawaii.	Lanai tree snail ( <i>Partulina semicarinata</i> ), Lanai tree snail ( <i>Partulina variabilis</i> ), Newcomb's tree snail ( <i>Newcombia cumingi</i> ), Oahu tree snail ( <i>Achatinella</i> spp.).	Islands of Lanai, Maui, and Oahu.	Captive propagation and release.	Capture, handle, captive propagate, and release.	New.
TE-19076C ...	Guam Department of Agriculture, Mangilao, Guam.	Mariana eight-spot butterfly ( <i>Hypolimnas octocula marianensis</i> ).	Island of Guam .....	Establish a captive propagation program.	Capture, handle, survey, captive propagation, release.	New.

### Public Availability of Comments

All comments and materials we receive in response to these requests will be available for public inspection, by appointment, during normal business hours at the address listed in ADDRESSES.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*).

Dated: February 22, 2017.

**Theresa Rabot,**

Deputy Regional Director U.S. Fish and Wildlife Service.

[FR Doc. 2017-08405 Filed 4-25-17; 8:45 am]

BILLING CODE 4333-15-P

### DEPARTMENT OF THE INTERIOR

#### Fish and Wildlife Service

[FWS-R3-ES-2017-N035;  
FXES1113030000-178-FF03E00000]

#### Endangered and Threatened Wildlife and Plants; Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

**DATES:** We must receive any written comments on or before May 26, 2017.

**ADDRESSES:** Send written comments by U.S. mail to the Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458; or by electronic mail to [permitsR3ES@fws.gov](mailto:permitsR3ES@fws.gov).

**FOR FURTHER INFORMATION CONTACT:**  
Carlita Payne, (612) 713-5343.

#### SUPPLEMENTARY INFORMATION:

#### Background

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless the activities are specifically authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR

17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

**Applications Available for Review and Comment**

We invite local, State, Tribal, and Federal agencies and the public to

comment on the following applications. Please refer to the permit number when you submit comments. Documents and other information the applicants have submitted with the applications are available for review, subject to the requirements of the Privacy Act (5

U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

**Permit Applications**

Proposed activities in the following permit requests are for the recovery and enhancement of survival of the species in the wild.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE19208C .....	Ashley Matteson .....	Indiana bat ( <i>Myotis sodalis</i> ), gray bat ( <i>M. grisescens</i> ), northern long-eared bat ( <i>M. septentrionalis</i> ).	Rangewide .....	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, radiotag, band, release.	New.
TE71821A .....	David Zanatta .....	Snuffbox ( <i>Epioblasma triquetra</i> ), white cat's paw pearly mussel ( <i>E. obliquata perobliqua</i> ), northern riffleshell ( <i>E. torulosa rangiana</i> ), rayed bean ( <i>Villosa fabalis</i> ), clubshell ( <i>Pleurobema clava</i> ), rabbitsfoot mussel ( <i>Quadrula cylindrica cylindrica</i> ).	Michigan, Ohio, Wisconsin.	Conduct presence/absence surveys, relocations, transport.	Capture, handle, relocate, release.	Amend, renew.
TE120259 .....	Missouri Department of Conservation.	Pallid sturgeon ( <i>Scaphirhynchus albus</i> ).	Kansas, Missouri .....	Capture, collect morphological data, collect blood and tissue samples, use gill nets, conduct diet evaluation, hold and transport individuals for brood stock.	Capture, handle, release, transport.	Amend, renew.
TE73584A .....	Illinois Natural History Survey.	15 freshwater mussel species.	Illinois .....	Conduct presence/absence surveys, relocations, transport.	Capture, handle, release.	Renew.
TE40128B .....	Mainstream Commercial Divers, Inc.	27 freshwater mussel species.	Rangewide .....	Conduct presence/absence surveys.	Capture, handle, release.	Renew.
TE02344A .....	Mainstream Commercial Divers, Inc.	20 freshwater mussel species.	Rangewide .....	Conduct presence/absence surveys.	Capture, handle, release.	Renew.
TE48835A .....	Applied Science and Technology Inc.	Snuffbox ( <i>Epioblasma triquetra</i> ), white cat's paw pearly mussel ( <i>E. obliquata perobliqua</i> ), purple cat's paw pearly mussel ( <i>E. o. obliquata</i> ), northern riffleshell ( <i>E. torulosa rangiana</i> ), rayed bean ( <i>Villosa fabalis</i> ), clubshell ( <i>Pleurobema clava</i> ).	Michigan, Ohio .....	Conduct presence/absence surveys.	Capture, handle, release.	Amend, renew.
TE697830 .....	U.S. Fish and Wildlife Service, Region 3.	Multiple mammal, bird, amphibian, fish, mussel, snail, insect, crustacean, and plant species.	Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin.	Conduct approved recovery activities for scientific purposes or the enhancement of propagation or survival of the species in the wild.	Capture, handle, harass, transport, propagate, hold, relocate, release.	Amend.
TE207526 .....	U.S. Geological Survey, Columbia Environmental Research Center.	Pallid sturgeon ( <i>Scaphirhynchus albus</i> ), Neosho madtom ( <i>Noturus placidus</i> ).	Illinois, Iowa, Kansas, Missouri, Nebraska, North Dakota.	Capture, collect morphological data, collect blood and tissue sample, hold and transport individuals for brood stock.	Capture, handle, release, transport.	Amend, renew.
TE206781 .....	Ecological Specialists, Inc.	58 freshwater mussel species.	Rangewide .....	Conduct presence/absence surveys.	Capture, handle, release.	Amend.

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE07358A .....	Civil and Environmental Consultants, Inc.	Indiana bat ( <i>Myotis sodalis</i> ), gray bat ( <i>M. grisescens</i> ), northern long-eared bat ( <i>M. septentrionalis</i> ), Virginia big-eared bat ( <i>Plecotus townsendii virginianus</i> ), Ozark big-eared bat ( <i>P.t.ingens</i> ).	Rangewide .....	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, radio-tag, band, release.	Renew, amend.
TE06801A .....	Pittsburgh Wildlife & Environmental, Inc.	Indiana bat ( <i>Myotis sodalis</i> ), gray bat ( <i>M. grisescens</i> ), northern long-eared bat ( <i>M. septentrionalis</i> ), Big Sandy crayfish ( <i>Cambarus callainus</i> ), Guyandotte River crayfish ( <i>C. eateranus</i> ).	Rangewide .....	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, temporarily hold, release.	Amend.
TE38842A .....	Sanders Environmental Inc.	Indiana bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>M. septentrionalis</i> ).	Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Wisconsin.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, radio-tag, band, release.	Amend.

### National Environmental Policy Act

The proposed activities in the requested permits qualify as categorical exclusions under the National Environmental Policy Act, as provided by Department of the Interior implementing regulations in part 46 of title 43 of the CFR (43 CFR 46.205, 46.210, and 46.215).

### Public Availability of Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive in response to this notice are available for public inspection, by appointment, during normal business hours at the address listed above in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: March 3, 2017.

**Sean O. Marsan,**

*Acting Assistant Regional Director, Ecological Services, Midwest Region.*

[FR Doc. 2017-08408 Filed 4-25-17; 8:45 am]

**BILLING CODE 4333-15-P**

### INTERNATIONAL TRADE COMMISSION

[USITC SE-17-017]

### Government in the Sunshine Act Meeting Notice

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** May 2, 2017 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

**STATUS:** Open to the public.

#### MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731-TA-1063-1064 and 1066-1068 (Second Review) (Frozen Warmwater Shrimp from Brazil, China, India, Thailand, and Vietnam). The Commission is currently scheduled to complete and file its determinations and views of the Commission by May 25, 2017.
5. Vote in Inv. Nos. 731-TA-624 and 625 (Fourth Review) (Helical Spring Lock Washers from China and Taiwan).

The Commission is currently scheduled to complete and file its determination and views of the Commission by May 16, 2017.

6. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: April 24, 2017.

**William R. Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2017-08544 Filed 4-24-17; 4:15 pm]

**BILLING CODE 7020-02-P**

### DEPARTMENT OF JUSTICE

### Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0028]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Inventories, Licensed Explosives Importers, Manufacturers, Dealers, and Permittees

**AGENCY:** Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit 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 proposed information collection was previously published in the **Federal Register** 82 FR 11650, on February 24, 2017, allowing for a 60-day comment period. This information collection is being revised due to a burden reduction, specifically a decrease in both the number of respondents and the total burden hours for this collection.

**DATES:** Comments are encouraged and will be accepted for an additional 30 days until May 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** If you have additional comments, particularly with respect to the estimated public burden or associated response time, have suggestions, need a copy of the proposed information collection instrument with instructions, or desire any other additional information, please contact please contact Anita Scheddel, Program Analyst, Explosives Industry Programs Branch, either by mail 99 New York Ave. NE., Washington, DC 20226, by email at [Anita.Scheddel@atf.gov](mailto:Anita.Scheddel@atf.gov). Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Inventories, Licensed Explosives Importers, Manufacturers, Dealers, and Permittees.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

*Form number:* None.

*Component:* Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

*Primary:* Business or other for-profit.

*Other:* None.

*Abstract:* The records show the explosive material inventories of those persons engaged in various activities within the explosive industry and are used by the government as initial figures from which an audit trail can be developed during the course of a compliance inspection or criminal investigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,916 respondents will respond twice to provide inventory for this collection, and it will take each respondent approximately 1 hour to complete each inventory.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 19,832 hours, which is equal to  $(9,916 * 2 (\# \text{ of responses}) * 1 (\text{hour to provide each inventory}))$ .

(7) *An explanation of the change in estimates:* The adjustments associated with this collection are a decrease in the number of respondents by 550, and a decrease in the total burden hours by 1,100 from the previous collection renewal.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: April 21, 2017.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2017-08398 Filed 4-25-17; 8:45 am]

**BILLING CODE 4410-14-P**

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

#### Meeting of the CJIS Advisory Policy Board

**AGENCY:** Federal Bureau of Investigation (FBI), DOJ.

**ACTION:** Meeting notice.

**SUMMARY:** The purpose of this notice is to announce the meeting of the Federal Bureau of Investigation's Criminal Justice Information Services (CJIS) Advisory Policy Board (APB). The CJIS APB is a federal advisory committee established pursuant to the Federal Advisory Committee Act (FACA). This meeting announcement is being published as required by Section 10 of the FACA.

**DATES:** The APB will meet in open session from 9:00 a.m. until 5 p.m., on June 7–8, 2017.

**ADDRESSES:** The meeting will take place at Hyatt Regency Jacksonville Riverfront, 225 East Coastline Drive, Jacksonville, FL 32202, telephone (904) 588-1234.

**FOR FURTHER INFORMATION CONTACT:** Inquiries may be addressed to Ms. Kara Delmont; Management and Program Analyst; CJIS Training and Advisory Process Unit, Resources Management Section; FBI CJIS Division, Module C2, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306-0149; telephone (304) 625-5859, facsimile (304) 625-5090.

**SUPPLEMENTARY INFORMATION:** The FBI CJIS APB is responsible for reviewing policy issues and appropriate technical and operational issues related to the programs administered by the FBI's CJIS Division, and thereafter, making appropriate recommendations to the FBI Director. The programs administered by the CJIS Division are the Next Generation Identification, Interstate Identification Index, Law Enforcement Enterprise Portal, National Crime Information Center, National Instant Criminal Background Check System, National Incident-Based Reporting System, National Data Exchange, and Uniform Crime Reporting.

This meeting is open to the public. All attendees will be required to check-in at the meeting registration desk. Registrations will be accepted on a



space available basis. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with approval of the Designated Federal Officer (DFO). Any member of the public may file a written statement with the Board. Written comments shall be focused on the APB's current issues under discussion and may not be repetitive of previously submitted written statements. Written comments should be provided to Mr. Michael D. McIntyre, Acting DFO, at least seven (7) days in advance of the meeting so that the comments may be made available to the APB for their consideration prior to the meeting.

Anyone requiring special accommodations should notify Mr. McIntyre at least seven (7) days in advance of the meeting.

Dated: April 14, 2017.

**Michael D. McIntyre, Jr.,**

*Acting CJIS Designated Federal Officer,  
Criminal Justice Information Services  
Division, Federal Bureau of Investigation.*

[FR Doc. 2017-08412 Filed 4-25-17; 8:45 am]

**BILLING CODE 4410-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On April 19, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States v. Paulsboro Refining Company LLC*, Civil Action No. 2:17-cv-02662.

In a complaint, the United States, on behalf of the U.S. Environmental Protection Agency ("EPA"), alleges that Paulsboro Refining Company LLC ("Paulsboro") violated (1) the requirement to operate three flares at its petroleum refinery in Paulsboro, New Jersey, in a manner consistent with the good-air-pollution-control-practices provisions of both the new source performance standards ("NSPS") and national emission standards for hazardous air pollutants ("NESHAP") found in Sections 111, 112 and 114 of the Clean Air Act, 42 U.S.C. 7411, 7412 and 7414, and regulations promulgated thereunder; and (2) the refinery's CAA Title V Operating Permit. The proposed consent decree requires the Paulsboro to, among other things, bring the flares at the Facility into compliance with the NESHAP for Petroleum Refineries, 40 CFR part 60, subpart J. Two of the flares will be brought into compliance six

months earlier than required by that provision. Paulsboro also will pay a civil penalty of \$180,000.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Paulsboro Refining Company LLC*, D.J. Ref. No. 90-5-2-1-10408. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed consent decree may be examined and downloaded at this Justice Department Web site: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the proposed consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$6.00 (25 cents per page reproduction cost), payable to the United States Treasury.

**Robert E. Maher, Jr.,**

*Assistant Chief, Environmental Enforcement  
Section, Environment & Natural Resources  
Division.*

[FR Doc. 2017-08371 Filed 4-25-17; 8:45 am]

**BILLING CODE 4410-15-P**

## DEPARTMENT OF LABOR

### Office of the Secretary

#### Agency Information Collection Activities; Submission for OMB Review; Comment Request; Presence Sensing Device Initiation Standard

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, "Presence Sensing Device Initiation Standard," to the Office of Management and Budget (OMB) for review and approval for

continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

**DATES:** The OMB will consider all written comments that agency receives on or before May 26, 2017.

**ADDRESSES:** A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at [http://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=201703-1218-001](http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201703-1218-001) (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**FOR FURTHER INFORMATION:** Contact Michel Smyth by telephone at 202-693-4129, TTY 202-693-8064, (these are not toll-free numbers) or by email at [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).

**Authority:** 44 U.S.C. 3507(a)(1)(D).

**SUPPLEMENTARY INFORMATION:** This ICR seeks to extend PRA authority for the Presence Sensing Device (PSD) Initiation Standard information collection requirements codified in regulations 29 CFR 1910.217(h). The Standard relates to a PSD in a mechanical power-press safety system. A PSD automatically stops the stroke of a mechanical power press when the device detects an operator entering a danger zone near the press. The PSD initiation standard contains a number of information collection requirements including: certifying brake monitor adjustments, alternatives to photoelectric PSDs, safety system design and installation, and worker training; annual recertification of safety systems;

establishing and maintaining the original certification and validation records and the most recent recertification and revalidation records; affixing labels to test rods and to certified and recertified presses; and notifying an OSHA-recognized third-party validation organization when a safety system component fails, the employer modifies the safety system, or a point-of-operation injury occurs. Occupational Safety and Health Act sections 6(b)(7) and 8(c) authorize this information collection. See 29 U.S.C. 655(b)(7), 29 U.S.C. 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218-0143.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on April 30, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 22, 2016 (81 FR 93962).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218-0143. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* DOL-OSHA.

*Title of Collection:* Presence Sensing Device Initiation Standard.

*OMB Control Number:* 1218-0143.

*Affected Public:* Private Sector—businesses or other for-profits.

*Total Estimated Number of Respondents:* 10.

*Total Estimated Number of Responses:* 10.

*Total Estimated Annual Time Burden:* 1 hour.

*Total Estimated Annual Other Costs Burden:* \$0.

Dated: April 19, 2017.

**Michel Smyth,**

*Departmental Clearance Officer.*

[FR Doc. 2017-08437 Filed 4-25-17; 8:45 am]

**BILLING CODE 4510-26-P**

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## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 17-020]

### Notice of Intent To Grant Exclusive Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of intent to grant exclusive patent license.

**SUMMARY:** NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Number 7,621,670 entitled, "Unbalanced-flow, Fluid-Mixing Plug with Metering Capabilities", to APlus-QMC, LLC, having its principal place of business in McDonough, GA. The fields of use are unlimited. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

**DATES:** The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives

written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

**ADDRESSES:** Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544-0013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sammy A. Nabors, Technology Transfer Branch/ST22, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544-5226.

**SUPPLEMENTARY INFORMATION:** This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at <http://technology.nasa.gov>.

**Mark P. Dvorscak,**

*Agency Counsel for Intellectual Property.*

[FR Doc. 2017-08374 Filed 4-25-17; 8:45 am]

**BILLING CODE 7510-13-P**

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## NATIONAL COUNCIL ON DISABILITY

### Sunshine Act Meetings

**TIME AND DATES:** The Members of the National Council on Disability (NCD) will hold a quarterly meeting on Thursday and Friday, May 11 and 12, 2017 in New Orleans, Louisiana, from 9:00 a.m.–4:15 p.m., Central Time, on Thursday, May 12; and from 9:00 a.m.–12:30 p.m., Central Time, on Friday, May 12.

**PLACE:** The meeting will occur at the Hyatt Regency New Orleans, 601 Loyola Ave, New Orleans, LA 70113. Interested

parties may join the meeting in person at the meeting location or may join by phone in a listening-only capacity (other than the period allotted for public comment noted below) using the following call-in information:

Teleconference number: 1-888-510-1765; Conference ID: 8901617; Conference Title: NCD Meeting; Host Name: Clyde Terry.

**MATTERS TO BE CONSIDERED:** The Council will receive presentations on the connection between disability and poverty; progress on its 2017 disability policy progress report to Congress and the President; charter schools and vouchers in the context of IDEA; and on work on the agency updated strategic plan framework. The Council will also receive agency updates on finance, governance, and other business. The Council will receive public comment on charter schools and vouchers in the context of IDEA. Finally, the Council will discuss its FY 2018 policy priorities for potential future projects.

**AGENDA:** The times provided below are approximations for when each agenda item is anticipated to be discussed (all times Central):

#### Thursday, May 11

9:00–9:30 a.m.—Welcome and Introductions  
 9:30–10:15 a.m.—(Panel Presentation) Connection between Disability and Poverty in Louisiana  
 10:15–10:30 a.m.—Break  
 10:30–11:15 a.m.—2017 Progress Report Presentation  
 11:15–11:45 a.m.—Council Discussion on 2017 Progress Report

#### Recommendations

11:45 a.m.–1:15 p.m.—Lunch Break  
 1:15–2:00 p.m.—(Panel Presentation) Charter Schools and Vouchers in the Context of the Individuals with Disabilities Education Act (IDEA)  
 2:00–2:30 p.m.—Town hall to receive comments on charter schools and vouchers in the context of IDEA  
 2:30–2:45 p.m.—Break  
 2:45–4:15 p.m.—Discussion of NCD's Updated Strategic Plan Framework  
 4:15 p.m.—Adjournment

#### Friday, May 12

9:00–11:15 a.m.—FY2018 Policy Priorities Discussion  
 11:15–11:30 a.m.—Break  
 11:30 a.m.–12:30 p.m.—NCD business meeting  
 12:30 p.m.—Adjournment

**PUBLIC COMMENT:** To better facilitate NCD's public comment, any individual interested in providing public comment is asked to register his or her intent to

provide comment in advance by sending an email to [PublicComment@ncd.gov](mailto:PublicComment@ncd.gov) with the subject line "Public Comment" with your name, organization, state, and topic of comment included in the body of your email. Full-length written public comments may also be sent to that email address. All emails to register for public comment at the quarterly meeting must be received by Wednesday, May 10, 2017. Priority will be given to those individuals who are in-person to provide their comments during the town hall portions of the agenda. Those commenters on the phone will be called on per the list of those registered via email. Due to time constraints, NCD asks all commenters to limit their comments to three minutes. Comments received at the May quarterly meeting will be limited to those regarding charter schools and vouchers in the context of IDEA.

**CONTACT PERSON:** Anne Sommers, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202-272-2004 (V), 202-272-2074 (TTY).

**ACCOMMODATIONS:** A CART streamtext link has been arranged for this teleconference meeting. The web link to access CART on both Thursday and on Friday, May 12–13, 2017 is: <https://www.streamtext.net/player?event=NCD>.

Those who plan to attend the meeting in-person and require accommodations should notify NCD as soon as possible to allow time to make arrangements. To help reduce exposure to fragrances for those with multiple chemical sensitivities, NCD requests that all those attending the meeting in person refrain from wearing scented personal care products such as perfumes, hairsprays, and deodorants.

Dated: April 24, 2017.

**Rebecca Cokley,**

*Executive Director.*

[FR Doc. 2017-08542 Filed 4-24-17; 4:15 pm]

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## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

#### Privacy Act of 1974; System of Records Notice

**AGENCY:** National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of republication of systems of records and new routine uses.

**SUMMARY:** The National Endowment for the Humanities ("NEH") is publishing a

notice of its systems of records with descriptions of the systems and the ways in which they are maintained, as required by the Privacy Act of 1974.

NEH's mission has not changed since its inception in 1965: It extends federal financial assistance to support humanities-related projects, conducted by both individuals and organizations. In that endeavor, it employs staff and special government employees, and engages academic peer reviewers, to evaluate grant applications. NEH created several systems of records to maintain records concerning the individuals with whom it regularly interacts: e.g., grant applicants, employees, peer reviewers, contractors and vendors. As with its mission, the categories of individuals with whom NEH interacts and the systems it created to host records regarding such individuals have not changed significantly since NEH's inception.

This notice reflects administrative and operational changes that have been made at NEH since it last published notice of its systems of records, such as agency restructuring and the increased use of electronic technology. This notice will enable individuals who wish to access information maintained in NEH systems of records to make accurate and specific requests for such information. This notice does not reflect, nor has NEH undertaken, significant changes to the numbers or categories of individuals about whom it maintains records in its systems of records, the categories of records maintained in these systems, the purpose for which it maintains these systems, or the availability of information contained in these systems.

This notice also reflects certain new routine uses requested by the Office of Management and Budget and the Office of Government Information Services of the National Archives and Records Administration, as well as routine uses that are standard within other federal agencies.

**DATES:** With the exception of new routine uses, this System of Records Notice is effective upon publication in the **Federal Register**. Any new routine use published in this System of Records Notice shall be effective 30 days from the date of publication, pursuant to 5 U.S.C. 552a(e)(11).

**ADDRESSES:** Adam M. Kress, Senior Agency Official for Privacy, 400 7th Street SW., Room 4060, Washington, DC 20506; (202) 606-8323; [akress@neh.gov](mailto:akress@neh.gov).

**FOR FURTHER INFORMATION CONTACT:** Adam M. Kress, (202) 606-8323; [akress@neh.gov](mailto:akress@neh.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 552a(e)(4),

NEH is today republishing a notice of the existence and character of its systems of records in order to make available in one place in the **Federal Register** the most up-to-date information regarding these systems. This republication reflects administrative changes, such as agency restructuring and the increased use of electronic technology that NEH has implemented since it last published notice of its systems of records.

#### Table of Contents

This document gives notice that the following NEH systems of records are in effect:

- NEH-1 Grants and Cooperative Agreements: Electronic Grant Management System
- NEH-2 Financial Management System
- NEH-3 Requisition System
- NEH-4 Employee Payroll and Leave and Attendance Records
- NEH-5 Office of the Inspector General Investigative Files
- NEH-6 Humanities Magazine Contact Database

#### NEH-1

##### SYSTEM NAME:

Grants and Cooperative Agreements: Electronic Grant Management System ("eGMS").

##### SYSTEM CLASSIFICATION:

Unclassified.

##### SYSTEM LOCATION:

Authorized NEH staff may access NEH's electronic grant management system via an online web portal.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have applied to NEH for financial assistance; (2) in the case of organizations who have applied to NEH for financial assistance, the organization's designated grant administrator and/or project director, as well as other individuals affiliated with the applicant; (3) individuals that have applied to, or received financial assistance, from NEH grantees, including fellows and subgrantees; (4) individuals who have attended NEH-funded seminars; (5) individuals who have applied to or have served as application review panelists; and (6) individuals who serve or have served as members of the National Council on the Humanities.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals, Social Security numbers (only for those grant applicants and panelists receiving payment from NEH), eGMS personal identification number, U.S. citizenship status, race

and ethnicity (no longer actively collected), email address, telephone and fax number, home and work address, current institutional affiliations, categorical information on disciplines and expertise, and NEH subscriptions.

In addition to the above records, eGMS contains grant applications, including résumés, samples of work and proposed budgets, award notification letters, notices of agency action, grantee performance reports, panelist and staff evaluations and write-ups, funding decisions, written communications between NEH and grantees and other background materials received from grantees.

eGMS also contains information pertaining to NEH peer review panels, including the identity of panelists, date of panel meetings, applications considered, notes and evaluations, as well as travel reimbursement, evaluation and other instructions that NEH sends to the panels to facilitate their review.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

##### ROUTINE USE(S):

NEH program and grant administration staff use eGMS to evaluate applications to NEH for federal financial assistance, manage active grants and cooperative agreement awards, and communicate with grantees. NEH's financial management system draws upon contact and other information within eGMS to process the disbursement of grant funds to grantees as well as the payment of honoraria and travel expense to panelists.

NEH application review panelists have limited access to eGMS. They may only access eGMS to review grant applications assigned to the panels on which they have been asked to serve, as well as review panel instructions uploaded to eGMS. NEH application review panelists use their limited access to review grant applications, as well as prepare and submit grant evaluations.

NEH publicly discloses on its Web site information pertaining to funded projects, including the grantee and/or project director's name and institutional affiliation, dollar amount of the grant, application identification number, title and summary of the project, field of study under which the project falls, and NEH program and division responsible for administering the grant. In addition, NEH often discloses the identity of

successful grant applicants via press release.

NEH also uses eGMS for statistical research, congressional oversight and trend analysis.

In addition to the above uses and disclosures, as well as the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NEH as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation in or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

- a. NEH;
- b. Any employee or former employee of NEH in his or her official capacity;
- c. Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;
- d. The U.S. Government or any agency thereof.

2. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the request of the individual who is the subject of the record.

3. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

5. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders.

6. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NEH personnel.

7. To any source from which additional information is requested by NEH relevant to an NEH determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

8. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

9. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

10. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

11. To a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

12. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

13. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and

to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

14. To the Treasury, other Federal agencies, "consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in regulations promulgated by NEH and published at 45 CFR 1150.

15. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

16. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

17. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH established eGMS to provide a central repository for information about its application review panelists, grant

applicants, award recipients and awards.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), NEH may disclose information from its financial management system to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

NEH maintains records in this system in an electronic database and a digital file repository.

**RETRIEVABILITY:**

NEH staff may retrieve records in this system by name, email address, eGMS personal identification number or by the identification number of any application associated with the individual in his or her capacity as an applicant, project director/grant administrator and/or peer reviewer.

**SAFEGUARDS:**

NEH limits access to records within this system to authorized personnel whose official duties require such access. For example, NEH limits access of its program staff to those functions necessary to processing and evaluation of applications. NEH limits the access of its grant management staff to those functions necessary to managing active grants and disbursing funds.

NEH protects records in this system through user identification, passwords, database permissions, and software controls, and it encrypts all Social Security numbers stored within eGMS.

**RETENTION AND DISPOSAL:**

NEH's Comprehensive Records Control Schedule provides disposition authority with respect to various records stored within eGMS.

NEH has authority to destroy applications for projects not selected for funding, or withdrawn from NEH, when five years old.

With respect to projects funded by NEH, NEH has authority to retain the official case file associated with such projects for twenty-five years. After the retention period, NEH may destroy case file records or select unique case files for permanent retention at the National Archives and Records Administration. Official case files consist of the application, award notification letter, notices of agency action, grantee performance reports, reviewer and

panelist comments and summaries, staff comments and recommendations, written communications between NEH and grantees and other background materials received from the grantee.

With respect to reference files on peer review panels and panelists, such as meeting minutes and evaluative material for unfunded applications, lists of panelists and applications to be reviewed, and correspondence between NEH and panelists, NEH has authority to destroy such records when three years old.

NEH otherwise maintains records in eGMS on an indefinite basis for reference purposes.

**SYSTEMS MANAGER(S) AND ADDRESS:**

Director of the Office of Information Resource Management, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

See 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

See 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system, as well as from NEH program officers, application review panelists, grant management personnel and accounting personnel.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Per 5 U.S.C. 552a(k)(5) and 45 CFR 1115.7, NEH has exempted from the Privacy Act's access and amendment provision (5 U.S.C. 552a(d)) any material that would disclose the identity of references for grant applications, including the identity of application review panelists selected to review a particular application.

**NEH-2**

**SYSTEM NAME:**

Financial Management System.

**SYSTEM CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Authorized NEH staff may access NEH's financial management system electronically via an online web portal. The system is hosted by Oracle at its Managed Cloud Services' (MCS) facility in Austin, Texas. NEH stores certain supporting documents in hard-copy files within its Accounting Office, Office of Management and Budget and Administrative Services Office.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individual grant recipients (*e.g.*, fellows and independent scholars), individuals who have served as application review panelists, NEH employees and contractors, individual vendors and sole proprietors, individuals who donate funds to NEH, and other individuals involved in financial transactions with NEH.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, home and/or work addresses, employee supplier numbers, Social Security numbers, bank name and banking account and routing numbers for electronic fund transfer payments, and information regarding transactions between NEH and the covered individual, including dates, amounts paid, purpose of the transaction, and payee type (*e.g.*, grantee, vendor, application review panelist).

In addition to the above records, NEH's financial management system may contain requisitions, payment request forms, invoices, receipts, credit card statements, travel vouchers, expense reimbursement request forms, contracts, automated clearing house ("ACH") enrollment forms, wire transfer instructions, voided checks, fellowship acceptance forms, tax forms, demand letters, quotes, Internal Revenue Service confirmations of an individual payee's tax identification number, payment restriction notices, email and other communications between or about payments to or from covered individuals, and other documents as needed to substantiate the transaction.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

**ROUTINE USE(S):**

NEH's financial management system supports agency-wide financial management by providing a standardized, automated capability for performing administrative control of funds, general accounting, billing and collecting, payments, management reporting, and regulatory reporting.

NEH specifically uses the financial management system to manage and disburse awards to grant recipients, pay honoraria to and reimburse travel expenses incurred by NEH application review panelists, reimburse travel and other work-related expenses incurred by NEH employees, pay vendors and other contractors who provide goods to or

perform services on behalf of the agency, accept cash donations, and generate financial reports.

NEH staff from its Office of Accounting, Office of Planning and Budget, and Office of Information Resource Management have access to the financial management system for the reasons described above. Authorized members of NEH's Administrative Services Office may also access the financial management system to process requisition requests for payment to vendors and employees. In addition, staff from Oracle Corporation may access the financial management system, upon the request of NEH's Director of Accounting, to provide technical assistance as needed.

With respect to payments made to individuals covered by the system, the financial management system interacts with and automatically draws contact information (name, address, and Social Security number) from NEH's electronic grants management system. (See NEH-1.)

NEH also uses its financial management system for statistical research, congressional oversight and trend analysis

In addition to the above uses and disclosures, as well as the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NEH as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation in or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

- a. NEH;
- b. Any employee or former employee of NEH in his or her official capacity;
- c. Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;
- d. The U.S. Government or any agency thereof.

2. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the request of the individual who is the subject of the record.

3. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with

investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

5. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders.

6. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NEH personnel.

7. To any source from which additional information is requested by NEH relevant to an NEH determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

8. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

9. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

10. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious

inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

11. To a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

12. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

13. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

14. To the Treasury, other Federal agencies, "consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in the regulations promulgated by NEH and published at 45 CFR 1150.

15. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

16. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information

systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

17. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH established its financial management system to facilitate core accounting functions, including: (i) Supporting and documenting expenses incurred in the performance of official agency duties, (ii) tendering payment to grantees, vendors and contractors; (iii) accounting for goods and services rendered; (iv) accounting for funds paid and received; and (v) processing travel authorizations and claims.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), NEH may disclose information from its financial management system to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

NEH maintains records in this system in an electronic database. NEH maintains supporting documentation in paper format in file cabinets and stores retired paper records at Washington Federal Records Center.

**RETRIEVABILITY:**

NEH staff may retrieve electronic records by name, Social Security number, bank account number or an electronic identification number generated automatically by the financial management system and associated with each individual for which the system maintains a record. NEH may retrieve some supporting hard-copy documents by name.

**SAFEGUARDS:**

NEH limits access to records within its financial management system to authorized personnel whose official duties require such access. NEH protects electronic records through user identification, passwords, database permissions, and software controls. The financial management system's underlying software application—Oracle Federal Financials—is compliant with the Federal Risk and Authorization Management Program. NEH staff employs Https protocol when accessing this application.

NEH maintains paper records in locked file cabinets or locked file rooms accessible to authorized personnel only.

**RETENTION AND DISPOSAL:**

NEH maintains records in this system in accordance with the General Records Schedule (GRS), including GRS 1.1, which covers financial management records. Retention periods may vary according to the subject matter and NEH needs. For example, GRS 1.1 authorizes NEH to destroy certain financial transaction records related to its procurement of goods and services six years after final payment or cancellation, but also authorizes longer retention if NEH requires such records for a business use. By contrast, NEH may destroy contracts, requisition requests, and purchase orders immediately once they no longer serve a business purpose.

**SYSTEMS MANAGER(S) AND ADDRESS:**

Accounting Director, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

See 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

See 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system, as well as from NEH employees involved in NEH's fund control and financial management functions.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**NEH-3****SYSTEM NAME:**

Requisition System.

**SYSTEM CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Authorized NEH staff may access NEH's Requisition System electronically via an online Web portal. NEH stores supporting documents in hard-copy files within its Administrative Services Office. These supporting documents are also part of NEH's financial management system.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals requiring or requesting payment from NEH for goods and services rendered to the agency, including NEH employees and contractors, application review panelists, individual vendors and sole proprietors.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Names, home and/or work addresses, Social Security numbers, email addresses, home and/or work phone numbers, and information regarding transactions between NEH and the covered individual, including date of the payment request, amount requested, purpose of the transaction, NEH division or office responsible for the request, and description of the request.

In addition to the above records, NEH's requisition system may contain payment request forms, invoices, receipts, credit card statements, travel vouchers, expense reimbursement request forms, contracts, email and other communications between or about payments to or from covered individuals, and other documents as needed to substantiate the requisition.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:****ROUTINE USE(S):**

NEH uses its requisition system to process requests from or on behalf of employees, individual contractors, individual vendors, and application review panelists for payment from the agency, including for travel and training expenses, honoraria, and goods and services provided to NEH, but not including employee payroll.

In addition to the above uses and disclosures, as well as the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NEH as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation in or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

- a. NEH;
- b. Any employee or former employee of NEH in his or her official capacity;
- c. Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;
- d. The U.S. Government or any agency thereof.

2. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the request of the individual who is the subject of the record.

3. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

5. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders.

6. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of



records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NEH personnel.

7. To any source from which additional information is requested by NEH relevant to an NEH determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

8. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

9. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

10. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

11. To a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

12. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. Sec. 2904 and 2906.

13. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

14. To the Treasury, other Federal agencies, "consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in the

regulations promulgated by NEH and published at 45 CFR 1150.

15. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

16. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

17. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH established its requisition system to process and track requests for payment to personnel and third-parties providing goods and services to the agency.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), NEH may disclose information from its requisition system to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

NEH maintains records in this system in an electronic database. NEH maintains supporting documentation in paper format in file cabinets and stores retired paper records at Washington Federal Records Center.

**RETRIEVABILITY:**

NEH staff may retrieve electronic and some supporting hard-copy documents by name.

**SAFEGUARDS:**

NEH limits access to records within its electronic financial management system to authorized personnel whose official duties require such access. Certain authorized staff members from NEH's Administrative Services Office and Office of Information Resource Management have access to the entire requisition system, while staff members from other divisions and offices have limited system access for the purpose of submitting requests and viewing and tracking requests submitted by their assigned offices. NEH protects electronic records through user identification, passwords, database permissions, and software controls.

NEH maintains paper records in locked file cabinets or locked file rooms accessible to authorized personnel only.

**RETENTION AND DISPOSAL:**

NEH maintains records in this system in accordance with General Records Schedule (GRS) 1.1, which covers financial management records. Among other things, GRS 1.1 authorizes NEH to destroy requisitions immediately once they no longer serve a business purpose.

**SYSTEMS MANAGER(S) AND ADDRESS:**

Director, Office of Administrative Services, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

Director of the Office of Information Resource Management, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

See 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

See 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system,

as well as from NEH employees involved in agency operations related to the requisition.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**NEH-4**

**SYSTEM NAME:**

Employee Payroll and Leave and Attendance Records.

**SYSTEM LOCATION:**

National Endowment for the Humanities, Department of Human Resources, 400 Seventh Street SW., Washington, DC 20506.

Pursuant to an Interagency Agreement between NEH and the National Finance Center ("NFC"), a component organization of the United States Department of Agriculture's Office of the Chief Financial Officer, NFC provides NEH with the following services: Payroll processing, payroll account processing, salary payment processing, receipt and processing of time and attendance data, and other functions necessary to perform these services. NFC provides these services using the Department of Agriculture's payroll systems, which are covered under Department of Agriculture System of Record Notice OP-1.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current and former NEH employees.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Employee name, address, phone number, Social Security number, and organizational code, pay rate and grade, salary, retirement, and location data, length of service, pay, leave, time and attendance, allowances, and cost distribution records, deductions for Medicare/FICA, savings bonds, Federal Employee Group Life Insurance (FEGLI), Long Term Care Insurance, union dues, Federal, State, and city tax withholdings, allotments, designated charities, health benefits, Thrift Savings Plan contributions, Flexible Spending Account, awards, shift schedules, pay differentials, IRS tax lien data, commercial garnishments, child support and/or alimony wage assignments; information on debts owed to the government as a result of overpayment, refunds owed, or a debt referred for collection on a transferred employee.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

**ROUTINE USE(S):**

NEH may disclose all or a portion of the records contained within this system as follows:

1. To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. Sec. 7111 and 7114, including for the purpose of providing information as to the identity of NEH employees contributing union dues each pay period and the amount of dues withheld from each contributor.

2. To the other federal agencies who provide payroll personnel processing services under a cross-servicing agreement for purposes relating to the conversion of NEH employee payroll and personnel processing services, the issuance of paychecks to employees and distribution of wages, and the distribution of allotments and deductions to financial and other institutions, including through electronic funds transfer.

3. To provide wage and separation information to another federal agency as required by law for payroll purposes.

4. To the Office of Personnel Management, the Merit System Protection Board, Federal Labor Relations Authority, Federal Thrift Retirement Investment Board or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties.

5. To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

6. To the Department of the Treasury to issue checks.

7. To appropriate Federal and State agencies to provide required reports including data on unemployment insurance.

8. To Federal Employee's Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

9. To the Internal Revenue Service and State and local tax authorities for which an employee is or was subject to tax regardless of whether tax is or was withheld in accordance with Treasury Fiscal Requirements, as required.

10. To any source from which additional information is requested by NEH relevant to an NEH determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

11. To the Social Security Administration and the Department of the Treasury to disclose pay data on an annual basis.

12. To a federal agency or in response to a congressional inquiry when additional or statistical information is requested relevant to the NEH Transportation Fringe Benefit Program.

13. To the Department of Health and Human Services for the purpose of providing information on new hires and quarterly wages as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

14. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation in or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

(a) NEH;

(b) Any employee or former employee of NEH in his or her official capacity;

(c) Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;

(d) The U.S. Government or any agency thereof.

15. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the request of the individual who is the subject of the record.

16. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

17. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or

settlement negotiations or in connection with criminal law proceedings.

18. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders.

19. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NEH personnel.

20. To any source from which additional information is requested by NEH relevant to an NEH determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

21. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

22. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

23. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

24. To a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

25. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. Sec. 2904 and 2906.

26. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies,

procedures and compliance with the Freedom of Information Act (FOIA) and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

27. To the Department of the Treasury, other Federal agencies, "consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in the regulations promulgated by NEH and published at 45 CFR 1150.

28. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

29. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

30. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH established this system of records to ensure proper payment of salary and benefits to NEH personnel, and to track time worked, leave, or other absences for reporting and compliance purposes.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), NEH may disclose information from this system to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

NEH maintains paper records in filing cabinets.

**RETRIEVABILITY:**

NEH may retrieve records in this system by an individual's name.

**SAFEGUARDS:**

NEH limits access to records within this system to authorized personnel whose official duties require such access: namely, Office of Human Resources personnel and senior staff. NEH keeps paper records in this system in locked file cabinets.

**RETENTION AND DISPOSAL:**

NEH maintains records in this system in accordance with General Records Schedule (GRS) 2, which covers Payrolling and Pay Administration Records. For example, GRS 2, Item 1(b) requires that NEH transfer an employee's payroll records to the National Personnel Records Center, which NEH does 90 days after the employee separates from NEH, and requires that the National Personnel Records Center destroy these records when 56 years old.

**SYSTEMS MANAGER(S) AND ADDRESS:**

Director of the Office of Human Resources, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

See 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

See 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system,

as well as from NEH employees involved in the administration of personnel and payroll processes.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**NEH-5**

**SYSTEM NAME:**

Office of the Inspector General Investigative Files.

**SYSTEM CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of the Inspector General (OIG), 400 Seventh Street SW., Washington, DC 20506.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who are or have been the subject of investigations by the OIG. These individuals include (1) former and present NEH employees, (2) former and present individual grant recipients (e.g., fellows and public scholars), (3) grant administrators, project directors and employees of organizational grant recipients; (4) former and present contractors and vendors, and their employees, (5) former and present application review panelists; and (6) other individuals that had, have, or are seeking to obtain business or other relationships with NEH.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Investigative reports and related materials pertaining to allegations of fraud, waste, abuse, mismanagement, danger to public health or safety, violations of law, misconduct and irregularities by individuals covered by the system. These records include: (1) Correspondence relevant to the investigation; (2) working papers of OIG staff; (3) OIG investigative notes, internal memoranda, and other documents and records relating to the investigation; (4) subpoenas issued by the Inspector General and documents submitted to OIG in response to subpoenas; (5) criminal, civil, or administrative referrals; (6) affidavits, statements, documentation and other information provided by subjects of the investigation, individuals with whom the subjects are associated, complainants, or witnesses; (7) information provided by Federal, State, or local governmental investigative or law enforcement agencies, or other organizations; and (8) opening reports, progress reports, and closing reports from OIG, with recommendations for corrective action.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Inspector General Act of 1978, 5 U.S.C. app. 1, sections 1–13; National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

**ROUTINE USE(S):**

OIG staff uses records in this system to conduct and report investigations of fraud, waste, abuse of authority, research misconduct (fabrication, falsification, plagiarism), mismanagement and misconduct in or pertaining to NEH programs and activities, as well as the programs and activities of those receiving financial assistance from NEH, and by those who do business with NEH.

OIG may disclose data in this system to any source, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate OIG investigation. OIG may also disclose data in this system to NEH's legal representatives, including the United States Department of Justice and other outside legal counsel, when OIG or NEH is a party in actual or anticipated litigation or has an interest in such litigation.

In addition to the above uses and disclosures, as well as the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NEH as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, other federal agencies or outside legal counsel conducting litigation in or in proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

- a. NEH;
- b. Any employee or former employee of NEH in his or her official capacity;
- c. Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;
- d. The U.S. Government or any agency thereof.

2. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the

request of the individual who is the subject of the record.

3. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

5. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders.

6. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to NEH personnel.

7. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

8. To a contractor, grantee, or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the government's best interests.

9. To a contractor, grantee, or other recipient of Federal funds when the recipient has incurred an indebtedness to the government through its receipt of

government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

10. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. Sec. 2904 and 2906.

11. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

12. To the Treasury, other Federal agencies, "consumer reporting agencies" (as defined in the Fair Credit Reporting Act, 15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), or private collection contractors for the purpose of collecting a debt owed to the Federal government as provided in the regulations promulgated by NEH and published at 45 CFR 1150.

13. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

14. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

15. To third parties during the course of a law enforcement investigation to the extent necessary to obtain information pertinent to the investigation, provided disclosure is

appropriate to the proper performance of the official duties of the officer making the disclosure.

16. To complainants and victims to the extent necessary to provide such persons with information and explanations concerning the progress or results of the investigation arising from the matters of which they complained or of which they were a victim.

17. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH created this system to maintain files of investigative activities carried out by OIG.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Pursuant to 5 U.S.C. 552a(b)(12), NEH may disclose information from its financial management system to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1996 (31 U.S.C. 3701(a)(3)).

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

NEH maintains paper records in filing cabinets and retired records at the Washington Federal Records Center.

**RETRIEVABILITY:**

OIG retrieves records within this system by the name of the individual formerly or currently under investigation.

**SAFEGUARDS:**

NEH limits access to records within this system to authorized personnel whose official duties require such access: Namely, OIG staff. NEH maintains records in locked file cabinets or locked file rooms accessible to authorized personnel only.

**RETENTION AND DISPOSAL:**

NEH maintains records in this system according to records disposition schedules and requirements of the

National Archives and Records Administration (NARA).

**SYSTEMS MANAGER(S) AND ADDRESS:**

Inspector General, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

Many of the records contained within this system are exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). NEH shall make a determination as to an exemption at the time it receives a request. Requests for access must be sent to the Office of the General Counsel in accordance with the procedures set forth in 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

Many of the records contained within this system are exempt from this requirement pursuant to 5 U.S.C. 552a(j)(2) or (k)(2). NEH shall make a determination as to an exemption at the time it receives a request. Requests for correction must be sent to the Office of the General Counsel in accordance with the procedures set forth in 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system, individuals or entities with whom such individuals are associated, complainants, witnesses, Federal, State, or local governmental investigative or law enforcement agencies, NEH staff, and from OIG employees authorized to conduct internal investigations.

**EXEMPTIONS CLAIMED FOR THIS SYSTEM:**

This system of records, to the extent that it consists of information compiled for law enforcement purposes, may be exempt from the Privacy Act's access and correction provisions pursuant to 5 U.S.C. 552a(j)(2) and/or (k)(2). In addition, this system of records, to the extent that it consists of investigatory material compiled for purposes of determining suitability, eligibility, or qualifications for federal financial assistance from NEH, or employment with NEH, the release of which would reveal the identity of references for such assistance or employment, is exempt from the Privacy Act's access and correction provisions pursuant to 5 U.S.C. 552a(k)(5) and 45 CFR 1115.7. Records in this system that originated in another system of records shall be governed by the exemptions claimed for this system as well as any additional

exemptions claimed for the other system.

#### NEH-6

##### SYSTEM NAME:

Humanities Magazine Contact Database.

##### SYSTEM CLASSIFICATION:

Unclassified.

##### SYSTEM LOCATION:

Authorized NEH staff may access NEH's Humanities Magazine Contact Database via Microsoft Access.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who receive complimentary copies of Humanities Magazine, the Magazine of the National Endowment for the Humanities, including members of the National Council on the Humanities, application review panelists, donors, staff of state humanities councils, museum directors and college administrators, members of Congress and Congressional staff, members of the media, and officers and employees of other federal agencies.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Names, home and/or work addresses, email addresses, home and/or work phone numbers and fax numbers, a database identification number unique to the individual, institutional affiliation, and category of subscriber (e.g., National Council member, member of Congress, etc.).

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Foundation on the Arts and the Humanities Act of 1965, as amended (20 U.S.C. 951, *et seq.*).

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

##### ROUTINE USE(S):

NEH uses this system to store address and other contact information of those who receive complimentary copies of Humanities Magazine so it may periodically mail copies of Humanities Magazine to those individuals.

In addition to the above uses and disclosures, as well as the disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside NEH as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, or other federal agencies conducting litigation in or in proceedings before

any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in the litigation:

a. NEH;  
b. Any employee or former employee of NEH in his or her official capacity;  
c. Any employee or former employee of NEH in his or her individual capacity when DOJ or NEH has agreed to represent the employee;  
d. The U.S. Government or any agency thereof.

2. To a Member of Congress or his or her staff, or Committee of Congress, when the Member of Congress or his or her staff, or Committee, requests the information on behalf of and at the request of the individual who is the subject of the record.

3. To an appropriate federal, state, tribal, territorial, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure. This referral shall be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

4. To a court, magistrate, or administrative tribunal of appropriate jurisdiction in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings.

5. To federal, state, tribal, territorial, or local agencies for use in locating individuals and verifying their income sources to enforce child support orders, to establish and modify orders of support, and for enforcement of related court orders

6. To contactors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for NEH, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on

disclosure as are applicable to NEH personnel.

7. To another federal agency, contractor, expert, or consultant of NEH when for the purpose of performing a survey, audit, or other review of NEH's procedures and operations.

8. To the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(b) to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA) and to facilitate OGIS's offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

10. To appropriate agencies, entities, and persons when (1) NEH suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) NEH has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, NEH, (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with NEH's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

11. To another Federal agency or Federal entity, when NEH determines that information from such system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

12. To the news media and the public, with the approval of the Senior Agency Official for Privacy, in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of NEH or is necessary to demonstrate the accountability of NEH's officers, employees, or individuals covered by the system, except to the extent it is determined that release of the specific information in the context

of a particular case would constitute an unwarranted invasion of personal privacy.

**PURPOSE(S):**

NEH established its Humanities Magazine Contact Database to create a central database of contact information for those who receive complimentary copies of Humanities Magazine.

**DISCLOSURE TO CONSUMER REPORTING****AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:****STORAGE:**

NEH maintains records in this system in an electronic database accessible via Microsoft Access.

**RETRIEVABILITY:**

NEH staff may retrieve electronic records by name or database identification number.

**SAFEGUARDS:**

NEH limits access to records within this system of records to personnel whose official duties require such access.

**RETENTION AND DISPOSAL:**

NEH maintains records in this system indefinitely, but may remove records when NEH determines to stop providing a particular individual with a complimentary copy of Humanities Magazine or a particular individual asks to no longer receive a copy of Humanities Magazine.

**SYSTEMS MANAGER(S) AND ADDRESS:**

Director, Office of Administrative Services, National Endowment for the Humanities, 400 Seventh Street SW., Washington, DC 20506.

**NOTIFICATION PROCEDURE:**

See 45 CFR 1115.3.

**RECORD ACCESS PROCEDURE:**

See 45 CFR 1115.4.

**CONTESTING RECORD PROCEDURE:**

See 45 CFR 1115.5.

**RECORD SOURCE CATEGORIES:**

NEH obtains records in this system from individuals covered by the system.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Dated: April 21, 2017.

**Adam M. Kress,**

Senior Agency Official for Privacy.

[FR Doc. 2017-08410 Filed 4-25-17; 8:45 am]

**BILLING CODE 7536-01-P**

**NATIONAL SCIENCE FOUNDATION****Notice of Intent To Renew a Current Information Collection**

**AGENCY:** National Science Foundation.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request renewal of the Survey of Graduate Students and Postdoctorates in Science and Engineering (OMB Control Number 3145-0062). In accordance with the requirement of the Paperwork Reduction Act of 1995, NSF is providing opportunity for public comment on this action. After obtaining and considering public comments, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

**DATES:** Written comments on this notice must be received by June 26, 2017 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

**FOR FURTHER INFORMATION CONTACT:** Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292-7556; or send email to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

**SUPPLEMENTARY INFORMATION:**

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

*Title of Collection:* Survey of Graduate Students and Postdoctorates in Science and Engineering.

*OMB Approval Number:* 3145-0062.

*Expiration Date:* November 30, 2017.

*Type of Request:* Intent to seek approval to renew an information collection for three years.

*Abstract:* Established within the NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS), sponsored by the NCSES within the NSF and the National Institutes of Health, is designed to comply with legislative mandates by providing information on the characteristics of academic graduate components in science, engineering and health fields. The GSS, which originated in 1966 and has been conducted annually since 1972, is a census of all departments in science, engineering and health (SEH) fields within academic institutions with graduate programs in the United States. The GSS data are solicited under the authority of the National Science Foundation Act of 1950, as amended. Data collection starts each fall in October and data are obtained primarily through a Web survey. All information will be used for statistical purposes only. Participation in the survey is voluntary.

The total number of respondents surveyed in the 2017 survey is estimated to be 15,970 departments (reporting units) located in about 700 SEH graduate degree-granting institutions. The GSS is the only national survey that collects information on the characteristics of graduate enrollment and postdoctoral appointees (postdocs) for specific SEH disciplines at the department level. It collects information on:

(1) Graduate students' ethnicity and race, citizenship, gender, source of support, mechanisms of support, and enrollment status;

(2) Postdocs' ethnicity and race, citizenship, gender, source of support, mechanism of support, type of doctoral degree, and degree origin (U.S. or foreign); and

(3) Other doctorate-holding non-faculty researchers' gender and type of doctoral degree.

To improve coverage of postdocs, the GSS periodically collects information on postdocs employed in Federally Funded Research and Development Centers (FFRDCs) by ethnicity and race, gender, citizenship, source and mechanism of support, and field of

research. This survey of postdocs at FFRDCs will be conducted as part of the 2018 cycle of GSS.

Starting in 2017, the GSS will be redesigned to improve the data utility, data reporting, and to reduce response burden. The redesign changes to be implemented include: (1) Separate reporting of enrollment and financial support data for master’s and doctoral students; (2) reporting of data based on the Classification of Instructional Programs (CIP) codes for the departments; and (3) expanding the institutional use of a file upload option for data submission, instead of the manual entry of data in the GSS Web survey instrument.

The initial GSS data request is sent to the designated respondent (School Coordinator) at each academic institution in the fall. The School Coordinator may upload a file with the requested data on the GSS Web site, which will automatically aggregate the data and populate the cells of the Web survey instrument for each reporting unit (departments, programs, research centers, and health care facilities). The School Coordinator will be also able to upload partial data (e.g., student enrollment information) and delegate the provision of other data (e.g., financial support information) to appropriate reporting units at their institution. Institutions which do not want to upload data files will be able to complete the survey through manual entry of data in the Web survey instrument as in the past.

*Use of the Information:* The GSS data are routinely provided to Congress and other Federal agencies. The GSS institutions themselves are major users of the GSS data. Professional societies such as the American Association of Universities, the Association of American Medical Colleges, and the

Carnegie Foundation are also major users. Graduate enrollment and postdoc data are often used in reports by the national media. The GSS (along with other academic sector surveys from both NCSES and the National Center of Education Statistics) is one of the inputs into the NCSES data system, which provides access to science and engineering statistical data from U.S. academic institutions. Among other uses, this online data system is used by NSF to review changing enrollment levels to assess the effects of NSF initiatives, to track graduate student support patterns, and to analyze participation in science and engineering fields by targeted groups for all disciplines or for selected disciplines and for selected groups of institutions. In addition to the availability of the GSS data in an online data system, a GSS public use file is also made available for download through the NCSES Web site.

The NCSES will publish statistics from the survey in several reports, including the National Science Board’s *Science and Engineering Indicators* and NCSES’ *Women, Minorities, and Persons with Disabilities in Science and Engineering*. These reports are made available electronically on the NCSES Web site.

*Expected Respondents:* The GSS is an annual census of all eligible academic institutions in the U.S. with graduate programs in science, engineering and health fields. The response rate is calculated based on the number of departments that respond to the survey. The NCSES expects the annual response rate to be around 99 percent.

*Estimate of Burden:* The amount of time it takes to complete the GSS data varies dramatically among institutions, and depends to a large degree on the extent to which the school’s records are centrally stored and computerized. It

also depends on the number of institutions using manual data entry or the file upload option to provide the GSS data. A pilot version of the data collection is currently being fielded during the 2016 GSS to test the feasibility of the file upload option as part of the GSS redesign. Based on preliminary results, NCSES expects that majority of the GSS institutions, including those with large number of units, will use the file upload option. The response burden may be slightly higher in the first year of the redesign implementation due to the changes required at the institution, but the burden is likely to decline substantially after the first year.

The 2015 GSS asked the unit respondents to provide an estimate of time spent in providing the GSS data. The average burden for completing the GSS was 2.5 hours per reporting unit, which includes providing unit listing and aggregate counts for each unit. The NCSES estimates the average burden of 2.75 hours per reporting unit in 2017, which would be the first year of the GSS redesign implementation. For 2018 and 2019, the average burden is estimated to be 2.25 hours per reporting unit. The number of units in the subsequent survey cycle will include the units in the previous year plus an approximately 2.5 percent increase in units. The estimated burden for 2017 GSS is 43,923 hours from 15,972 units; for 2018 GSS is 36,835 hours from 16,371 units; and for 2019 GSS is 37,755 hours from 16,780 units. Since the FFRDC postdoc data collection will take place in 2018, the estimated burden for that year will increase by 159 hours from 43 FFRDCs (based on 100 percent response rate in 2015 survey with the average burden of 3.7 hour per FFRDC) to a total of 36,994 hours (see table 1).

TABLE 1—GSS ESTIMATED RESPONSE BURDEN

Category	Respondents (Number of units)	Total burden (hours)
Total burden for 2017 .....	15,972	43,923
Total burden for 2018 .....	16,414	36,994
<i>GSS institutions</i> .....	16,371	36,835
<i>FFRDCs</i> .....	43	159
Total burden for 2019 .....	16,780	37,755
Future methodological studies (across all 3 years) .....	.....	800
Total estimated burden .....	49,166	119,472
Estimated average annual burden .....	16,389	39,824

The total estimated respondent burden of the GSS, including 800 hours for the methodological studies to

improve the survey procedures, will be 119,472 hours over the three-cycle survey clearance period. NCSES may

review and revise this burden estimate based on completion time data collected during the 2016 GSS, which is ongoing.



Dated: April 21, 2017.

**Suzanne H. Plimpton,**  
Reports Clearance Officer, National Science  
Foundation.

[FR Doc. 2017-08427 Filed 4-25-17; 8:45 am]

**BILLING CODE 7555-01-P**

## NATIONAL WOMEN'S BUSINESS COUNCIL

### Quarterly Public Meeting

**AGENCY:** National Women's Business  
Council.

**ACTION:** Notice of open Public Meeting.

**DATES:** The Public Meeting will be held  
on Wednesday, May 10, 2017 from 2:00  
p.m. to 4:30 p.m. EST.

**ADDRESSES:** The meeting will be held in  
Washington, DC. Location details will  
be provided upon RSVP, as will  
information about teleconferencing  
options.

**SUPPLEMENTARY INFORMATION:** Pursuant  
to section 10(a)(2) of the Federal  
Advisory Committee Act (5 U.S.C.,  
Appendix 2), the U.S. Small Business  
Administration (SBA) announces the  
meeting of the National Women's  
Business Council. The National  
Women's Business Council conducts  
research on issues of importance and  
impact to women entrepreneurs and  
makes policy recommendations to the  
SBA, Congress, and the White House on  
how to improve the business climate for  
women.

This meeting is the 3rd quarter  
meeting for Fiscal Year 2017. The  
agenda will include remarks from the  
Council Chair, Carla Harris and updates  
on research projects in progress,  
including: Women's necessity  
entrepreneurship, Hispanic women  
entrepreneurship, and veteran women  
entrepreneurs. Additionally, the  
Council will provide a summary of  
recent engagement efforts. The program  
will feature NWBC Council Members  
and city officials discussing local  
ecosystem supports for women  
entrepreneurs. Time will be reserved at  
the end for audience participants to  
address Council Members and panel  
participants directly with questions,  
comments, or feedback. Additional  
speakers will be promoted upon  
confirmation.

**FOR FURTHER INFORMATION CONTACT:** The  
meeting is open to the public, however  
advance notice of attendance is  
requested. To RSVP and confirm  
attendance, the general public should  
email [info@nwbc.gov](mailto:info@nwbc.gov) with subject line—  
"RSVP for 5/10 Public Meeting".  
Anyone wishing to make a presentation

to the NWBC at this meeting must either  
email their interest to [info@nwbc.gov](mailto:info@nwbc.gov) or  
call the main office number at 202-205-  
3850.

For more information, please visit the  
National Women's Business Council  
Web site at [www.nwbc.gov](http://www.nwbc.gov).

**Richard Kingan,**  
SBA Committee Management Officer.

[FR Doc. 2017-08396 Filed 4-25-17; 8:45 am]

**BILLING CODE 6820-AB-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2017-0001]

### Sunshine Act Meeting Notice

**DATES:** Week of April 24, 2017.

**PLACE:** Commissioners' Conference  
Room, 11555 Rockville Pike, Rockville,  
Maryland.

**STATUS:** Public.

### Week of April 24—Tentative

Wednesday, April 26, 2017

8:55 a.m. Affirmation Session (Public  
Meeting) (Tentative)  
DTE Electric Co. (Fermi Nuclear  
Power Plant, Unit 2), Petition for  
Review of LBP-17-1 (Tentative)

This meeting will be webcast live at  
the Web address—<http://www.nrc.gov/>.

\* \* \* \* \*

### Additional Information

By a vote of 3-0 on April 24, 2017,  
the Commission determined pursuant to  
U.S.C. 552b(e) and '9.107(a) of the  
Commission's rules that the above  
referenced Affirmation Session be held  
with less than one week notice to the  
public. The meeting is scheduled on  
April 26, 2017.

\* \* \* \* \*

The schedule for Commission  
meetings is subject to change on short  
notice. For more information or to verify  
the status of meetings, contact Denise  
McGovern at 301-415-0981 or via email  
at [Denise.McGovern@nrc.gov](mailto:Denise.McGovern@nrc.gov).

\* \* \* \* \*

The NRC Commission Meeting  
Schedule can be found on the Internet  
at: [http://www.nrc.gov/public-involve/  
public-meetings/schedule.html](http://www.nrc.gov/public-involve/public-meetings/schedule.html).

\* \* \* \* \*

The NRC provides reasonable  
accommodation to individuals with  
disabilities where appropriate. If you  
need a reasonable accommodation to  
participate in these public meetings, or  
need this meeting notice or the  
transcript or other information from the  
public meetings in another format (e.g.,

braille, large print), please notify  
Kimberly Meyer, NRC Disability  
Program Manager, at 301-287-0739, by  
videophone at 240-428-3217, or by  
email at [Kimberly.Meyer-Chambers@nrc.gov](mailto:Kimberly.Meyer-Chambers@nrc.gov). Determinations on requests for  
reasonable accommodation will be  
made on a case-by-case basis.

\* \* \* \* \*

Members of the public may request to  
receive this information electronically.  
If you would like to be added to the  
distribution, please contact the Nuclear  
Regulatory Commission, Office of the  
Secretary, Washington, DC 20555 (301-  
415-1969), or email  
[Brenda.Akstulewicz@nrc.gov](mailto:Brenda.Akstulewicz@nrc.gov) or  
[Patricia.Jimenez@nrc.gov](mailto:Patricia.Jimenez@nrc.gov).

Dated: April 24, 2017.

**Glenn Ellmers,**  
Policy Coordinator, Office of the Secretary.

[FR Doc. 2017-08554 Filed 4-24-17; 4:15 pm]

**BILLING CODE 7590-01-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017-119 and CP2017-170;  
MC2017-120 and CP2017-171; MC2017-121  
and CP2017-172]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.  
**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a  
recent Postal Service filing for the  
Commission's consideration concerning  
a negotiated service agreement. This  
notice informs the public of the filing,  
invites public comment, and takes other  
administrative steps.

**DATES:** Comments are due: April 28,  
2017.

**ADDRESSES:** Submit comments  
electronically via the Commission's  
Filing Online system at [http://  
www.prc.gov](http://www.prc.gov). Those who cannot submit  
comments electronically should contact  
the person identified in the **FOR FURTHER  
INFORMATION CONTACT** section by  
telephone for advice on filing  
alternatives.

**FOR FURTHER INFORMATION CONTACT:**  
David A. Trissell, General Counsel, at  
202-789-6820.

### SUPPLEMENTARY INFORMATION:

#### Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the  
Postal Service filed request(s) for the  
Commission to consider matters related  
to negotiated service agreement(s). The

request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

## II. Docketed Proceeding(s)

1. *Docket No(s)*.: MC2017-119 and CP2017-170; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Contract 310 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: April 20, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Katalin K. Clendenin; *Comments Due*: April 28, 2017.

2. *Docket No(s)*.: MC2017-120 and CP2017-171; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Contract 311 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and

Supporting Data; *Filing Acceptance Date*: April 20, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Katalin K. Clendenin; *Comments Due*: April 28, 2017.

3. *Docket No(s)*.: MC2017-121 and CP2017-172; *Filing Title*: Request of the United States Postal Service to Add Priority Mail Contract 312 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date*: April 20, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Katalin K. Clendenin; *Comments Due*: April 28, 2017.

This Notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2017-08423 Filed 4-25-17; 8:45 am]

**BILLING CODE 7710-FW-P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date*: April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 20, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 312 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2017-121, CP2017-172.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2017-08382 Filed 4-25-17; 8:45 am]

**BILLING CODE 7710-12-P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date*: April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 20, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 311 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2017-120, CP2017-171.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2017-08380 Filed 4-25-17; 8:45 am]

**BILLING CODE 7710-12-P**

## POSTAL SERVICE

### Product Change—Priority Mail Negotiated Service Agreement

**AGENCY:** Postal Service™.

**ACTION:** Notice.

**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

**DATES:** *Effective date*: April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth A. Reed, 202-268-3179.

**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 20, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 310 to Competitive Product List*. Documents are available at [www.prc.gov](http://www.prc.gov), Docket Nos. MC2017-119, CP2017-170.

**Stanley F. Mires,**

*Attorney, Federal Compliance.*

[FR Doc. 2017-08379 Filed 4-25-17; 8:45 am]

**BILLING CODE 7710-12-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80498; File No. SR–BatsBZX–2017–23]

### Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Exchange's Equity Options Platform

April 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on April 12, 2017, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") 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 Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b–4(f)(2) thereunder,<sup>4</sup> which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members<sup>5</sup> and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at [www.bats.com](http://www.bats.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform ("BZX Options") to: (i) Decrease the standard rebate provided by fee code PM; (ii) modify select tiers under footnotes 4, 6, 8, 9, and 10; and (iii) eliminate certain tiers under footnotes 1, 3, and 12.

###### Decrease the Standard Rebate Provided by Fee Code PM

Currently, fee code PM sets forth the standard rebate of \$0.35 per contract for Market Maker<sup>6</sup> orders that add liquidity on the Exchange in Penny-Pilot securities. The Exchange now proposes to reduce this standard rebate to \$0.31 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new rebate.

###### NBBO Setter Tiers 1 Through 4 Under Footnote 4

The Exchange currently offers five NBBO Setter Tiers under footnote 4, which provide an additional rebate per contract ranging from \$0.02 to \$0.05 for qualifying Non-Customer<sup>7</sup> orders that add liquidity and establish a new National Best Bid or Offer ("NBBO") and yield fee code PF, PM or PN. The Exchange now proposes to modify the required criteria and rebates of tiers 1 through 5.

- Under Tier 1, a Member may currently receive an additional rebate of \$0.02 per share where they have an ADV<sup>8</sup> greater than or equal to 0.40% of average OCV.<sup>9</sup> As amended, a Member

<sup>6</sup> "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). See the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>7</sup> "Non-Customer" applies to any transaction identified by a Member for clearing which is not in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *Id.*

<sup>8</sup> "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day. See the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>9</sup> "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the

may receive an additional rebate of \$0.01 per share where they have an: (i) ADAV<sup>10</sup> in Non-Customer orders greater than or equal to 0.20% of average OCV; and (ii) an ADAV in Firm,<sup>11</sup> Market Maker<sup>12</sup> and Away Market Maker<sup>13</sup> orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 2, a Member may currently receive an additional rebate of \$0.04 per share where they have an ADV greater than or equal to 1.30% of average OCV. As amended a Member may receive an additional rebate of \$0.02 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.40% of average OCV; and (ii) an ADAV in Firm, Market Maker, and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 3, a Member may currently receive an additional rebate of \$0.04 per share where they have an: (i) ADV greater than or equal to 0.50% of average OCV; and an ADAV in Away Market Maker, Firm, Broker Dealer,<sup>14</sup> and Joint Back Office<sup>15</sup> orders greater than or equal to 0.40% of average OCV. As amended a Member may receive an additional rebate of \$0.03 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 0.50% of average OCV; and (ii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a

month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

<sup>10</sup> "ADAV" means average daily added volume calculated as the number of contracts added and "ADV" means average daily volume calculated as the number of contracts added or removed, combined, per day. *Id.*

<sup>11</sup> "Firm" applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. *Id.*

<sup>12</sup> "Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *Id.*

<sup>13</sup> "Away Market Maker" applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. See the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>14</sup> "Broker Dealer" applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation ("OCC"). *Id.*

<sup>15</sup> "Joint Back Office" applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b–4(f)(2).

<sup>5</sup> The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." See Exchange Rule 1.5(n).

new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 4, a Member may currently receive an additional rebate of \$0.03 per share where they have an ADAV in Market Maker orders greater than or equal to 0.50% of average OCV. As amended a Member may receive an additional rebate of \$0.04 per share where they have an: (i) ADAV in Non-Customer orders greater than or equal to 1.80% of average OCV; (ii) an ADAV in Non-Customer Non-Penny orders greater than or equal to 0.20% of average OCV; and (iii) an ADAV in Firm, Market Maker and Away Market Maker orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

- Under Tier 5, a Member currently receives an additional rebate of \$0.05 per share where they have an ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV. As amended a Member may receive an additional rebate of \$0.05 per share when they have an: (i) ADAV in Non-Customer orders greater than or equal to 3.00% of average OCV; and (ii) ADAV in Firm/Market Maker/Away MM orders that establish a new NBBO greater than or equal to 0.05% of average OCV.

#### Market Maker Penny Pilot Add Volume Tiers Under Footnote 6

The Exchange currently offers two Market Maker Penny Pilot Add Volume Tiers under footnote 6, which provide an enhanced rebate of \$0.40 and \$0.42 per contract for qualifying Market Maker orders which add liquidity in Penny Pilot securities<sup>16</sup> and yield fee code PM. The Exchange now proposes to modify the required criteria and rebates of Tiers 1 and 2, and to add a new tier.

- Under Tier 1, a Member may currently receive an enhanced rebate of \$0.40 per share where they have an ADV greater than or equal to 0.40% of average OCV. As amended a Member may receive an enhanced rebate of \$0.35 per share where they have an ADAV in Market Maker orders greater than or equal to 0.05% of average OCV.

- Under the current Tier 2, a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker and/or Away Market Maker orders greater than or equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV. As amended Tier 2 will be renamed Tier 3, and a Member may receive an enhanced rebate of \$0.42 per share where they have an: (i) ADAV in Market Maker orders greater than or

equal to 1.30% of average OCV; and (ii) an ADV greater than or equal to 2.60% of average OCV.

- Under the newly proposed Tier 2, a Member may receive an enhanced rebate of \$0.40 per share where they have an ADAV in Market Maker orders greater than or equal to 0.15% or average OCV.

#### Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tier 3 Under Footnote 8

The Exchange currently offers three Firm, Broker Dealer, and Joint Back Office Non-Penny Pilot Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from \$0.45 to \$0.82 per contract for qualifying Firm, Broker Dealer, and Joint Back Office orders which add liquidity in Non-Penny Pilot securities and yield fee code NF. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 3. Under Tier 3, a Member may currently receive an enhanced rebate of \$0.82 per share where (i) they have an ADV greater than or equal to 2.30% of average OCV; and (ii) an ADAV in Away Market Maker, Firm, Broker Dealer, and Joint Back Office orders greater than or equal to 1.65% of average OCV. As amended the Exchange proposes to add a third prong to the criteria requiring that a Member also have a ADAV in Non-Customer Non-Penny Pilot orders greater than or equal to 0.20% of average OCV. The Exchange does not propose to amend the rebate provided under Tier 3.

#### Away Market Maker Penny Pilot Add Volume Tier 2 Under Footnote 10

The Exchange currently offers three Away Market Maker Penny Pilot Add Volume Tiers under footnote 10, which provide an enhanced rebate ranging from \$0.40 to \$0.46 per contract for qualifying Away Market Maker orders which add liquidity in Penny Pilot securities and yield fee code PN. The Exchange now proposes to add a third prong to the criteria required to achieve Tier 2 to lower the rebate from \$0.46 per contract to \$0.45 per contract. Under Tier 2, a Member will now receive an enhanced rebate of \$0.45 per share where they have an: (i) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.05% of average OCV; and (ii) ADV greater than or equal to 1.95% of average OCV; and (iii) ADAV in Non-Customer Non-Penny Pilot Securities greater than or equal to 0.20% of average OCV.

#### Professional Penny Pilot Add Volume Tier 1 Under Footnote 9

The Exchange currently offers four Professional<sup>17</sup> Penny Pilot Add Volume Tiers under footnote 9, which provide an enhanced rebate ranging from \$0.42 to \$0.48 per contract for qualifying Professional orders which add liquidity in Penny Pilot securities and yield fee code PA. The Exchange now proposes to increase the criteria required to achieve Tier 1. Under Tier 1, a Member may currently receive an enhanced rebate of \$0.42 per share where they have an ADAV in Customer<sup>18</sup> and Professional orders greater than or equal to 0.15% of average OCV. As amended, a Member may continue to receive an enhanced rebate of \$0.42 per share where they satisfy the amended criteria by having an ADAV in Customer and Professional orders greater than or equal to 0.20% of average OCV.

#### Eliminate the Customer Step-Up Volume Tier and the Step-Up Tier Under Footnote 1

The Exchange currently offers nine Customer Penny Pilot Add Volume Tiers under footnote 1, which provide an enhanced rebate ranging from \$0.40 to \$0.53 per contract for qualifying Customer orders which add liquidity in Penny Pilot securities and yield fee code PY. The Exchange now proposes to eliminate the Customer Step-Up Volume Tier under footnote 1, which provides a rebate of \$0.53 per share for Members that have an Options Step-Up Add OCV<sup>19</sup> in Customer orders from September 2015 baseline greater than or equal to 0.45%. The Exchange additionally proposes to eliminate the Step-Up Tier under footnote 1, which provides an additional rebate of \$0.02 per share to orders that yield fee code PY or those that qualify for the remaining Customer Penny Pilot Add Tiers where the Member has an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

<sup>17</sup> "Professional" applies to any transaction identified by a Member as such pursuant to Exchange Rule 16.1. *Id.*

<sup>18</sup> "Customer" applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a "Professional" as defined in Exchange Rule 16.1. *Id.*

<sup>19</sup> "Options Step-Up Add OCV" means ADAV as a percentage of OCV in the relevant baseline month subtracted from current ADAV as a percentage of OCV. See the Exchange's fee schedule available at [http://www.bats.com/us/options/membership/fee\\_schedule/bzx/](http://www.bats.com/us/options/membership/fee_schedule/bzx/).

<sup>16</sup> "Penny Pilot Securities" are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.*

### Eliminate the Step-Up Tier Under Footnote 3

The Exchange currently offers four Non-Customer Penny Pilot Take Volume Tiers under footnote 3, which provide a reduced fee ranging from \$0.44 to \$0.47 per contract for qualifying Non-Customer orders which remove liquidity in Penny Pilot securities and yield fee code PP. The Exchange now proposes to eliminate the Step-Up Tier under footnote 3, which provides a reduced fee of \$0.47 per contract for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

### Eliminate the Step-Up Tier Under Footnote 12

The Exchange currently offers three Customer Non-Penny Pilot Add Volume Tiers under footnote 12, which provide an enhanced rebate per contract ranging from \$1.00 to \$1.05 for Customer orders which add liquidity in Non-Penny Pilot securities and yield fee code NY. The Exchange now proposes to eliminate the Step-Up Tier under footnote 12, which provides a rebate of \$1.00 per share for Members that have an Options Step-Up Add OCV in Customer orders from an October 2016 baseline greater than or equal to 0.45%.

### Implementation Date

The Exchange proposes to implement these amendments to its fee schedule immediately.<sup>20</sup>

### 2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,<sup>21</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>22</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed

to incentivize market participants to direct their order flow to the Exchange.

### Fee Codes PM

The Exchange believes that its proposal to reduce the rebate provided by fee code PM is fair and equitable and reasonable because such proposed rebates remain consistent with pricing previously offered by the Exchange as well as its competitors<sup>23</sup> and does not represent a significant departure from the Exchange's general pricing structure and will allow the Exchange to earn additional revenue that can be used to offset the addition of new pricing incentives. Specifically, the Exchange's proposal to lower the rebate to \$0.31 per contract for Market Maker orders which add liquidity in Penny Pilot securities under fee code PM remains lower than NYSE Arca LLC ("NYSE Arca"), which provides a standard rebate of \$0.28 per contract for similar orders. Lastly, the proposed change to fee code PM is not unfairly discriminatory because it will apply equally to all Members.

### Modifications to the Volume Discount Tier Rebates and Required Criteria

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. Lastly, the proposed change to the tiered pricing structure are not unfairly

discriminatory because they will apply equally to all Members.

In particular, the proposed changes to footnotes 8, 9, and 10 intended to further incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebate made available by the tiers, in turn contributing to the growth of the Exchange. The enhanced rebate made available by the tiers, in turn contributing to the growth of the Exchange. [sic]

In addition, the proposed modifications to the Market Maker Penny Pilot Add Volume Tiers to require that Members attain an ADAV in Market Maker orders specifically, instead of requiring a general level of ADV or an ADAV that also includes Away Market Maker orders, reinforces the purpose of the volume tier—to incentivize Members to send Market Maker orders in Penny Pilot securities to the Exchange. The tier structure under footnote 6 has thus been adjusted accordingly to accommodate the newly proposed Tier 2 and renaming of current Tier 2 as Tier 3. Further, the Exchange believes the proposed rebates reasonably reflect the ascending difficulty of achieving the corresponding tier.

Furthermore, the proposed modifications to the NBBO Setter Tiers are consistent with the Act in that the proposed changes are designed to incentivize Members to contribute certain orders which establish a new NBBO to the Exchange in an effort to qualify for the enhanced rebate. By also requiring Members to achieve a certain ADAV in certain orders that establish a new NBBO, the proposed changes would further enhance the market quality of the Exchange by improving opportunities for price improvement. In particular, the proposed changes will further encourage orders at the NBBO, and is therefore directly focused on encouraging aggressively priced liquidity provision on BZX Options. The Exchange also believes the rebate associate with each tier is reasonable as they reflect the difficulty in achieving the corresponding tier. These incentives remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes.

Lastly, the Exchange believes that eliminating the: (i) Customer Step-Up Volume Tier and the Step-Up Tier under footnote 1; (ii) the Step-Up Tier under footnote 3; and (iii) the Step-Up Tier under footnote 12 is reasonable,

<sup>20</sup> The Exchange initially filed the proposed amendments to its fee schedule on March 31, 2017 (SR-BatsBZX-2017-20). On April 12, 2017, the Exchange withdrew SR-BatsBZX-2017-20 and then subsequently submitted this filing (SR-BatsBZX-2017-23).

<sup>21</sup> 15 U.S.C. 78f.

<sup>22</sup> 15 U.S.C. 78f(b)(4).

<sup>23</sup> See the NYSE Arca fee schedule available at [https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE\\_Arca\\_Options\\_Fee\\_Schedule.pdf](https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf).

fair, and equitable because the these tiers were not providing the desired result of incentivizing Members to increase their participation on the Exchange. As such, the Exchange also believes that the proposed elimination of these tiers would be non-discriminatory in that they currently apply equally to all Members and, upon elimination, would no longer be available to any Members. Further, their elimination will allow the Exchange to explore other pricing mechanisms in which it may enhance market quality for all Members.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>24</sup> and paragraph (f) of Rule 19b-4 thereunder.<sup>25</sup> At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-BatsBZX-2017-23 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-BatsBZX-2017-23. 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-BatsBZX-2017-23 and should be submitted on or before May 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>26</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-08392 Filed 4-25-17; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-80496; File No. SR-NYSEArca-2017-42]

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 6.87**

April 20, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on April 17, 2017, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend Rule 6.87 (Nullification and Adjustment of Options Transactions including Obvious Errors). The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>24</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>25</sup> 17 CFR 240.19b-4(f).

<sup>26</sup> 17 CFR 200.30-3(a)(12).

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this filing is to amend Rule 6.87 relating to the adjustment and nullification of erroneous transactions. This filing is based on a proposal recently submitted by Chicago Board Options Exchange, Incorporated ("CBOE") and approved by the Commission.<sup>4</sup>

Background

Last year, the Exchange and other options exchanges adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.<sup>5</sup> The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion, including how erroneous Complex Orders and Stock/Option Orders should be handled.<sup>6</sup>

Specifically, the options exchanges have been working together to identify ways to improve the process related to the adjustment and nullification of erroneous options transactions as it relates to Complex Orders and Stock/Option Orders. The goal of the process that the options exchanges have undertaken is to further harmonize rules related to the adjustment and nullification of erroneous options transactions. As described below, the Exchange believes that the changes the options exchanges and NYSE Arca have agreed to propose will provide transparency and finality with respect to the adjustment and nullification of erroneous Complex Order and Stock/

Option Order transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

The proposed rule is the culmination of this coordinated effort and reflects discussions by the options exchanges whereby the exchanges that offer Complex Orders and/or Stock/Option Orders will universally adopt new provisions that the options exchanges collectively believe will improve the handling of erroneous options transactions that result from the execution of Complex Orders and Stock-Option orders.<sup>7</sup>

The Exchange believes that the proposed rule supports an approach consistent with long-standing principles in the options industry under which the general policy is to adjust rather than nullify transactions. The Exchange acknowledges that adjustment of transactions is contrary to the operation of analogous rules applicable to the equities markets, where erroneous transactions are typically nullified rather than adjusted and where there is no distinction between the types of market participants involved in a transaction. For the reasons set forth below, the Exchange believes that the distinctions in market structure between equities and options markets continue to support these distinctions between the rules for handling obvious errors in the equities and options markets.

Various general structural differences between the options and equities markets point toward the need for a different balancing of risks for options market participants and are reflected in this proposal. Option pricing is formulaic and is tied to the price of the underlying stock, the volatility of the underlying security and other factors. Because options market participants can generally create new open interest in response to trading demand, as new open interest is created, correlated trades in the underlying or related series are generally also executed to hedge a market participant's risk. This pairing of open interest with hedging interest differentiates the options market specifically (and the derivatives markets broadly) from the cash equities markets. In turn, the Exchange believes that the hedging transactions engaged in by market participants necessitates protection of transactions through

adjustments rather than nullifications when possible and otherwise appropriate.

The options markets are also quote driven markets dependent on liquidity providers to an even greater extent than equities markets. In contrast to the approximately 7,000 different securities traded in the U.S. equities markets each day, there are more than 500,000 unique, regularly quoted option series. Given this breadth in options series the options markets are more dependent on liquidity providers than equities markets; such liquidity is provided most commonly by registered market makers but also by other professional traders. With the number of instruments in which registered market makers must quote and the risk attendant with quoting so many products simultaneously, the Exchange believes that those liquidity providers should be afforded a greater level of protection. In particular, the Exchange believes that liquidity providers should be allowed protection of their trades given the fact that they typically engage in hedging activity to protect them from significant financial risk to encourage continued liquidity provision and maintenance of the quote-driven options markets.

In addition to the factors described above, there are other fundamental differences between options and equities markets which lend themselves to different treatment of different classes of participants that are reflected in this proposal. For example, there is no trade reporting facility in the options markets. Thus, all transactions must occur on an options exchange. This leads to significantly greater retail customer participation directly on exchanges than in the equities markets, where a significant amount of retail customer participation never reaches the Exchange but is instead executed in off-exchange venues such as alternative trading systems, broker-dealer market making desks and internalizers. In turn, because of such direct retail customer participation, the exchanges have taken steps to afford those retail customers—generally Customers—more favorable treatment in some circumstances.

Proposed Rule

As more fully described below, although the proposed rule applies much of the current rule (*i.e.*, initial harmonized rule) to Complex Orders, it deviates to account for unique qualities of these transactions.<sup>8</sup> Specifically, the

<sup>4</sup> See Securities Exchange Act Release Nos. 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) ("CBOE Approval Order"); 79697 (December 27, 2016), 82 FR 167 (January 3, 2017) ("CBOE Notice") (SR-CBOE-2016-088). See also Securities Exchange Act Release No. 80247 (March 15, 2017), 82 FR 14589 (March 21, 2017) (SR-BOX-2017-08) (immediately effective filing based on CBOE Approval Order).

<sup>5</sup> See Securities Exchange Act Release No. 74921 (May 8, 2015), 80 FR 27747 (May 14, 2015) (SR-NYSEArca-2015-41).

<sup>6</sup> Rule 6.62(e) (defining Complex Order) and (h)(1) (defining Stock/Option Order).

<sup>7</sup> The Exchange notes that it only offers Stock/Option Orders in open outcry, but does not offer electronic Stock/Option Orders. Therefore, the Exchange is not adopting the CBOE provisions around Stock/Option Orders.

<sup>8</sup> For example, for a Complex Order to qualify as an Obvious or Catastrophic Error, at least one leg of the Complex Order must itself qualify as an

proposed rule reflects the fact that Complex Orders can execute against other Complex Orders or can execute against individual simple orders in the leg market.<sup>9</sup> When a Complex Order executes against the leg markets, there may be different counterparties on each leg of the Complex Order, and not every leg will necessarily be executed at an erroneous price. To account for these variables, the proposed rule, as set forth in new Commentary .05, is divided into two parts—paragraphs (a) and (b).

#### Complex Orders Executed Against Individual Legs

Proposed Commentary .05(a) governs the review of Complex Orders that are executed against the individual legs (as opposed to against another Complex Order). Proposed Rule 6.87.05(a) provides:

If a Complex Order executes against individual legs and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. However, any Customer order subject to this paragraph (a) will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). If any leg of a Complex Order is nullified, the entire transaction is nullified.

As previously noted, at least one of the legs of the Complex Order must qualify as an Obvious or Catastrophic Error under the current rule in order for the Complex Order to receive Obvious or Catastrophic Error relief. Thus, when the Exchange is notified (within the timeframes set forth in paragraph (c)(2) or (d)(2)) of a Complex Order that is a possible Obvious Error or Catastrophic Error, the Exchange will first review the individual legs of the Complex Order to determine if one or more legs qualify as an Obvious or Catastrophic Error.<sup>10</sup> If no

Obvious or Catastrophic Error under the current rule. See proposed Commentary .05(a)–(b) to Rule 6.87. See also Rule 6.87(c)(5) (regarding Complex Order Obvious Errors, which rule text was not part of the prior harmonization effort).

<sup>9</sup> The leg market consists of individual quotes and/or orders in single options series. A Complex Order may be received by the Exchange electronically, and the legs of the Complex Order may have different counterparties. For example, Market Maker 1 may be quoting in ABC calls and Market Maker 2 may be quoting in ABC puts. A Complex Order to buy the ABC calls and puts may execute against the quotes of Market Maker 1 and Market Maker 2.

<sup>10</sup> Because a Complex Order can execute against the leg market, the Exchange may also be notified of a possible Obvious or Catastrophic Error by a

leg qualifies as an Obvious or Catastrophic Error, the transaction stands—no adjustment and no nullification.

Reviewing the legs to determine whether one or more legs qualify as an Obvious or Catastrophic Error requires the Exchange to follow the current rule. In accordance with paragraphs (c)(1) and (d)(1) of the current rule, the Exchange compares the execution price of each individual leg to the Theoretical Price<sup>11</sup> of each leg (as determined by paragraph (b) of the current rule). If the execution price of an individual leg is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown in the Obvious Error table in paragraph (c)(1) of the current rule or the Catastrophic Error table in paragraph (d)(1) of the initial harmonized rule, the individual leg qualifies as an Obvious or Catastrophic error, and the Exchange will take steps to adjust or nullify the transaction.<sup>12</sup>

To illustrate, assume that a Customer enters a Complex Order to the Exchange consisting of leg 1 and leg 2: Leg 1 is to buy 100 ABC calls; and Leg 2 is to sell 100 ABC puts. Also, assume that Market Maker 1 (“MM1”) is quoting the ABC calls at \$1.00–1.20; and Market Maker 2 (“MM2”) is quoting the ABC puts at \$2.00–2.20. If the Complex Order executes against the quotes of MMs 1 and 2, the Customer buys the ABC calls for \$1.20 and sells the ABC puts for \$2.00. As with the Obvious/Catastrophic Error reviews for simple orders, the execution price of each Leg (*i.e.*, Legs 1 and 2) are compared to the Theoretical Price for each Leg to determine if either Leg qualifies as an Obvious Error (per paragraph (c)(1)) or Catastrophic Error (per paragraph (d)(1)).<sup>13</sup> If it is determined that one or both of the legs are an Obvious or Catastrophic Error, then the leg (or legs) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3) of the current rule, regardless of

counterparty that received an execution in an individual options series. If upon review of a potential Obvious Error the Exchange determines an individual options series was executed against the leg of a Complex Order, proposed Commentary .05 of Rule 6.87 will govern.

<sup>11</sup> See Rule 6.87(b) (defining the manner in which Theoretical Price is determined).

<sup>12</sup> Only the execution price on the leg (or legs) that qualifies as an Obvious or Catastrophic Error per proposed Rule 6.87.05 will be adjusted. The execution price of a leg (or legs) that does not qualify as an obvious or catastrophic error will not be adjusted.

<sup>13</sup> See *supra* note 11.

whether one of the parties is a Customer.<sup>14</sup>

Although a single-legged execution that is deemed to be an Obvious Error under the current rule is nullified whenever a Customer is involved in the transaction, the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging transactions to offset options positions. When an options transaction is nullified the hedging position can adversely affect the liquidity provider. With regards to Complex Orders that execute against individual legs, the additional rationale for adjusting erroneous execution prices when possible is the fact that the counterparty on a leg that is not executed at an Obvious or Catastrophic Error price cannot look at the execution price to determine whether the execution may later be nullified (as opposed to the counterparty on single-legged order that is executed at an Obvious Error or Catastrophic Error price).

Paragraph (c)(4)(A) of the current rule mandates that if it is determined that an Obvious Error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (c)(4)(A). Although for simple orders, paragraph (c)(4)(A) is only applicable when no party to the transaction is a Customer; for purposes of Complex Orders, proposed Commentary .05(a) will supersede this limitation. Specifically, if it is determined that a leg (or legs) of a Complex Order is an Obvious Error, the leg (or legs) will be adjusted pursuant to paragraph (c)(4)(A), regardless of whether any party to the transaction is a Customer. The Size Adjustment Modifier (defined in subparagraph (a)(4)) will similarly apply (regardless of whether a Customer is on the transaction) by virtue of the application of paragraph (c)(4)(A).<sup>15</sup> The Exchange notes that adjusting all market participants is not unique or novel. When the Exchange determines that a simple order execution is a Catastrophic Error pursuant to the initial harmonized rule, paragraph (d)(3) already provides for adjusting the execution price for all market participants, including Customers.

Furthermore, as with the current, Proposed Rule 6.87.05(a) provides

<sup>14</sup> See Rule 6.87 (a)(1) (defining Customer for purposes of Rule 6.87 as not including any broker-dealer or Professional Customer).

<sup>15</sup> See Rule 6.87(c)(4)(A) (providing that any non-Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in sub-paragraph (a)(4)).



protection for Customer orders, stating that where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). For example, assume a Customer enters a Complex Order to buy leg 1 and leg 2:

- Assume the NBBO for leg 1 is \$0.20–1.00 and the NBBO for leg 2 is \$0.501.00 and that these have been the NBBOs since the market opened.
- A split-second prior to the execution of the Complex Order, a different Customer enters a simple order to sell the leg 1 options series at \$1.30, and this order enters the Exchange's book resulting in a BBO of \$0.20–\$1.30. The limit price of the simple order is \$1.30.

- The Complex Order executes leg 1 against the Exchange best offer of \$1.30 and leg 2 executes at \$1.00, for a net execution price of \$2.30.

- However, leg 1 executed on a wide quote (the NBBO for leg 1 was \$0.20–1.00 at the time of execution, which is wider than \$0.75).<sup>16</sup> Leg 2 was not executed on a wide quote (the market for leg 2 was \$0.50–1.00); thus, leg 2 execution price stands.

- The Exchange determines that the Theoretical Price for leg 1 is \$1.00, which was the best offer prior to the execution. Leg 1 qualifies as an Obvious Error because the difference between the Theoretical Price (\$1.00) and the execution price (\$1.30) is larger than \$0.25.<sup>17</sup>

- Per Proposed Rule 6.87.05(a), Customers will also be adjusted in accordance with Rule 6.87(c)(4)(A), which for a buy transaction under \$3.00 means the Theoretical Price will be adjusted by adding \$0.15 to the Theoretical Price of \$1.00.<sup>18</sup> Thus, the adjusted execution price for Leg 1 would be \$1.15.

- However, adjusting the execution price of leg 1 to \$1.15 would violate the limit price of the Customer's sell order for leg 1, which was \$1.30.

- Thus, the entire Complex Order transaction will be nullified because the limit price of a Customer's sell order would be violated by the adjustment.<sup>19</sup>

As the above example demonstrates, incoming Complex Orders may execute against resting simple orders in the leg market. If a Complex Order leg is deemed to be an Obvious Error, adjusting the execution price of the leg may violate the limit price of the resting order, which will result in nullification if the resting order is for a Customer. In contrast, Commentary .02 to Rule 6.87 provides that if an adjustment would result in an execution price that is higher than an erroneous buy transaction or lower than an erroneous sell transaction the execution will not be adjusted or nullified.<sup>20</sup> If the adjustment of a Complex Order would violate the Complex Order Customer's limit price, the transaction will be nullified.

As previously noted, paragraph (d)(3) of the current rule already mandates that if it is determined that a Catastrophic Error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (d)(3). For purposes of Complex Orders, under Rule 6.87.05(a), if one of the legs of a Complex Order is determined to be a Catastrophic Error under paragraph (d)(3), all market participants will be adjusted in accordance with the table set forth in (d)(3). Again, however, where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). Again, if any leg of a Complex Order is nullified, the entire transaction is nullified.

Other than honoring the limit prices established for Customer orders, the Exchange has proposed to treat Customers and non-Customers the same in the context of the Complex Orders that trade against the leg market. When Complex Orders trade against the leg market, it is possible that at least some of the legs will execute at prices that would not be deemed Obvious or Catastrophic Errors, which gives the counterparty in such situations no indication that the execution will later be adjusted or nullified. The Exchange believes that treating Customers and non-Customers the same in this context will provide additional certainty to non-Customers (especially Market Makers) with respect to their potential exposure and hedging activities, including comfort that even if a transaction is later adjusted, such transaction will not be fully nullified. However, as noted

above, under the proposed rule where at least one party to the transaction is a Customer, the trade will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). The Exchange has retained the protection of a Customer's limit price in order to avoid a situation where the adjustment could be to a price that a Customer would not have expected, and market professionals such as non-Customers would be better prepared to recover in such situations. Therefore, adjustment for non-Customers is more appropriate.

#### Complex Orders Executed Against Complex Orders

Proposed Commentary .05(b) to Rule 6.87 governs the review of Complex Orders that are executed against other Complex Orders. Specifically, proposed Rule 6.87.05(b) provides:

If a Complex Order executes against another Complex Order and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3), respectively, so long as either: (i) The width of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3); or (ii) the net execution price of the Complex Order is higher (lower) than the offer (bid) of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1). If any leg of a Complex Order is nullified, the entire transaction is nullified.

As described above in relation to proposed Rule 6.87.05(a), the first step is for the Exchange to review (upon receipt of a timely notification in accordance with paragraph (c)(2) or (d)(2) of the current rule) the individual legs to determine whether a leg or legs qualifies as an Obvious or Catastrophic Error. If no leg qualifies as an Obvious or Catastrophic Error, the transaction stands—no adjustment and no nullification. If the adjustment of a complex order would violate the complex order Customer's limit price, the transaction will be nullified.

Unlike proposed Rule 6.87.05(a), the Exchange also proposes to compare the net execution price of the entire Complex Order package to the Complex NBBO for the complex order strategy.<sup>21</sup>

<sup>21</sup> The Complex NBBO is the derived net market for a Complex Order package. For example, if the

<sup>16</sup> See Rule 6.87(b)(3).

<sup>17</sup> See Rule 6.87(c)(1).

<sup>18</sup> See Rule 6.87(c)(4)(A).

<sup>19</sup> If any leg of a Complex Order is nullified, the entire transaction is nullified. See Proposed Rule 6.87.05(a). The Exchange notes that the simple order in this example is not an erroneous sell transaction because the execution price was not erroneously low. See Rule 6.87(a)(2).

<sup>20</sup> See Commentary .02 to Rule 6.87.

Complex Orders are exempt from the order protection rules of the options exchanges.<sup>22</sup> Thus, depending on the manner in which the systems of an options exchange are calibrated, a Complex Order can execute without regard to the prices offered in the complex order books or the leg markets of other options exchanges. In certain situations, reviewing the execution prices of the legs in a vacuum would make the leg appear to be an Obvious or Catastrophic error, even though the net execution price on the Complex Order is not an erroneous price. For example, assume the Exchange receives a Complex Order to buy ABC calls and sell ABC puts.

- If the BBO for the ABC calls is \$5.50–7.50 and the BBO for ABC puts is \$3.00–4.50, then the Exchange's spread market is \$1.00–4.50.<sup>23</sup>

- If the NBBO for the ABC calls is \$6.00–6.50 and the NBBO for the ABC puts is \$3.50–4.00, then the Complex NBBO is \$2.00–3.00. If the Customer buys the calls at \$7.50 and sells the puts at \$4.50, the Complex Order Customer receives a net execution price of \$3.00 (debit), which is the expected net execution price as indicated by the Complex NBBO offer of \$3.00.

If the Exchange were to solely focus on the \$7.50 execution price of the ABC calls or the \$4.50 execution price of the ABC puts, the execution would qualify as an Obvious or Catastrophic error because the execution price on the legs was outside the NBBO, even though the net execution price is accurate. Thus, the additional review of the Complex

NBBO to determine if the Complex Order was executed at a truly erroneous price is necessary.<sup>24</sup> The same concern is not present when a Complex Order executes against the leg market under proposed Rule 6.87.05(a). The Exchange permits a given leg of a Complex Order to trade through the NBBO, however the Exchange will not accept incoming Complex Orders if they are priced a certain amount outside of the Complex NBBO.<sup>25</sup>

In order to incorporate Complex NBBO, proposed Rule 6.87.05(b) provides that if the Exchange determines that a leg or legs does qualify as an Obvious or Catastrophic Error, the leg or legs will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule, so long as either: (i) The width of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) of the current rule or (ii) the net execution price of the Complex Order is higher (lower) than the offer (bid) of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1) of the current rule.

For example, assume an individual leg or legs qualifies as an Obvious or Catastrophic Error and the width of the Complex NBBO of the Complex Order strategy just prior to the erroneous transaction is \$6.00–9.00. The Complex Order will qualify to be adjusted or

busted in accordance with paragraph (c)(4) of the current rule because the wide quote table of paragraph (b)(3) of the current rule indicates that the minimum amount is \$1.50 for a bid price between \$5.00 to \$10.00. If the Complex NBBO were instead \$6.00–7.00 the Complex Order strategy would not qualify to be adjusted or busted pursuant to proposed Rule 6.87.05(b)(i) because the width of the Complex NBBO is \$1.00, which is less than the required \$1.50. However, the execution may still qualify to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule pursuant to proposed Rule 6.87.05(b)(ii). Focusing on the Complex NBBO in this manner will ensure that the Obvious/ Catastrophic Error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

Again, assume an individual leg (or legs) qualifies as an Obvious or Catastrophic Error as described above. If the Complex NBBO is \$6.00–7.00 (not a wide quote pursuant to the wide quote table in paragraph (b)(3) of the current rule) but the execution price of the entire Complex Order package (*i.e.*, the net execution price) is higher (lower) than the offer (bid) of the Complex NBBO for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount in the table in paragraph (c)(1) of the current rule, then the Complex Order qualifies to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule. For example, if the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction is \$6.00–7.00 and the net execution price of the Complex Order transaction is \$7.75, the Complex Order qualifies to be adjusted or busted in accordance with paragraph (c)(4) of the current rule because the execution price of \$7.75 is more than \$0.50 (*i.e.*, the minimum amount according to the table in paragraph (c)(1) when the price is above \$5.00 but less than \$10.01) from the Complex NBBO offer of \$7.00. Focusing on the Complex NBBO in this manner will ensure that the Obvious/ Catastrophic error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

NBBO of Leg 1 is \$1.00–2.00 and the NBBO of Leg 2 is \$5.00–7.00, then the Complex NBBO for a Complex Order to buy Leg 1 and buy Leg 2 is \$6.00–9.00. See Rule 6.1A(11)(b) (defining Complex NBBO as “the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order”). The Complex NBBO is analogous to the concept of the National Spread Market, or NSM, as used by other exchanges. See *supra* 4, CBOE Notice, 82 FR at 170; CBOE Approval Order, 82 FR at 11249–50.

<sup>22</sup> All options exchanges have the same order protection rule. See, *e.g.*, Rule 6.94(b)(7).

<sup>23</sup> The Complex Order is to buy ABC calls and sell ABC puts. The Exchange's best offer for ABC puts is \$7.50 and Exchange's best bid for is \$3.00. If the Customer were to buy the Complex Order strategy, the Customer would receive a debit of \$4.50 (buy ABC calls for \$7.50 minus selling ABC puts for \$3.00). If the Customer were to sell the Complex Order strategy the Customer would receive a credit of \$1.00 (selling the ABC calls for \$5.50 minus buying the ABC puts for \$4.50). Thus, the Exchange's spread market—or Complex BBO—is \$1.00–4.50. See also Rule 6.1A(11)(b) (defining Complex BBO as “the BBO for a given complex order strategy as derived from the best bid on OX and best offer on OX for each individual component series of a Complex Order”). The Complex BBO is analogous to the concept of the “exchange spread market,” as used by other exchanges. See *supra* 4, CBOE Notice, 82 FR at 173, fn22.

<sup>24</sup> The Exchange notes that this treatment is consistent with current Rule 6.87(c)(5)(A), which provides that “[i]f a Complex Order executes against another Complex Order in the Complex Order Book and one or more legs of the transaction is deemed eligible to be adjusted or busted, the entire trade (all legs) will be busted, unless both parties agree to adjust the transaction to a different price within thirty (30) minutes of being notified by the Exchange of the decision to bust”. The Exchange proposes to delete paragraph (c)(5) of the Rule in its entirety to harmonize with proposed Rule 6.87.05. See below, under the heading “Conforming Change to Eliminate Current Rule Regarding Complex Orders Obvious Errors,” for additional discussion.

<sup>25</sup> Commentary .05 to Rule 6.91 sets forth the Price Protection Filter (“Filter”), which prevents the execution of aggressively-priced electronic Complex Orders (*i.e.*, priced so far away from the prevailing contra-side NBBO market for the same strategy). Specifically, an incoming electronic Complex Order will be rejected (or cancelled) if the sum of the following is less than zero (\$0.00): (i) The net debit (credit) limit price of the order, (ii) the contra-side Complex NBBO for that same Complex Order, and (iii) an amount specified by the Exchange (“Specified Amount” or “Amount”). The Specified Amount varies depending on the smallest MPV of any leg in the Complex Order, *e.g.*, the Amount ranges from .10 to .15 to .30 where the smallest MPV of any leg is .01 to .05 to .10, respectively. See Commentary .05 to Rule 6.91.

Although the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging transactions to offset options positions, the Exchange recognizes that Complex Orders executing against other Complex Orders is similar to simple orders executing against other simple orders because both parties are able to review the execution price to determine whether the transaction may have been executed at an erroneous price. Thus, for purposes of Complex Orders that meet the requirements of Rule 6.87.05(b), the Exchange proposes to apply the current rule and adjust or bust obvious errors in accordance with paragraph (c)(4) (as opposed to applying paragraph (c)(4)(A) as is the case under Rule 6.87.05(a) and catastrophic errors in accordance with (d)(3).

Therefore, for purposes of Complex Orders under proposed Rule 6.87.05(b), if one of the legs is determined to be an obvious error under paragraph (c)(1), all Customer transactions will be nullified, unless an OTP Holder or OTP Firm submits 200 or more Customer transactions for review in accordance with (c)(4)(C).<sup>26</sup> For purposes of Complex Orders under proposed Rule 6.87.05(b), if one of the legs is determined to be a Catastrophic Error under paragraph (d)(3) and all of the other requirements of proposed Rule 6.87.05(b) are met, all market participants will be adjusted in accordance with the table set forth in (d)(3). Again, however, pursuant to paragraph (d)(3) where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). Also, if any leg of a Complex Order is nullified, the entire transaction is nullified.

#### Conforming Change To Eliminate Rule Regarding Complex Orders Obvious Errors

Finally, the Exchange proposes to delete the rule text in paragraph (c)(5) of the current rule, which addresses "Complex Order Obvious Errors," in light of the proposed addition of Commentary .05 to the Rule. The Exchange proposed to designate Rule 6.87(c)(5) as "Reserved." The Exchange

believes this modification would add clarity, transparency and internal consistency to the Rule.

#### Implementation

In order to ensure that the other options exchanges are able to adopt rules consistent with this proposal and to coordinate effectiveness of such harmonized rules, the Exchange proposed to delay the operative date of this proposal to April 17, 2017.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>27</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>28</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to adopt harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposed rule will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>29</sup> in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange believes the various provisions allowing or dictating adjustment rather than nullification of a trade are necessary given the benefits of adjusting a trade price rather than nullifying the trade completely. Because options trades are used to hedge, or are hedged by, transactions in other markets, including securities and futures, many Participants, and their customers, would rather adjust prices of executions rather than nullify the transactions and, thus, lose a hedge altogether. As such, the Exchange

believes it is in the best interest of investors to allow for price adjustments as well as nullifications.

The Exchange does not believe that the proposal is unfairly discriminatory, even though it differentiates in many places between Customers and non-Customers. As with the current rule, Customers are treated differently, often affording them preferential treatment. This treatment is appropriate in light of the fact that Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts. At the same time, the Exchange reiterates that in the U.S. options markets generally there is significant retail customer participation that occurs directly on (and only on) options exchanges such as the Exchange. Accordingly, differentiating among market participants with respect to the adjustment and nullification of erroneous options transactions is not unfairly discriminatory because it is reasonable and fair to provide Customers with additional protections as compared to non-Customers.

The Exchange believes that its proposal to adopt the ability to adjust a Customer's execution price when a Complex Order is deemed to be an Obvious or Catastrophic Error is consistent with the Act. A Complex Order that executes against individual leg markets may receive an execution price on an individual leg that is not an Obvious or Catastrophic error but another leg of the transaction is an Obvious or Catastrophic Error. In such situations where the Complex Order is executing against at least one individual or firm that is not aware of the fact that they have executed against a Complex Order or that the Complex Order has been executed at an erroneous price, the Exchange believes it is more appropriate to adjust execution prices if possible because the derivative transactions are often hedged with other securities. Allowing adjustments instead of nullifying transactions in these limited situations will help to ensure that market participants are not left with a hedge that has no position to hedge against.

Finally, the proposal to delete paragraph (c)(5) of the current rule, which addresses "Complex Order Obvious Errors," would add clarity, transparency and internal consistency to the Rule, in light of the proposed addition of Commentary .05 to the Rule.

<sup>26</sup> Rule 6.87(c)(4)(C) also requires the orders resulting in 200 or more Customer transactions to have been submitted during the course of 2 minutes or less.

<sup>27</sup> 15 U.S.C. 78f(b).

<sup>28</sup> 15 U.S.C. 78f(b)(5).

<sup>29</sup> 15 U.S.C. 78f(b)(5).

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. 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. In this regard and as indicated above, the Exchange notes that the proposed rule change is substantially similar to a filing submitted by CBOE that was recently approved by the Commission.<sup>30</sup>

The Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. The Exchange understands that all other options exchanges that trade Complex Orders and/or Stock/Option Orders intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally within each participant category (*i.e.*, Customers and non-Customers). With respect to competition between Customer and non-Customer market participants, the Exchange believes that the proposed rule acknowledges competing concerns and tries to strike the appropriate balance between such concerns. For instance, the Exchange believes that protection of Customers is important due to their direct participation in the options markets as well as the fact that they are not, by definition, market professionals. At the same time, the Exchange believes due to the quote-driven nature of the options markets,

the importance of liquidity provision in such markets and the risk that liquidity providers bear when quoting a large breadth of products that are derivative of underlying securities, that the protection of liquidity providers and the practice of adjusting transactions rather than nullifying them is of critical importance. As described above, the Exchange will apply specific and objective criteria to determine whether an erroneous transaction has occurred and, if so, how to adjust or nullify a transaction.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>31</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>32</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>33</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>34</sup> 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 proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to implement the proposed rule change by April 17, 2017 in coordination with the other options exchanges. Accordingly, the Commission hereby waives the

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>32</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission has waived the five-day pre-filing requirement in this case.

<sup>33</sup> 17 CFR 240.19b-4(f)(6).

<sup>34</sup> 17 CFR 240.19b-4(f)(6)(iii).

operative delay and designates the proposal operative upon filing.<sup>35</sup>

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2017-42 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-NYSEArca-2017-42. 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

<sup>35</sup> 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).

<sup>30</sup> See CBOE Approval Order, *supra* note 4.

business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2017-42, and should be submitted on or before May 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-08390 Filed 4-25-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32607; 812-14695]

### Formula Folio Investments, LLC and Northern Lights Fund Trust IV

April 20, 2017.

**AGENCY:** Securities and Exchange Commission (“Commission”).

**ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the “Act”) for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(f) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies (“Funds”) to issue shares redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (“NAV”); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit

investment trusts outside of the same group of investment companies as the Funds (“Funds of Funds”) to acquire shares of the Funds; and (f) certain Funds (“Feeder Funds”) to create and redeem Creation Units in-kind in a master-feeder structure.

**Applicants:** Formula Folio Investments, LLC (the “Initial Adviser”), a Michigan limited liability company registered as an investment adviser under the Investment Advisers Act of 1940, and Northern Lights Fund Trust IV (the “Trust”), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series.

**Filing Dates:** The application was filed on August 30, 2016, and amended on November 4, 2016.

**Hearing or Notification of Hearing:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 15, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0-5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090; Applicants: the Initial Adviser, 89 Ionia Avenue NW., Suite 600, Grand Rapids, MI 49503; the Trust, 17605 Wright Street, Omaha, NE 68130.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 551-6879, or David J. Marcinkus, Branch Chief, at (202) 551-6821 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### Summary of the Application

1. Applicants request an order that would allow Funds to operate as

actively-managed exchange traded funds (“ETFs”).<sup>1</sup> Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an “Authorized Participant”, which will have signed a participant agreement with a broker-dealer registered under the Securities Exchange Act of 1934 (“Exchange Act”) (together with any future distributor, the “Distributor”). Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (“Portfolio Positions”). Each Fund will disclose on its Web site the identities and quantities of the Portfolio Positions that will form the basis for the Fund’s calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (“Deposit Instruments”), and shareholders redeeming their shares will receive specified instruments (“Redemption Instruments”). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund’s portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

<sup>1</sup> Applicants request that the order apply to future series of the Trust or of other open-end management investment companies that currently exist or that may be created in the future (each, included in the term “Fund”), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity or any successor thereto is included in the term “Adviser”) and (b) comply with the terms and conditions of the application.

<sup>36</sup> 17 CFR 200.30-3(a)(12).

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c-1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Positions and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind

purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.<sup>2</sup> The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund ("Master Fund") beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(f) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered

<sup>2</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017-08394 Filed 4-25-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80497; File No. SR-NYSEMKT-2017-22]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 975NY

April 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on April 17, 2017, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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

The Exchange proposes to amend Rule 975NY (Nullification and Adjustment of Options Transactions including Obvious Errors). The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of this filing is to amend Rule 975NY relating to the adjustment and nullification of erroneous transactions. This filing is based on a proposal recently submitted by Chicago Board Options Exchange, Incorporated ("CBOE") and approved by the Commission.<sup>4</sup>

Background

Last year, the Exchange and other options exchanges adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.<sup>5</sup> The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion, including how erroneous Complex Orders and Stock/Option Orders should be handled.<sup>6</sup>

Specifically, the options exchanges have been working together to identify ways to improve the process related to the adjustment and nullification of erroneous options transactions as it relates to Complex Orders and Stock/Option Orders. The goal of the process that the options exchanges have undertaken is to further harmonize rules related to the adjustment and nullification of erroneous options transactions. As described below, the Exchange believes that the changes the options exchanges and NYSE MKT have agreed to propose will provide transparency and finality with respect to

the adjustment and nullification of erroneous Complex Order and Stock/Option Order transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest.

The proposed rule is the culmination of this coordinated effort and reflects discussions by the options exchanges whereby the exchanges that offer Complex Orders and/or Stock/Option Orders will universally adopt new provisions that the options exchanges collectively believe will improve the handling of erroneous options transactions that result from the execution of Complex Orders and Stock-Option orders.<sup>7</sup>

The Exchange believes that the proposed rule supports an approach consistent with long-standing principles in the options industry under which the general policy is to adjust rather than nullify transactions. The Exchange acknowledges that adjustment of transactions is contrary to the operation of analogous rules applicable to the equities markets, where erroneous transactions are typically nullified rather than adjusted and where there is no distinction between the types of market participants involved in a transaction. For the reasons set forth below, the Exchange believes that the distinctions in market structure between equities and options markets continue to support these distinctions between the rules for handling obvious errors in the equities and options markets.

Various general structural differences between the options and equities markets point toward the need for a different balancing of risks for options market participants and are reflected in this proposal. Option pricing is formulaic and is tied to the price of the underlying stock, the volatility of the underlying security and other factors. Because options market participants can generally create new open interest in response to trading demand, as new open interest is created, correlated trades in the underlying or related series are generally also executed to hedge a market participant's risk. This pairing of open interest with hedging interest differentiates the options market specifically (and the derivatives markets broadly) from the cash equities markets. In turn, the Exchange believes that the hedging transactions engaged in by

market participants necessitates protection of transactions through adjustments rather than nullifications when possible and otherwise appropriate.

The options markets are also quote driven markets dependent on liquidity providers to an even greater extent than equities markets. In contrast to the approximately 7,000 different securities traded in the U.S. equities markets each day, there are more than 500,000 unique, regularly quoted option series. Given this breadth in options series the options markets are more dependent on liquidity providers than equities markets; such liquidity is provided most commonly by registered market makers but also by other professional traders. With the number of instruments in which registered market makers must quote and the risk attendant with quoting so many products simultaneously, the Exchange believes that those liquidity providers should be afforded a greater level of protection. In particular, the Exchange believes that liquidity providers should be allowed protection of their trades given the fact that they typically engage in hedging activity to protect them from significant financial risk to encourage continued liquidity provision and maintenance of the quote-driven options markets.

In addition to the factors described above, there are other fundamental differences between options and equities markets which lend themselves to different treatment of different classes of participants that are reflected in this proposal. For example, there is no trade reporting facility in the options markets. Thus, all transactions must occur on an options exchange. This leads to significantly greater retail customer participation directly on exchanges than in the equities markets, where a significant amount of retail customer participation never reaches the Exchange but is instead executed in off-exchange venues such as alternative trading systems, broker-dealer market making desks and internalizers. In turn, because of such direct retail customer participation, the exchanges have taken steps to afford those retail customers—generally Customers—more favorable treatment in some circumstances.

Proposed Rule

As more fully described below, although the proposed rule applies much of the current rule (*i.e.*, initial harmonized rule) to Complex Orders, it deviates to account for unique qualities

<sup>4</sup> See Securities Exchange Act Release Nos. 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) ("CBOE Approval Order"); 79697 (December 27, 2016), 82 FR 167 (January 3, 2017) ("CBOE Notice") (SR-CBOE-2016-088). See also Securities Exchange Act Release No. 80247 (March 15, 2017), 82 FR 14589 (March 21, 2017) (SR-BOX-2017-08) (immediately effective filing based on CBOE Approval Order).

<sup>5</sup> See Securities Exchange Act Release No. 74920 (May 8, 2015), 80 FR 27816 (May 14, 2015) (SR-NYSEMKT-2015-39).

<sup>6</sup> Rule 900.3NY(e) (defining Complex Order) and (h)(1) (defining Stock/Option Order).

<sup>7</sup> The Exchange notes that it only offers Stock/Option Orders in open outcry, but does not offer electronic Stock/Option Orders. Therefore, the Exchange is not adopting the CBOE provisions around Stock/Option Orders.

of these transactions.<sup>8</sup> Specifically, the proposed rule reflects the fact that Complex Orders can execute against other Complex Orders or can execute against individual simple orders in the leg market.<sup>9</sup> When a Complex Order executes against the leg markets, there may be different counterparties on each leg of the Complex Order, and not every leg will necessarily be executed at an erroneous price. To account for these variables, the proposed rule, as set forth in new Commentary .05, is divided into two parts—paragraphs (a) and (b).

#### Complex Orders Executed Against Individual Legs

Proposed Commentary .05(a) governs the review of Complex Orders that are executed against the individual legs (as opposed to against another Complex Order). Proposed Rule 975NY .05(a) provides:

If a Complex Order executes against individual legs and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. However, any Customer order subject to this paragraph (a) will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). If any leg of a Complex Order is nullified, the entire transaction is nullified.

As previously noted, at least one of the legs of the Complex Order must qualify as an Obvious or Catastrophic Error under the current rule in order for the Complex Order to receive Obvious or Catastrophic Error relief. Thus, when the Exchange is notified (within the timeframes set forth in paragraph (c)(2) or (d)(2)) of a Complex Order that is a possible Obvious Error or Catastrophic Error, the Exchange will first review the individual legs of the Complex Order to determine if one or more legs qualify as

an Obvious or Catastrophic Error.<sup>10</sup> If no leg qualifies as an Obvious or Catastrophic Error, the transaction stands—no adjustment and no nullification.

Reviewing the legs to determine whether one or more legs qualify as an Obvious or Catastrophic Error requires the Exchange to follow the current rule. In accordance with paragraphs (c)(1) and (d)(1) of the current rule, the Exchange compares the execution price of each individual leg to the Theoretical Price<sup>11</sup> of each leg (as determined by paragraph (b) of the current rule). If the execution price of an individual leg is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown in the Obvious Error table in paragraph (c)(1) of the current rule or the Catastrophic Error table in paragraph (d)(1) of the initial harmonized rule, the individual leg qualifies as an Obvious or Catastrophic error, and the Exchange will take steps to adjust or nullify the transaction.<sup>12</sup>

To illustrate, assume that a Customer enters a Complex Order to the Exchange consisting of leg 1 and leg 2: Leg 1 is to buy 100 ABC calls; and Leg 2 is to sell 100 ABC puts. Also, assume that Market Maker 1 (“MM1”) is quoting the ABC calls at \$1.00–1.20; and Market Maker 2 (“MM2”) is quoting the ABC puts at \$2.00–2.20. If the Complex Order executes against the quotes of MMs 1 and 2, the Customer buys the ABC calls for \$1.20 and sells the ABC puts for \$2.00. As with the Obvious/Catastrophic Error reviews for simple orders, the execution price of each Leg (*i.e.*, Legs 1 and 2) are compared to the Theoretical Price for each Leg to determine if either Leg qualifies as an Obvious Error (per paragraph (c)(1)) or Catastrophic Error (per paragraph (d)(1)).<sup>13</sup> If it is determined that one or both of the legs are an Obvious or Catastrophic Error, then the leg (or legs) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3) of the current rule, regardless of

whether one of the parties is a Customer.<sup>14</sup>

Although a single-legged execution that is deemed to be an Obvious Error under the current rule is nullified whenever a Customer is involved in the transaction, the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging transactions to offset options positions. When an options transaction is nullified the hedging position can adversely affect the liquidity provider. With regards to Complex Orders that execute against individual legs, the additional rationale for adjusting erroneous execution prices when possible is the fact that the counterparty on a leg that is not executed at an Obvious or Catastrophic Error price cannot look at the execution price to determine whether the execution may later be nullified (as opposed to the counterparty on single-legged order that is executed at an Obvious Error or Catastrophic Error price).

Paragraph (c)(4)(A) of the current rule mandates that if it is determined that an Obvious Error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (c)(4)(A). Although for simple orders, paragraph (c)(4)(A) is only applicable when no party to the transaction is a Customer; for purposes of Complex Orders, proposed Commentary .05(a) will supersede this limitation. Specifically, if it is determined that a leg (or legs) of a Complex Order is an Obvious Error, the leg (or legs) will be adjusted pursuant to paragraph (c)(4)(A), regardless of whether any party to the transaction is a Customer. The Size Adjustment Modifier (defined in subparagraph (a)(4)) will similarly apply (regardless of whether a Customer is on the transaction) by virtue of the application of paragraph (c)(4)(A).<sup>15</sup> The Exchange notes that adjusting all market participants is not unique or novel. When the Exchange determines that a simple order execution is a Catastrophic Error pursuant to the initial harmonized rule, paragraph (d)(3) already provides for adjusting the execution price for all market participants, including Customers.

Furthermore, as with the current, Proposed Rule 975NY .05(a) provides

<sup>8</sup> For example, for a Complex Order to qualify as an Obvious or Catastrophic Error, at least one leg of the Complex Order must itself qualify as an Obvious or Catastrophic Error under the current rule. See proposed Commentary .05(a)–(b) to Rule 975NY. See also Rule 975NY(c)(5) (regarding Complex Order Obvious Errors, which rule text was not part of the prior harmonization effort).

<sup>9</sup> The leg market consists of individual quotes and/or orders in single options series. A Complex Order may be received by the Exchange electronically, and the legs of the Complex Order may have different counterparties. For example, Market Maker 1 may be quoting in ABC calls and Market Maker 2 may be quoting in ABC puts. A Complex Order to buy the ABC calls and puts may execute against the quotes of Market Maker 1 and Market Maker 2.

<sup>10</sup> Because a Complex Order can execute against the leg market, the Exchange may also be notified of a possible Obvious or Catastrophic Error by a counterparty that received an execution in an individual options series. If upon review of a potential Obvious Error the Exchange determines an individual options series was executed against the leg of a Complex Order, proposed Commentary .05 of Rule 975NY will govern.

<sup>11</sup> See Rule 975NY(b) (defining the manner in which Theoretical Price is determined).

<sup>12</sup> Only the execution price on the leg (or legs) that qualifies as an Obvious or Catastrophic Error per proposed Rule 975NY.05 will be adjusted. The execution price of a leg (or legs) that does not qualify as an obvious or catastrophic error will not be adjusted.

<sup>13</sup> See *supra* note 11.

<sup>14</sup> See Rule 975NY(a)(1) (defining Customer for purposes of Rule 975NY as not including any broker-dealer or Professional Customer).

<sup>15</sup> See Rule 975NY(c)(4)(A) (providing that any non-Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in sub-paragraph (a)(4)).



protection for Customer orders, stating that where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). For example, assume a Customer enters a Complex Order to buy leg 1 and leg 2:

- Assume the NBBO for leg 1 is \$0.20–1.00 and the NBBO for leg 2 is \$0.501.00 and that these have been the NBBOs since the market opened.
- A split-second prior to the execution of the Complex Order, a different Customer enters a simple order to sell the leg 1 options series at \$1.30, and this order enters the Exchange's book resulting in a BBO of \$0.20–\$1.30. The limit price of the simple order is \$1.30.

- The Complex Order executes leg 1 against the Exchange best offer of \$1.30 and leg 2 executes at \$1.00, for a net execution price of \$2.30.

- However, leg 1 executed on a wide quote (the NBBO for leg 1 was \$0.20–1.00 at the time of execution, which is wider than \$0.75).<sup>16</sup> Leg 2 was not executed on a wide quote (the market for leg 2 was \$0.50–1.00); thus, leg 2 execution price stands.

- The Exchange determines that the Theoretical Price for leg 1 is \$1.00, which was the best offer prior to the execution. Leg 1 qualifies as an Obvious Error because the difference between the Theoretical Price (\$1.00) and the execution price (\$1.30) is larger than \$0.25.<sup>17</sup>

- Per Proposed Rule 975NY .05(a), Customers will also be adjusted in accordance with Rule 975NY (c)(4)(A), which for a buy transaction under \$3.00 means the Theoretical Price will be adjusted by adding \$0.15 to the Theoretical Price of \$1.00.<sup>18</sup> Thus, the adjusted execution price for Leg 1 would be \$1.15.

- However, adjusting the execution price of leg 1 to \$1.15 would violate the limit price of the Customer's sell order for leg 1, which was \$1.30.

- Thus, the entire Complex Order transaction will be nullified because the limit price of a Customer's sell order would be violated by the adjustment.<sup>19</sup>

As the above example demonstrates, incoming Complex Orders may execute against resting simple orders in the leg market. If a Complex Order leg is deemed to be an Obvious Error, adjusting the execution price of the leg may violate the limit price of the resting order, which will result in nullification if the resting order is for a Customer. In contrast, Commentary .02 to Rule 975NY provides that if an adjustment would result in an execution price that is higher than an erroneous buy transaction or lower than an erroneous sell transaction the execution will not be adjusted or nullified.<sup>20</sup> If the adjustment of a Complex Order would violate the Complex Order Customer's limit price, the transaction will be nullified.

As previously noted, paragraph (d)(3) of the current rule already mandates that if it is determined that a Catastrophic Error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (d)(3). For purposes of Complex Orders, under Rule 975NY .05(a), if one of the legs of a Complex Order is determined to be a Catastrophic Error under paragraph (d)(3), all market participants will be adjusted in accordance with the table set forth in (d)(3). Again, however, where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). Again, if any leg of a Complex Order is nullified, the entire transaction is nullified.

Other than honoring the limit prices established for Customer orders, the Exchange has proposed to treat Customers and non-Customers the same in the context of the Complex Orders that trade against the leg market. When Complex Orders trade against the leg market, it is possible that at least some of the legs will execute at prices that would not be deemed Obvious or Catastrophic Errors, which gives the counterparty in such situations no indication that the execution will later be adjusted or nullified. The Exchange believes that treating Customers and non-Customers the same in this context will provide additional certainty to non-Customers (especially Market Makers) with respect to their potential exposure and hedging activities, including comfort that even if a transaction is later adjusted, such transaction will not be fully nullified. However, as noted

above, under the proposed rule where at least one party to the transaction is a Customer, the trade will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). The Exchange has retained the protection of a Customer's limit price in order to avoid a situation where the adjustment could be to a price that a Customer would not have expected, and market professionals such as non-Customers would be better prepared to recover in such situations. Therefore, adjustment for non-Customers is more appropriate.

#### Complex Orders Executed Against Complex Orders

Proposed Commentary .05(b) to Rule 975NY governs the review of Complex Orders that are executed against other Complex Orders. Specifically, proposed Rule 975NY.05(b) provides:

If a Complex Order executes against another Complex Order and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3), respectively, so long as either: (i) The width of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3); or (ii) the net execution price of the Complex Order is higher (lower) than the offer (bid) of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1). If any leg of a Complex Order is nullified, the entire transaction is nullified.

As described above in relation to proposed Rule 975NY.05(a), the first step is for the Exchange to review (upon receipt of a timely notification in accordance with paragraph (c)(2) or (d)(2) of the current rule) the individual legs to determine whether a leg or legs qualifies as an Obvious or Catastrophic Error. If no leg qualifies as an Obvious or Catastrophic Error, the transaction stands—no adjustment and no nullification. If the adjustment of a complex order would violate the complex order Customer's limit price, the transaction will be nullified.

Unlike proposed Rule 975NY.05(a), the Exchange also proposes to compare the net execution price of the entire Complex Order package to the Complex NBBO for the complex order strategy.<sup>21</sup>

<sup>21</sup> The Complex NBBO is the derived net market for a Complex Order package. For example, if the

<sup>16</sup> See Rule 975NY(b)(3).

<sup>17</sup> See Rule 975NY(c)(1).

<sup>18</sup> See Rule 975NY(c)(4)(A).

<sup>19</sup> If any leg of a Complex Order is nullified, the entire transaction is nullified. See Proposed Rule 975NY.05(a). The Exchange notes that the simple order in this example is not an erroneous sell transaction because the execution price was not erroneously low. See Rule 975NY(a)(2).

<sup>20</sup> See Commentary .02 to Rule 975NY.

Complex Orders are exempt from the order protection rules of the options exchanges.<sup>22</sup> Thus, depending on the manner in which the systems of an options exchange are calibrated, a Complex Order can execute without regard to the prices offered in the complex order books or the leg markets of other options exchanges. In certain situations, reviewing the execution prices of the legs in a vacuum would make the leg appear to be an Obvious or Catastrophic error, even though the net execution price on the Complex Order is not an erroneous price. For example, assume the Exchange receives a Complex Order to buy ABC calls and sell ABC puts.

- If the BBO for the ABC calls is \$5.50–7.50 and the BBO for ABC puts is \$3.00–4.50, then the Exchange's spread market is \$1.00–4.50.<sup>23</sup>

- If the NBBO for the ABC calls is \$6.00–6.50 and the NBBO for the ABC puts is \$3.50–4.00, then the Complex NBBO is \$2.00–3.00. If the Customer buys the calls at \$7.50 and sells the puts at \$4.50, the Complex Order Customer receives a net execution price of \$3.00 (debit), which is the expected net execution price as indicated by the Complex NBBO offer of \$3.00.

If the Exchange were to solely focus on the \$7.50 execution price of the ABC calls or the \$4.50 execution price of the ABC puts, the execution would qualify as an Obvious or Catastrophic error because the execution price on the legs was outside the NBBO, even though the net execution price is accurate. Thus, the additional review of the Complex

NBBO to determine if the Complex Order was executed at a truly erroneous price is necessary.<sup>24</sup> The same concern is not present when a Complex Order executes against the leg market under proposed Rule 975NY.05(a). The Exchange permits a given leg of a Complex Order to trade through the NBBO, however the Exchange will not accept incoming Complex Orders if they are priced a certain amount outside of the Complex NBBO.<sup>25</sup>

In order to incorporate Complex NBBO, proposed Rule 975NY.05(b) provides that if the Exchange determines that a leg or legs does qualify as an Obvious or Catastrophic Error, the leg or legs will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule, so long as either: (i) The width of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) of the current rule or (ii) the net execution price of the Complex Order is higher (lower) than the offer (bid) of the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1) of the current rule.

For example, assume an individual leg or legs qualifies as an Obvious or Catastrophic Error and the width of the Complex NBBO of the Complex Order strategy just prior to the erroneous transaction is \$6.00–9.00. The Complex Order will qualify to be adjusted or

busted in accordance with paragraph (c)(4) of the current rule because the wide quote table of paragraph (b)(3) of the current rule indicates that the minimum amount is \$1.50 for a bid price between \$5.00 to \$10.00. If the Complex NBBO were instead \$6.00–7.00 the Complex Order strategy would not qualify to be adjusted or busted pursuant to proposed Rule 975NY.05(b)(i) because the width of the Complex NBBO is \$1.00, which is less than the required \$1.50. However, the execution may still qualify to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule pursuant to proposed Rule 975NY.05(b)(ii). Focusing on the Complex NBBO in this manner will ensure that the Obvious/Catastrophic Error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

Again, assume an individual leg (or legs) qualifies as an Obvious or Catastrophic Error as described above. If the Complex NBBO is \$6.00–7.00 (not a wide quote pursuant to the wide quote table in paragraph (b)(3) of the current rule) but the execution price of the entire Complex Order package (*i.e.*, the net execution price) is higher (lower) than the offer (bid) of the Complex NBBO for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount in the table in paragraph (c)(1) of the current rule, then the Complex Order qualifies to be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the current rule. For example, if the Complex NBBO for the Complex Order strategy just prior to the erroneous transaction is \$6.00–7.00 and the net execution price of the Complex Order transaction is \$7.75, the Complex Order qualifies to be adjusted or busted in accordance with paragraph (c)(4) of the current rule because the execution price of \$7.75 is more than \$0.50 (*i.e.*, the minimum amount according to the table in paragraph (c)(1) when the price is above \$5.00 but less than \$10.01) from the Complex NBBO offer of \$7.00. Focusing on the Complex NBBO in this manner will ensure that the Obvious/Catastrophic error review process focuses on the net execution price instead of the execution prices of the individual legs, which may have execution prices outside of the NBBO of the leg markets.

Although the Exchange believes adjusting execution prices is generally better for the marketplace than nullifying executions because liquidity providers often execute hedging

NBBO of Leg 1 is \$1.00–2.00 and the NBBO of Leg 2 is \$5.00–7.00, then the Complex NBBO for a Complex Order to buy Leg 1 and buy Leg 2 is \$6.00–9.00. See Rule 900.2NY(4)(b) (defining Complex NBBO as “the NBBO for a given complex order strategy as derived from the national best bid and national best offer for each individual component series of a Complex Order”). The Complex NBBO is analogous to the concept of the National Spread Market, or NSM, as used by other exchanges. See *supra* 4, CBOE Notice, 82 FR at 170; CBOE Approval Order, 82 FR at 11249–50.

<sup>22</sup> All options exchanges have the same order protection rule. See, *e.g.*, Rule 991NY(b)(7).

<sup>23</sup> The Complex Order is to buy ABC calls and sell ABC puts. The Exchange's best offer for ABC puts is \$7.50 and Exchange's best bid for is \$3.00. If the Customer were to buy the Complex Order strategy, the Customer would receive a debit of \$4.50 (buy ABC calls for \$7.50 minus selling ABC puts for \$3.00). If the Customer were to sell the Complex Order strategy the Customer would receive a credit of \$1.00 (selling the ABC calls for \$5.50 minus buying the ABC puts for \$4.50). Thus, the Exchange's spread market—or Complex BBO—is \$1.00–4.50. See also Rule 900.2NY(7)(b) (defining Complex BBO as “the BBO for a given complex order strategy as derived from the best bid on OX and best offer on OX for each individual component series of a Complex Order”). The Complex BBO is analogous to the concept of the “exchange spread market,” as used by other exchanges. See *supra* 4, CBOE Notice, 82 FR at 173, fn 22.

<sup>24</sup> The Exchange notes that this treatment is consistent with current Rule 975NY(c)(5)(A), which provides that “[i]f a Complex Order executes against another Complex Order in the Complex Order Book and one or more legs of the transaction is deemed eligible to be adjusted or busted, the entire trade (all legs) will be busted, unless both parties agree to adjust the transaction to a different price within thirty (30) minutes of being notified by the Exchange of the decision to bust”. The Exchange proposes to delete paragraph (c)(5) of the Rule in its entirety to harmonize with proposed Rule 975NY.05. See below, under the heading “Conforming Change to Eliminate Current Rule Regarding Complex Orders Obvious Errors,” for additional discussion.

<sup>25</sup> Commentary .05 to Rule 980NY sets forth the Price Protection Filter (“Filter”), which prevents the execution of aggressively-priced electronic Complex Orders (*i.e.*, priced so far away from the prevailing contra-side NBBO market for the same strategy). Specifically, an incoming electronic Complex Order will be rejected (or cancelled) if the sum of the following is less than zero (\$0.00): (i) The net debit (credit) limit price of the order, (ii) the contra-side Complex NBBO for that same Complex Order, and (iii) an amount specified by the Exchange (“Specified Amount” or “Amount”). The Specified Amount varies depending on the smallest MPV of any leg in the Complex Order, *e.g.*, the Amount ranges from .10 to .15 to .30 where the smallest MPV of any leg is .01 to .05 to .10, respectively. See Commentary .05 to Rule 980NY.

transactions to offset options positions, the Exchange recognizes that Complex Orders executing against other Complex Orders is similar to simple orders executing against other simple orders because both parties are able to review the execution price to determine whether the transaction may have been executed at an erroneous price. Thus, for purposes of Complex Orders that meet the requirements of Rule 975NY.05(b), the Exchange proposes to apply the current rule and adjust or bust obvious errors in accordance with paragraph (c)(4) (as opposed to applying paragraph (c)(4)(A) as is the case under Rule 975NY.05(a) and catastrophic errors in accordance with (d)(3).

Therefore, for purposes of Complex Orders under proposed Rule 975NY.05(b), if one of the legs is determined to be an obvious error under paragraph (c)(1), all Customer transactions will be nullified, unless an OTP Holder or OTP Firm submits 200 or more Customer transactions for review in accordance with (c)(4)(C).<sup>26</sup> For purposes of Complex Orders under proposed Rule 975NY.05(b), if one of the legs is determined to be a Catastrophic Error under paragraph (d)(3) and all of the other requirements of proposed Rule 975NY.05(b) are met, all market participants will be adjusted in accordance with the table set forth in (d)(3). Again, however, pursuant to paragraph (d)(3) where at least one party to a Complex Order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the Complex Order or individual leg(s). Also, if any leg of a Complex Order is nullified, the entire transaction is nullified.

#### Conforming Change To Eliminate Rule Regarding Complex Orders Obvious Errors

Finally, the Exchange proposes to delete the rule text in paragraph (c)(5) of the current rule, which addresses "Complex Order Obvious Errors," in light of the proposed addition of Commentary .05 to the Rule. The Exchange proposed to designate Rule 975NY(c)(5) as "Reserved." The Exchange believes this modification would add clarity, transparency and internal consistency to the Rule.

<sup>26</sup> Rule 975NY(c)(4)(C) also requires the orders resulting in 200 or more Customer transactions to have been submitted during the course of 2 minutes or less.

#### Implementation

In order to ensure that the other options exchanges are able to adopt rules consistent with this proposal and to coordinate effectiveness of such harmonized rules, the Exchange proposed to delay the operative date of this proposal to April 17, 2017.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),<sup>27</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act,<sup>28</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to adopt harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposed rule will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Based on the foregoing, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>29</sup> in that the proposed rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange believes the various provisions allowing or dictating adjustment rather than nullification of a trade are necessary given the benefits of adjusting a trade price rather than nullifying the trade completely. Because options trades are used to hedge, or are hedged by, transactions in other markets, including securities and futures, many Participants, and their customers, would rather adjust prices of executions rather than nullify the transactions and, thus, lose a hedge altogether. As such, the Exchange believes it is in the best interest of investors to allow for price adjustments as well as nullifications.

<sup>27</sup> 15 U.S.C. 78f(b).

<sup>28</sup> 15 U.S.C. 78f(b)(5).

<sup>29</sup> 15 U.S.C. 78f(b)(5).

The Exchange does not believe that the proposal is unfairly discriminatory, even though it differentiates in many places between Customers and non-Customers. As with the current rule, Customers are treated differently, often affording them preferential treatment. This treatment is appropriate in light of the fact that Customers are not necessarily immersed in the day-to-day trading of the markets, are less likely to be watching trading activity in a particular option throughout the day, and may have limited funds in their trading accounts. At the same time, the Exchange reiterates that in the U.S. options markets generally there is significant retail customer participation that occurs directly on (and only on) options exchanges such as the Exchange. Accordingly, differentiating among market participants with respect to the adjustment and nullification of erroneous options transactions is not unfairly discriminatory because it is reasonable and fair to provide Customers with additional protections as compared to non-Customers.

The Exchange believes that its proposal to adopt the ability to adjust a Customer's execution price when a Complex Order is deemed to be an Obvious or Catastrophic Error is consistent with the Act. A Complex Order that executes against individual leg markets may receive an execution price on an individual leg that is not an Obvious or Catastrophic error but another leg of the transaction is an Obvious or Catastrophic Error. In such situations where the Complex Order is executing against at least one individual or firm that is not aware of the fact that they have executed against a Complex Order or that the Complex Order has been executed at an erroneous price, the Exchange believes it is more appropriate to adjust execution prices if possible because the derivative transactions are often hedged with other securities. Allowing adjustments instead of nullifying transactions in these limited situations will help to ensure that market participants are not left with a hedge that has no position to hedge against.

Finally, the proposal to delete paragraph (c)(5) of the current rule, which addresses "Complex Order Obvious Errors," would add clarity, transparency and internal consistency to the Rule, in light of the proposed addition of Commentary .05 to the Rule.

#### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. 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. In this regard and as indicated above, the Exchange notes that the proposed rule change is substantially similar to a filing submitted by CBOE that was recently approved by the Commission.<sup>30</sup>

The Exchange believes the proposal will not impose a burden on intermarket competition but will rather alleviate any burden on competition because it is the result of a collaborative effort by all options exchanges to harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. The Exchange understands that all other options exchanges that trade Complex Orders and/or Stock/Option Orders intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the provisions apply to all market participants equally within each participant category (*i.e.*, Customers and non-Customers). With respect to competition between Customer and non-Customer market participants, the Exchange believes that the proposed rule acknowledges competing concerns and tries to strike the appropriate balance between such concerns. For instance, the Exchange believes that protection of Customers is important due to their direct participation in the options markets as well as the fact that they are not, by definition, market professionals. At the same time, the Exchange believes due to the quote-driven nature of the options markets, the importance of liquidity provision in such markets and the risk that liquidity providers bear when quoting a large breadth of products that are derivative of underlying securities, that the

protection of liquidity providers and the practice of adjusting transactions rather than nullifying them is of critical importance. As described above, the Exchange will apply specific and objective criteria to determine whether an erroneous transaction has occurred and, if so, how to adjust or nullify a transaction.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>31</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>32</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>33</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>34</sup> 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 proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to implement the proposed rule change by April 17, 2017 in coordination with the other options exchanges. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>35</sup>

<sup>31</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>32</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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. The Commission has waived the five-day pre-filing requirement in this case.

<sup>33</sup> 17 CFR 240.19b-4(f)(6).

<sup>34</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>35</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2017-22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEMKT-2017-22. 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

efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>30</sup> See CBOE Approval Order, *supra* note 4.

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2017–22, and should be submitted on or before May 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**Eduardo A. Aleman,**

*Assistant Secretary.*

[FR Doc. 2017–08391 Filed 4–25–17; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80495; File No. SR–BOX–2017–12]

### Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend a Prior Rule Change, SR–BOX–2017–08, Which Contained a Portion of Text That Is Not Applicable to BOX

April 20, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on April 17, 2017, BOX Options Exchange LLC (the “Exchange”) 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 from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend a prior rule change, SR–BOX–2017–08,<sup>3</sup> which contained a portion of text that is not applicable to BOX. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission’s Public Reference Room and also on the Exchange’s Internet Web site at <http://boxexchange.com>.

<sup>36</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities and Exchange Act Release No. 80247 (March 15, 2017), 82 FR 14589 (March 21, 2017) (“Complex Order filing”).

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The 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 proposes to amend the previously submitted filing SR–BOX–2017–08 which contained a portion of text that is not applicable to BOX.

Last year, the Exchange and other options exchanges adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.<sup>4</sup> Accordingly, the Exchange filed a proposed rule change detailing the handling of erroneous options transactions that result from the execution of complex orders.<sup>5</sup> The purpose of this filing is to clarify that a portion of text found in the previous filing is not applicable to BOX. Specifically, the text states, “The same concern is not present when a Complex Order executes against the leg market under IM–7170–4(a) because the Exchange is modifying its system in order to ensure the leg will execute at or within the NBBO of the leg markets.”<sup>6</sup> The Exchange seeks to clarify that BOX already has this NBBO functionality in place<sup>7</sup> and will not be modifying its system.

###### 2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,<sup>8</sup> in general, and Section 6(b)(5) of the

Act,<sup>9</sup> in particular, in that it is designed to protect investors and the public interest, promote just and equitable principles of trade, and foster cooperation and coordination with persons engaged in facilitating transactions in securities by eliminating investor confusion with regard to the portion of text found in the previous filing that is not applicable to BOX.

##### B. Self-Regulatory Organization’s Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act as the proposed rule change is simply seeking to eliminate investor confusion with regard to the provision in the previous filing that is not applicable to BOX.

##### C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

#### 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<sup>10</sup> and Rule 19b–4(f)(6) thereunder.<sup>11</sup>

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act<sup>12</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)<sup>13</sup> 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 proposal may become operative immediately upon filing. The Exchange states that the proposed rule change simply seeks to

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 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.

<sup>12</sup> 17 CFR 240.19b–4(f)(6).

<sup>13</sup> 17 CFR 240.19b–4(f)(6)(iii).

<sup>4</sup> See Securities Exchange Act Release No. 74911 (May 8, 2015), 80 FR 27717 (May 14, 2015) (SR–BOX–2015–18) (the “Initial Filing”).

<sup>5</sup> See Complex Order Filing *supra* note 3. The Exchange notes that this previous filing was based off of an industry filing.

<sup>6</sup> See Complex Order Filing *supra* note 3 at 14592.

<sup>7</sup> See BOX Rule 7240(b)(3)(iii).

<sup>8</sup> 15 U.S.C. 78f(b).

eliminate investor confusion regarding the provision in the previous filing that is not applicable to BOX, as discussed above. For this reason, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>14</sup>

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 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](mailto:rule-comments@sec.gov). Please include File Number SR-BOX-2017-12 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-BOX-2017-12. 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

<sup>14</sup> 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).

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, on official business days between the hours of 10:00 a.m. and 3:00 p.m., located at 100 F Street NE., Washington, DC 20549. 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-BOX-2017-12 and should be submitted on or before May 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-08389 Filed 4-25-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

*Upon Written Request Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

#### *Extension:*

Form 5, SEC File No. 270-323, OMB Control No. 3235-0362

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Under Section 16(a) of the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a *et seq.*) every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which registered pursuant to Section 12 of the Exchange Act, or who is a director or an officer of the issuer of such security (collectively "reporting persons"), must file statements setting forth their security

<sup>15</sup> 17 CFR 200.30-3(a)(12).

holdings in the issuer with the Commission. Form 5 (17 CFR 249.105) is an annual statement of beneficial ownership of securities. The information disclosure provided on Form 5 is mandatory. All information is provided to the public for review. We estimate that approximately 5,939 reporting persons file Form 5 annually and we estimate that it takes approximately one hour to prepare the form for a total of 5,939 annual burden hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [ShaguftaAhmed@omb.eop.gov](mailto:ShaguftaAhmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: [PRA\\_Mailbox@sec.gov](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: April 21, 2017.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-08432 Filed 4-25-17; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32608; 812-14750]

### TriLine Index Solutions, LLC, et al.

April 21, 2017.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(j) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would

permit (a) index-based series of certain open-end management investment companies (“Funds”) to issue shares redeemable in large aggregations only (“Creation Units”); (b) secondary market transactions in Fund shares to occur at negotiated market prices rather than at net asset value (“NAV”); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (“Funds of Funds”) to acquire shares of the Funds.

**Applicants:** TriLine Index Solutions, LLC (the “Initial Adviser”), a Delaware limited liability company that will be registered as an investment adviser under the Investment Advisers Act of 1940, ETF Series Solutions (the “Trust”), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Foreside Fund Services, LLC (the “Distributor”), a Delaware limited liability company and broker-dealer registered under the Securities Exchange Act of 1934 (“Exchange Act”).

**Filing Date:** The application was filed on March 1, 2017.

**Hearing or Notification of Hearing:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission’s Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 16, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission’s Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: the Initial Adviser, 8117 Preston Road, Suite 260, Dallas, Texas 75225; the Trust, 615 East Michigan Street, 4th Floor, Milwaukee, Wisconsin

53202; and the Distributor, Three Canal Plaza, Suite 100, Portland, Maine 04101.

**FOR FURTHER INFORMATION CONTACT:** Hae-Sung Lee, Attorney-Adviser, at (202) 551–7345, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel’s Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission’s Web site by searching for the file number, or for an applicant using the Company name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551–8090.

### Summary of the Application

1. Applicants request an order that would allow Funds to operate as index exchange traded funds (“ETFs”).<sup>1</sup> Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an “Authorized Participant”, which will have signed a participant agreement with the Distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will hold investment positions selected to correspond generally to the performance of an Underlying Index. In the case of Self-Indexing Funds, an affiliated person, as defined in section 2(a)(3) of the Act (“Affiliated Person”), or an affiliated person of an Affiliated Person (“Second-Tier Affiliate”), of the Trust or a Fund, of the Adviser, of any sub-adviser or promoter of a Fund, or of the Distributor will compile, create, sponsor or maintain the Underlying Index.<sup>2</sup>

<sup>1</sup> Applicants request that the order apply to the new series of the Trust and any additional series of the Trust, and any other open-end management investment company or series thereof (each, included in the term “Fund”), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an “Underlying Index”). Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an “Adviser”) and (b) comply with the terms and conditions of the application.

<sup>2</sup> Each Self-Indexing Fund will post on its Web site the identities and quantities of the investment positions that will form the basis for the Fund’s calculation of its NAV at the end of the day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will help address, together with other protections, conflicts of interest with respect to such Funds.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (“Deposit Instruments”), and shareholders redeeming their shares will receive specified instruments (“Redemption Instruments”). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund’s portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund’s prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that effect creations and redemptions of Creation Units in kind and that are based on certain Underlying Indexes that include foreign securities, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Exchange Act, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are Affiliated Persons, or Second Tier Affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those investment positions currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.<sup>3</sup> The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(j) of the Act provides that the Commission may

<sup>3</sup> The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an Affiliated Person, or a Second-Tier Affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Eduardo A. Aleman,**  
Assistant Secretary.

[FR Doc. 2017-08444 Filed 4-25-17; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80494; File No. SR-NYSEMKT-2017-21]

### Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 994NY, Broadcast Order Liquidity Delivery Mechanism

April 20, 2017.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that on April 11, 2017, NYSE MKT LLC (the "Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I 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

The Exchange proposes to adopt Rule 994NY, Broadcast Order Liquidity Delivery ("BOLD") Mechanism. The proposed rule change is available on the Exchange's Web site at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange,

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

and at the Commission's Public Reference Room.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the filing is to adopt a rule that governs the operation of the Exchange's new BOLD Mechanism. As proposed, BOLD Mechanism is a feature within the Exchange's trading system that would provide automated order handling for eligible orders in designated classes. Regarding BOLD Mechanism eligibility, the Exchange will designate eligible order size, eligible order type, eligible capacity code (e.g., Customer<sup>4</sup> orders, non-Market Maker non-Customer orders, and Market Maker<sup>5</sup> orders), and classes in which the BOLD Mechanism will be available. Orders must be specifically marked to be eligible for the BOLD Mechanism. After trading with eligible interest on the Exchange, the BOLD Mechanism will automatically process an eligible incoming order that is marketable against quotations disseminated by other exchanges that are participants in the Options Order Protection and Locked/Crossed Market Plan (the "Linkage Plan").

With respect to order handling, orders that are received by the BOLD Mechanism pursuant to paragraph (a) of

<sup>4</sup> The term "Customer" means an individual or organization that is not a Broker/Dealer; when not capitalized, "customer" refers to any individual or organization whose order is being represented, including a Broker/Dealer. See Rule 900.2NY(18).

<sup>5</sup> Market Makers are included in the definition of ATP Holders. See Rule 900.2NY(5) (defining ATP Holder as "a natural person, sole proprietorship, partnership, corporation, limited liability company or other organization, in good standing, that has been issued an ATP," and requires that "[a]n ATP Holder must be a registered broker or dealer pursuant to Section 15 of the Securities Exchange Act of 1934." See also Rule 900.2NY(38) (providing that a Market Maker is "an ATP Holder that acts as a Market Maker pursuant to Rule 920NY").



the proposed rule will be electronically exposed at the National Best Bid or Offer (“NBBO”) upon receipt. The exposure will be for a period of time determined by the Exchange on a class-by-class basis, which period of time will not exceed one second. All ATP Holders will be permitted to trade against interest exposed during the exposure period.

Regarding the allocation of exposed orders, any interest priced at the prevailing NBBO or better will be executed pursuant to Rule 964NY (Display, Priority and Order Allocation).<sup>6</sup> If during the exposure period the Exchange receives an order (or quote) on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price or better, then the exposed order will trade with such order at the prevailing NBBO price or better. The exposure period will not terminate if the exposed order has not been completely executed following such trade. Interest that is not immediately executable based on the prevailing NBBO may become executable during the exposure period based on changes to the NBBO. In the event of a change to the NBBO during the exposure period, the Exchange will evaluate the disseminated best bid/offer, and to the extent possible, execute any remaining portion of the exposed order at the best price(s) of resting interest on the Exchange. Following the exposure period, the Exchange will route the remaining portion of the exposed order to other exchanges, unless otherwise instructed by the ATP Holder. Any portion of a routed order that returns unfilled will trade against the Exchange’s best bid/offer unless another exchange is quoting at a better price in which case new orders will be generated and routed to trade against such better prices. All executions on the Exchange pursuant to this paragraph will comply with Rule 991NY (Order Protection).

Regarding the early termination of the exposure period, the exposure period will terminate if the entire exposed order trades at the NBBO or better. In addition, the exposure period will terminate prior to its expiration and the exposed order will be processed in accordance with paragraph (c) of the proposed rule if, during the exposure period, the NBBO updates such that the exposed order is no longer marketable against the prevailing NBBO.

<sup>6</sup>NYSE Amex provides customer priority and size pro-rata allocation. Pursuant to Rule 964NY, customers at a given price are executed first in priority. Non-customers are executed on a pro-rata basis pursuant to the size pro rata algorithm set forth in Rule 964NY(b)(3).

The purpose of the proposed rule change is to provide all ATP holders with the opportunity to improve their prices and “step up” to meet the NBBO in order to interact with orders sent to the Exchange. This would allow the market participant sending an order to NYSE Amex to increase its chances of receiving an execution at NYSE Amex (the market participant’s chosen venue) instead of having the order routed to another exchange. This “step up” process allows market participants to take into account factors beyond just disseminated prices, such as execution costs, system reliability, and quality of service, when determining the exchange to which to route an order. A market participant that prefers NYSE Amex due to some combination of these other factors will know that, even if NYSE Amex is not displaying a price that is the NBBO, the market participant may still receive an execution at NYSE Amex because another ATP Holder may “step up” to match the NBBO. Further, the BOLD Mechanism and the “step up” process enable ATP Holders to add liquidity that is available to interact with orders sent to the Exchange. Indeed, when an ATP Holder on NYSE Amex “steps up” to match the NBBO that is displayed on another exchange, more contracts may be executed at this NBBO price on NYSE Amex than are available at that same price on another exchange.

The Exchange’s proposed BOLD Mechanism and the “step up” process are not novel concepts. As proposed, the BOLD Mechanism is similar to the Step Up Mechanism (“SUM”) offered on Bats EDGX Exchange, Inc. (“EDGX”), which provides the same manner of “step up” process.<sup>7</sup> Similar to SUM, the proposed BOLD Mechanism would be entirely electronic.

Another similarity between the proposed BOLD Mechanism and SUM is the determination by the Exchange to permit all ATP Holders to trade against interest exposed during the exposure period.<sup>8</sup> The proposed BOLD

<sup>7</sup> See Securities Exchange Act Release No. 78339 (July 15, 2016), 81 FR 47461 (July 21, 2016) (SR–BatsEDGX–2016–29) (“SUM Approval”). The SUM Approval was based on the Commission’s prior approval of the Chicago Board Options Exchange, Inc.’s (“CBOE”) Hybrid Agency Liaison (“HAL”). See Securities Exchange Act Release No. 60551 (August 20, 2009), 74 FR 43196 (August 26, 2009) (SR–CBOE–2009–040) (“Approval of CBOE’s HAL”).

<sup>8</sup> The Exchange is adopting the term “interest” rather than “response” (as known on EDGX) to distinguish that the BOLD Mechanism is not an auction functionality that requires ATP Holders to “respond” to an auction message. Rather, ATP Holders would be permitted to trade against the “interest” that is exposed during the exposure

Mechanism, however, is different from CBOE’s HAL in that on CBOE, only Market Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of CBOE’s book in the relevant option series opposite the order submitted to HAL may submit responses to the exposure message during the exposure period (unless CBOE determines, on a class-by-class basis, to allow all Trading Permit Holders to submit responses to the exposure message). Therefore, on CBOE, an order will not be exposed if the CBOE quotation contains resting orders and does not contain sufficient CBOE Market Maker quotation interest to satisfy the entire order. The Exchange does not propose this limitation because the proposed BOLD Mechanism is not dependent only on Market Maker interest in any way, but rather, seeks to expose the order for execution to all participants on NYSE Amex. In this respect, the proposed BOLD Mechanism is similar to EDGX’s SUM, which also is not dependent just on Market Maker interest and exposes orders to all participants on that exchange. Also, Interpretation and Policy .01 to CBOE Rule 6.14A (the CBOE rule regarding HAL), which prohibits the redistribution of exposure messages to market participants not eligible to respond to such messages (except in classes in which CBOE allows all Trading Permit Holders to respond to such messages) also would not apply to the proposed BOLD Mechanism, as all ATP Holders would be permitted to trade against the interest exposed during the exposure period.

With regards to early termination of the exposure period, while the Exchange proposes different criteria for early termination of an exposure period than those reasons set forth in the corresponding CBOE rule regarding HAL, the proposed rule is, in most cases, similar to the SUM rule. Similar to SUM, an exposure period will terminate early if an order is executed in full. CBOE also terminates an exposure period in slightly different circumstances than the Exchange has proposed, including when a same side order is received by CBOE, if CBOE Market Maker interest decrements to an amount equal to the size of the exposed order and if the underlying security enters a limit up limit down state. Similar to EDGX, the Exchange does not believe early termination is necessary for the BOLD Mechanism under any of these reasons, and has proposed to

period in accordance with the execution priority set forth in Rule 964NY(b)(3).

terminate the exposure period early in a scenario not covered by HAL but that is available by SUM. Specifically, the Exchange would terminate an exposure period early when the exposed order is no longer marketable against the NBBO. The Exchange notes that SUM also terminates the exposure period early if a resting order on EDGX is locked or crossed by another options exchange. The Exchange does not believe early termination is necessary for the BOLD Mechanism because the BOLD Mechanism is not an auction. Accordingly, the Exchange believes that permitting the exposure period to continue would allow other orders to arrive and trade with any order exposed via the BOLD Mechanism (including any from the locking Exchange). Although the early termination section of the proposed rule represents the greatest departure from the HAL rule, the proposed BOLD Mechanism rule is nearly identical to the SUM rule, and the Exchange does not believe that any of the differences raise new policy issues generally with respect to a step up process.

With respect to the early termination scenarios not adopted by the Exchange, the Exchange believes that the fact that an ATP Holder will have the ability to cancel its order after the BOLD Mechanism process is initiated coupled with the fact that the Exchange will only execute an order that has been exposed via the BOLD Mechanism process to the extent the order is marketable against the NBBO mitigate any potential concern regarding such differences.<sup>9</sup> Further, regarding the termination scenarios specified by the Exchange, the Exchange believes that these are reasonable reasons to terminate the BOLD Mechanism process. Specifically, if an order is no longer marketable, then it cannot be executed through the BOLD Mechanism process so no longer benefits from being exposed. Generally speaking, the Exchange's proposed rule is similar to the SUM rule in terms of its structure and wording. The Exchange's proposed rule differs slightly from the SUM rule in that the proposed BOLD Mechanism is not an auction and therefore, when an ATP Holder "steps up" to trade against an exposed order, the proposed rule does not refer to that as a "response" by the ATP Holder. The proposed rule also differs from the SUM rule in that orders

<sup>9</sup> As a general matter, ATP Holders can cancel their orders on the Exchange unless expressly prohibited. For example, Rule 971.1NY(c) provides, in part, that "[o]nce commenced, the CUBE Order (as well as the Contra Order) may not be cancelled or modified." No such restriction exists for orders processed by the BOLD Mechanism.

received pursuant to paragraph (a) of the proposed rule would only be processed by the BOLD Mechanism once because, having exposed the order and attracted insufficient (or no) liquidity, the order (or balance thereof) would not be exposed again. The Exchange does not believe the terminology used or different wording represents any substantive difference between the proposed BOLD Mechanism and the functionality offered through SUM and HAL. Any such differences are intended to highlight the exact operation of the proposed BOLD Mechanism process.

Despite the differences highlighted above, the proposed BOLD Mechanism would otherwise operate in similar manner to SUM and HAL, the latter of which was previously approved by the Commission and formed the basis for the former to be made immediately effective upon its filing with the Commission. The Commission has always been clear that honoring better prices on other markets can be accomplished by matching those better prices.<sup>10</sup> The proposed BOLD Mechanism would allow participants on NYSE Amex to do just that. If an ATP Holder wants to ensure that an order does not go through the proposed BOLD Mechanism, then that participant can submit an order that would not be exposed to the BOLD Mechanism.<sup>11</sup>

In addition to Rule 994NY proposed above, the Exchange proposes to adopt Commentary .01 to proposed Rule 994NY, which states that all determinations by the Exchange pursuant to proposed Rule 994NY (*i.e.*, eligible order size, order type, increment, participant ID, BOLD Mechanism timer and classes) will be announced in a Trader Update and maintained in specifications made publicly available via the Exchange's Web site. As noted above, the Exchange also proposes to adopt Commentary .02 to proposed Rule 994NY to make clear that orders that are received paragraph

<sup>10</sup> For example, in adopting the Order Protection Rule (Rule 611) under Regulation NMS in 2005, the Commission stated: "The Order Protection Rule generally requires that trading centers match the best quoted prices, cancel orders without an execution, or route orders to the trading centers quoting the best prices." See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495 (June 29, 2005), at 37525 (S7-10-04).

<sup>11</sup> An ATP Holder will be able to opt-in to the BOLD Mechanism by including a specific field in their orders submitted to the Exchange. Details regarding the ability to opt-in will be set forth in the Exchange's order entry specifications, which are made publicly available to all ATP Holders. The ability to opt-in to the BOLD Mechanism is different from the SUM process. SUM has adopted an 'opt-out' approach where members of EDGX are able to opt-out by including a specific field in orders submitted to that exchange.

(a) of the proposed rule would only be processed by the BOLD Mechanism once.

The Exchange also proposes to amend certain other Exchange rules that would be impacted by the proposed BOLD Mechanism. First, the Exchange proposes to adopt paragraph (F) under Rule 971.1NY(c)(4) to reflect that the Exchange's Customer Best Execution Auction ("CUBE Auction") will conclude early if the BOLD Mechanism, *i.e.*, orders that are eligible for exposure under proposed Rule 994NY, receives an unrelated order in the same series during the CUBE Auction's Response Time Interval. When the CUBE Auction concludes, the CUBE Order would execute pursuant to current Rule 971.1NY(c)(5). The Exchange believes that early conclusion of a CUBE Auction in this circumstance would allow the Exchange to appropriately handle unrelated orders exposed via the BOLD Mechanism, while at the same time allowing the CUBE Order to execute against the Contra Order and any RFR Responses that may have been entered up to that point.

Next, the Exchange proposes to adopt Commentary .04 to Rule 971.1NY, which states that a CUBE Order will be rejected if the CUBE Order is in the same series as an order exposed pursuant to the proposed BOLD Mechanism. Finally, the Exchange proposes to adopt Commentary .04 to Rule 985NY, which states that a Qualified Contingent Cross ("QCC") Order will be rejected if the QCC Order is in the same series as an order exposed pursuant to the proposed BOLD Mechanism. The Exchange believes the rejection of a CUBE Order and/or a QCC Order in these circumstances would allow the full exposure period for the order submitted pursuant to the BOLD Mechanism, which should maximize the opportunity for the exposed order to be executed on the Exchange.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.<sup>12</sup> In particular, the proposal is consistent with Section 6(b)(5) of the Act<sup>13</sup> because it is designed to adopt the BOLD Mechanism, which is designed to offer market participants greater flexibility with respect to orders entered

<sup>12</sup> 15 U.S.C. 78f(b).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

into the NYSE Amex book, thereby promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in facilitating transactions in securities, removing impediments to, and perfecting the mechanisms of, a free and open market and a national market system.

The Exchange's proposal to adopt the BOLD Mechanism would provide ATP Holders on NYSE Amex with the opportunity to improve their prices to match the NBBO in order to interact with orders sent to the Exchange. This will allow the market participant sending an order to NYSE Amex to increase its chances of receiving an execution on NYSE Amex (the market participant's chosen venue) instead of having the order be routed to another exchange. This "step up" process allows market participants to take into account factors beyond just disseminated prices, such as execution costs, system reliability, and quality of service, when determining the exchange to which to route an order. A market participant that prefers NYSE Amex due to some combination of these other factors will know that, even if NYSE Amex is not displaying a price that is the NBBO, the market participant may still receive an execution at NYSE Amex because another ATP Holder may "step up" to match the NBBO. Therefore, the fact that the BOLD Mechanism allows a market participant who elects to send an order to NYSE Amex to have a greater likelihood of achieving execution at their chosen venue removes an impediment to and perfects the mechanism for a free and open national market system. Further, the BOLD Mechanism and the "step up" process enables ATP Holders to add liquidity that is available to interact with orders sent to the Exchange. Indeed, when an ATP Holder "steps up" to match the NBBO that is displayed on another exchange, more contracts may be executed at this NBBO price on NYSE Amex than are available at that same price on the other exchange. This increased liquidity benefits all market participants on NYSE Amex, thereby perfecting the mechanism for a free and open national market system and protecting investors and the public interest.

The Exchange's proposed BOLD Mechanism is similar to EDGX's SUM, which provides the same manner of "step up" process. To the extent there are differences between the proposed BOLD Mechanism and SUM, as described elsewhere in the proposal, the Exchange does not believe such differences raise any new or significant

policy concerns. Further, despite the differences, the proposed BOLD Mechanism would otherwise operate in a similar manner to the SUM process. As such, the Exchange merely desires to adopt functionality that is similar to one that already exists on EDGX, and on CBOE.<sup>14</sup> Permitting the Exchange to operate on an even playing field relative to other exchanges that have similar functionality removes impediments to and perfects the mechanism for a free and open market and a national market system.

The Commission has always been clear that honoring better prices on other markets can be accomplished by matching those other prices.<sup>15</sup> The proposed BOLD Mechanism would allow participants on NYSE Amex to do just that.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change to adopt the BOLD Mechanism will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposed BOLD Mechanism is open to all market participants. The "step up" feature of the proposed BOLD Mechanism allows for execution at the NBBO for price improvement. When such price improvement is achieved via this "stepping up" to meet (or beat) the best quoted price at another exchange, market participants are able to receive the best quoted price while still achieving execution on NYSE Amex, the exchange to which they elected to send their orders. As noted above, the proposed BOLD Mechanism is similar to processes offered on other options exchanges that compete with NYSE Amex, and therefore the proposal is pro-competitive.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup>

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act<sup>18</sup> normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)<sup>19</sup> 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 proposal may become operative immediately upon filing. The Exchange stated that waiver of the operative delay will allow the Exchange to provide functionality on NYSE Amex that is similar to functionality provided by other options exchanges, including but not limited to EDGX.<sup>20</sup> In addition, the Exchange stated that waiver of the operative delay will allow it to more effectively compete with other options exchanges. For these reasons, the Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.<sup>21</sup>

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,

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 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.

<sup>18</sup> 17 CFR 240.19b-4(f)(6).

<sup>19</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>20</sup> See *supra*, note 7.

<sup>21</sup> 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).

<sup>14</sup> See *supra*, note 7.

<sup>15</sup> See *supra*, note 10.

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](mailto:rule-comments@sec.gov). Please include File Number SR–NYSEMKT–2017–21 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2017–21. 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–NYSEMKT–2017–21, and should be submitted on or before May 17, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>22</sup>

**Eduardo A. Aleman,**  
*Assistant Secretary.*

[FR Doc. 2017–08388 Filed 4–25–17; 8:45 am]

**BILLING CODE 8011–01–P**

**SOCIAL SECURITY ADMINISTRATION**

[Docket No: SSA–2017–0020]

**Agency Information Collection Activities: Proposed Request and Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and on extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency’s burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer

and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).  
(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov)

Or you may submit your comments online through [www.regulations.gov](http://www.regulations.gov), referencing Docket ID Number [SSA–2017–0020].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than June 26, 2017. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Application for Benefits under a U.S. International Social Security Agreement—20 CFR 404.1925–0960–0448.* Section 233(a) of the Social Security Act (Act) authorizes the President to broker international Social Security agreements (Totalization Agreements) between the United States and foreign countries. SSA collects information using Form SSA–2490–BK to determine entitlement to Social Security benefits from the United States, or from a country that enters into a Totalization Agreement with the United States. The respondents are individuals applying for Old Age Survivors and Disability Insurance (OASDI) benefits from the United States or from a Totalization Agreement country.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–2490–BK (MCS) .....	15,030	1	30	7,515
SSA–2490–BK (paper) .....	2,120	1	30	1,060
<b>Totals</b> .....	<b>17,150</b>	.....	.....	<b>8,575</b>

2. *Medicare Part D Subsidies Regulations—20 CFR 418.3625(c), 418.3645, 418.3665(a), and 418.3670—0960–0702.* The Medicare Prescription Drug Improvement and Modernization Act (MMA) of 2003 established the Medicare Part D program for voluntary prescription drug coverage of premium,

deductible, and co-payment costs for certain low-income individuals. The MMA also mandated the provision of subsidies for those individuals who qualify for the program and who meet eligibility criteria for help with premium, deductible, or co-payment costs. This law requires SSA to make

eligibility determinations, and to provide a process for appealing SSA’s determinations. Regulation sections 418.3625(c), 418.3645, 418.3665(a), and 418.3670 contain public reporting requirements pertaining to administrative review hearings. Respondents are applicants for the

<sup>22</sup> 17 CFR 200.30–3(a)(12).

Medicare Part D subsidies who request an administrative review hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
418.3625(c) .....	140	1	5	12
418.3645 .....	10	1	10	2
418.3665(a) .....	275	1	5	23
418.3670* .....	0	1	10	0
Total .....	425	.....	.....	37

\* Regulation section 418.3670 could be used at any time; however, we currently have no data showing usage over the past three years.

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than May 26, 2017. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. *Government Pension Questionnaire—20 CFR 404.408a—0960–0160*. The basic Social Security benefits application (OMB No. 0960–0618) contains a lead question asking if the applicants are qualified (or will

qualify) to receive a government pension. If the respondent is qualified, or will qualify, to receive a government pension, the applicant completes Form SSA–3885 either on paper or through a personal interview with an SSA claims representative. If the applicants are not entitled to receive a government pension at the time they apply for Social Security benefits, SSA requires them to provide the government pension information as beneficiaries when they become eligible to receive their pensions. Regardless of the timing, at some point the applicants or beneficiaries must complete and sign Form SSA–3885 to report information

about their government pensions before the pensions begin. SSA uses the information to: (1) Determine whether the Government Pension Offset provision applies; (2) identify exceptions as stated in 20 CFR 404.408a; and (3) determine the benefit reduction amount and effective date. If the applicants and beneficiaries do not respond using this questionnaire, SSA offsets their entire benefit amount. The respondents are applicants or recipients of spousal benefits who are eligible for or already receiving a Government pension.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3885 .....	76,000	1	13	16,467

2. *Request for Review of Hearing Decision/Order—20 CFR 404.967–404.981, 416.1467–416.1481—0960–0277*. Claimants have a statutory right under the Act and current regulations to request review of an administrative law judge’s (ALJ) hearing decision or dismissal of a hearing request on Title II and Title XVI claims. Claimants may request Appeals Council review by

filing a written request using Form HA–520. SSA uses the information to establish the claimant filed the request for review within the prescribed time and to ensure the claimant completed the requisite steps permitting the Appeals Council review. The Appeals Council uses the information to: (1) Document the claimant’s reason(s) for disagreeing with the ALJ’s decision or

dismissal; (2) determine whether the claimant has additional evidence to submit; and (3) determine whether the claimant has a representative or wants to appoint one. The respondents are claimants requesting review of an ALJ’s decision or dismissal of hearing.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–520 .....	175,000	1	10	29,167

3. *Modified Benefit Formula Questionnaire—0960–0395*. SSA collects information on Form SSA–150 to determine which formula to use in computing the Social Security benefit for someone who receives a pension from employment not covered by Social Security. The Windfall Elimination

Provision (WEP) requires use of a benefit formula replacing a smaller percentage of a worker’s pre-retirement earnings. However, the resulting amount cannot show a difference in the benefit computed using the modified and regular formulas greater than one-half the amount of the pension received in

the first month an individual is entitled to both the pension and the Social Security benefit. The SSA–150 collects the information needed to make all the necessary benefit computations. SSA requires respondents to furnish the information on Form SSA–150 so we can calculate their benefits using the

data they supply. SSA calculates the benefits of applicants who do not respond to this questionnaire using the full WEP reduction. SSA employees

collect this information once from the applicant at the time they file their claim. The respondents are applicants for old age and disability benefits.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-150 .....	90,000	1	8	12,000

**4. Modified Benefit Formula Questionnaire-Employer—20 CFR 401 & 402—0960-0477.** Sections 215(a)(7) and 215(d)(3) of the Act require SSA to use a modified benefit formula to compute Social Security retirement or disability benefits for persons first eligible (after 1985) for both a Social Security benefit and a pension or annuity, based on employment not covered by Social Security. This method is the WEP. SSA

makes a determination regarding whether the WEP is applicable and when to apply it to a person's benefit. SSA uses Form SSA-58 to verify the claimant's allegations on Form SSA-150 (OMB #0906-0395, Modified Benefits Formula Questionnaire). SSA also uses Form SSA-58 to determine if the modified benefit formula is applicable and when to apply it to a person's benefits. SSA sends Form SSA-58 to an

employer for pension related information, if the claimant is unable to provide it. The respondents are employers of people who are eligible after 1985 for both Social Security benefits and a pension based on work not covered by SSA.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-58 .....	30,000	1	20	10,000

**5. Questionnaire for Children Claiming Supplemental Security Income (SSI) Benefits—0960-0499.** Section 1631(d)(2) of the Act allows SSA to determine the eligibility of an applicant's claim for Supplemental Security Income (SSI) payments. Parents or legal guardians seeking to obtain or

retain SSI eligibility for their children use Form SSA-3881-BK to provide SSA with the addresses of non-medical sources such as schools, counselors, agencies, organizations, or therapists who would have information about a child's functioning. SSA uses this information to help determine a child's

claim or continuing eligibility for SSI. The respondents are applicants who appeal SSI childhood disability decisions or recipients undergoing a continuing disability review.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-3881-BK (Paper Version) .....	84,500	1	30	42,250
SSA-3881-BK (Electronic Disability Collect System) .....	45,500	1	30	22,750
Totals .....	130,000	.....	.....	65,000

**6. Work History Report—20 CFR 404.1515, 404.1560, 404.1565, 416.960 and 416.3965—0960-0578.** Under certain circumstances, SSA asks individuals applying for disability about work they have performed in the past.

Applicants use Form SSA-3369, Work History Report, to provide detailed information about jobs held prior to becoming unable to work. State Disability Determination Services evaluate the information, together with

medical evidence, to determine eligibility for disability payments. Respondents are disability applicants and third parties assisting applicants.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-3369 (Paper Version) .....	1,553,900	1	60	1,553,900
SSA-3369 (Electronic Disability Collect System) .....	38,049	1	60	38,049
Totals .....	1,591,949	.....	.....	1,591,949

7. *Authorization To Obtain Earnings Data From the Social Security Administration—0960-0602.* On occasion, public and private organizations and agencies need to obtain detailed earnings information about specific Social Security number (SSN) holding wage earners for business purposes (e.g., pension funds, State

agencies, etc.). Respondents use Form SSA-581 to identify the SSN holder whose information they are requesting, and provide authorization from the SSN holder, when applicable. SSA uses the information provided on Form SSA-581 to: (1) Identify the wage earner; (2) establish the period of earnings information requested; (3) verify the

wage earner authorized SSA to release this information to the requesting party; and (4) produce the Itemized Statement of Earnings (SSA-1826). The respondents are private businesses, state or local agencies, and other federal agencies.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-581 .....	24,000	1	2	800

8. *Appeal of Determination for Help With Medicare Prescription Drug Plan Costs—0960-0695.* Public Law 108-173, the MMA of 2003 established the Medicare Part D program for voluntary prescription drug coverage for certain low-income individuals. The MMA stipulates the provision of subsidies for individuals who are eligible for the

program and who meet eligibility criteria for help with premium, deductible, and co-payment costs. SSA uses Form SSA-1021, Appeal of Determination for Help With Medicare Prescription Drug Plan Costs, to obtain information from individuals who appeal SSA's decisions regarding eligibility or continuing eligibility for a

Medicare Part D subsidy. The respondents are Medicare beneficiaries, or proper applicants acting on behalf of a Medicare beneficiary, who do not agree with the outcome of an SSA subsidy eligibility determination, and are filing an appeal.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-1021 (Paper Version) .....	3,283	1	10	547
SSA-1021 (Internet Version; Medicare Application Processing System) .....	11,037	1	10	1,840
Totals .....	14,320	.....	.....	2,387

9. *Sheltered Workshop Wage Reporting—0960-0771.* Sheltered workshops are non-profit organizations or institutions that implement a recognized program of rehabilitation for handicapped workers, or provide such workers with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic

nature. Sheltered workshops perform a service for their clients by reporting monthly wages directly to SSA. SSA uses the information these workshops provide to verify and post monthly wages to the SSI recipient's record. Most workshops report monthly wage totals to their local SSA office so we can adjust the client's SSI payment amount

in a timely manner and prevent overpayments. Sheltered workshops are motivated to report wages voluntarily as a service to their clients. Respondents are sheltered workshops that report monthly wages for services performed in the workshop.

*Type of Request:* Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Sheltered Workshop Wage Reporting .....	800	12	15	2,400

10. *Medicare Income-Related Monthly Adjustment Amount—Life-Changing Event Form—0960-0784.* Federally mandated reductions in the Federal Medicare Part B and prescription drug coverage subsidies result in selected Medicare recipients paying higher premiums with income above a specific threshold. The amount of the premium subsidy reduction is an income-related monthly adjustment amount (IRMAA).

The Internal Revenue Service (IRS) transmits income tax return data to SSA for SSA to determine the IRMAA. SSA uses the Form SSA-44 to determine if a recipient qualifies for a reduction in the IRMAA. If affected Medicare recipients believe SSA should use more recent tax data because of a life-changing event that significantly reduces their income, they can report these changes to SSA and ask for a new

initial determination of their IRMAA. The respondents are Medicare Part B and prescription drug coverage recipients and enrollees with modified adjusted gross income over a high-income threshold who experience one of eight significant life-changing events.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA-44 (Personal Interview in SSA field office) .....	140,378	1	30	70,189
SSA-44 (Paper Version) .....	60,162	1	45	45,122
Totals .....	200,540	.....	.....	115,311

Dated: April 21, 2017.  
**Naomi R. Sipple,**  
*Reports Clearance Officer, Social Security Administration.*  
 [FR Doc. 2017-08403 Filed 4-25-17; 8:45 am]  
**BILLING CODE 4191-02-P**

**DEPARTMENT OF STATE**

[Public Notice: 9977]

**Designation of Mubarak Mohammed A Alotaibi, aka Abu Ghayth, aka Waqqas al-Jazrawi, 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 Mubarak Mohammed A Alotaibi, aka Abu Ghayth, aka Waqqas al-Jazrawi, 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 23, 2017.  
**Rex W. Tillerson,**  
*Secretary of State.*  
 [FR Doc. 2017-08431 Filed 4-25-17; 8:45 am]  
**BILLING CODE 4710-AD-P**

**DEPARTMENT OF STATE**

[Public Notice: 9966]

**30-Day Notice of Proposed Information Collection: Affidavit of Relationship (AOR) for Minors Who Are Nationals of El Salvador, Guatemala, or Honduras**

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

**DATES:** Submit comments directly to the Office of Management and Budget (OMB) up to May 26, 2017.

**ADDRESSES:** Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email:* [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202-395-5806. Attention: Desk Officer for Department of State.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Monica Greco, PRM/Office of Admissions, 2025 E Street NW., Washington DC 20522, who may be reached on 202-453-9251 or at [GrecoMC@state.gov](mailto:GrecoMC@state.gov).

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Affidavit of Relationship (AOR) for Minors Who Are Nationals Of El Salvador, Guatemala, and Honduras.
- *OMB Control Number:* 1405-0217.

- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* PRM/A.
- *Form Number:* DS-7699.
- *Respondents:* Lawfully present parents in the U.S. with children in El Salvador, Guatemala, and Honduras.
- *Estimated Number of Respondents:* 5,000.
- *Estimated Number of Responses:* 5,000.
- *Average Time Per Response:* 120 minutes per response.
- *Total Estimated Burden Time:* 10,000 hours.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

**Abstract of Proposed Collection**

The Department of State Bureau of Population, Refugees, and Migration (PRM) is responsible for coordinating and managing the U.S. Refugee Admissions Program (USRAP). PRM coordinates within the Department of State, as well as with the Department of Homeland Security's U.S. Citizenship and Immigration Services (DHS/USCIS), in carrying out this responsibility. A critical part of the State Department's responsibility is determining which individuals, from among millions of refugees worldwide, will have access to



U.S. resettlement consideration. PRM and DHS/USCIS are expanding an in-country program to provide a means for certain persons who are lawfully present in the United States to claim a relationship with child(ren) in Honduras, El Salvador, and Guatemala and to assist the U.S. Department of State in determining whether those child(ren) and certain derivative beneficiaries are qualified to apply for access to the USRAP for family reunification purposes. This form also assists DHS/USCIS to verify parent-child relationships during refugee case adjudication. The main purpose of the DS-7699 is for the U.S.-based parent to provide biographical information about his/her child(ren) in the qualifying countries who may subsequently seek access to the USRAP for verification by the U.S. government.

### Methodology

This information collection currently involves use of electronic techniques. Parents (respondents) in the United States will work closely with a resettlement agency during the completion of the AOR to ensure that the information is accurate. Parents may visit any resettlement agency located in a U.S. community to complete an AOR. Sometimes respondents do not have strong English-language skills and benefit from having a face-to-face meeting with resettlement agency staff. The DS-7699 form will be completed electronically. Completed AORs will be printed out for ink signature by the respondents. The electronic copy will then be submitted electronically to the Refugee Processing Center (RPC) and downloaded into the Worldwide Refugee Admissions Processing System (WRAPS). The signed paper copy will remain with PRM's Reception and Placement Agency partners.

Dated: April 19, 2017.

**Simon Henshaw,**

*Acting Assistant Secretary, Bureau of Population, Refugees, and Migration, Department of State.*

[FR Doc. 2017-08430 Filed 4-25-17; 8:45 am]

**BILLING CODE 4710-33-P**

## DEPARTMENT OF STATE

[Public Notice: 9975]

### U.S. Advisory Commission on Public Diplomacy; Notice of Charter Renewal

The Department of State has renewed the Charter for the U.S. Advisory Commission on Public Diplomacy. The bipartisan commission appraises U.S. Government activities intended to

understand, inform, and influence foreign publics. The Advisory Commission may conduct studies, inquiries, and meetings, as it deems necessary. It may assemble and disseminate information and issue reports and other publications, subject to the approval of the Chairperson, in consultation with the Executive Director. The Advisory Commission may undertake foreign travel in pursuit of its studies and coordinate, sponsor, or oversee projects, studies, events, or other activities that are necessary to fulfill its functions.

The Commission consists of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party. The President designates a member to chair the Commission.

The current members of the Commission are: Mr. Sim Farar of California, Chairman; Mr. William Hybl of Colorado, Vice-Chairman; Ambassador Lyndon Olson of Texas; Ambassador Penne Korth-Peacock of Texas; Ms. Anne Terman Wedner of Illinois; and Ms. Georgette Mosbacher of New York. One seat on the Commission is currently vacant. To request further information about the meeting or the U.S. Advisory Commission on Public Diplomacy, you may contact its Executive Director, Shawn Powers at [PowersSM@state.gov](mailto:PowersSM@state.gov).

**Shawn Powers,**

*Executive Director, Advisory Commission on Public Diplomacy, Department of State.*

[FR Doc. 2017-08384 Filed 4-25-17; 8:45 am]

**BILLING CODE 4710-45-P**

## DEPARTMENT OF STATE

[Public Notice: 9972]

### List of Participating Countries and Entities in the Kimberley Process Certification Scheme, Known as "Participants" for the Purposes of the Clean Diamond Trade Act of 2003 (Public Law 108-19) and Section 2 of Executive Order 13312 of July 29, 2003

**AGENCY:** Bureau of Economic and Business Affairs, Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State is updating the list of Participants eligible

for trade in rough diamonds under the Act, and their respective Importing and Exporting Authorities, revising the previously published list of May 18, 2015 to reflect the removal of the suspension of the Central African Republic and the removal of the self-suspension of Venezuela.

**DATES:** This notice is effective on April 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Pamela Fierst-Walsh, Senior Advisor, Bureau of Economic and Business Affairs, Department of State, (202) 647-2856.

**SUPPLEMENTARY INFORMATION:** Section 4 of the Clean Diamond Trade Act of 2003, Public Law 108-19 (the "Act") requires the President to prohibit the importation into, or the exportation from, the United States of any rough diamond, from whatever source, that has not been controlled through the Kimberley Process Certification Scheme (KPCS). Under Section 3(2) of the Act, "controlled through the Kimberley Process Certification Scheme" means an importation from the territory of a Participant or exportation to the territory of a Participant of rough diamonds that is either (i) carried out in accordance with the KPCS, as set forth in regulations promulgated by the President, or (ii) controlled under a system determined by the President to meet substantially the standards, practices, and procedures of the KPCS. The referenced regulations are contained at 31 CFR part 592 ("Rough Diamond Control Regulations") (68 FR 45777, August 4, 2003).

Section 6(b) of the Act requires the President to publish in the **Federal Register** a list of all Participants, and all Importing and Exporting Authorities of Participants, and to update the list as necessary. Section 2 of Executive Order 13312 of July 29, 2003 delegates this function to the Secretary of State. Section 3(7) of the Act defines "Participant" as a state, customs territory, or regional economic integration organization identified by the Secretary of State. Section 3(3) of the Act defines "Exporting Authority" as one or more entities designated by a Participant from whose territory a shipment of rough diamonds is being exported as having the authority to validate a Kimberley Process Certificate. Section 3(4) of the Act defines "Importing Authority" as one or more entities designated by a Participant into whose territory a shipment of rough diamonds is imported as having the authority to enforce the laws and regulations of the Participant regarding imports, including the verification of

the Kimberley Process Certificate accompanying the shipment.

### List of Participants

Pursuant to Sections 3 and 6 of the Act, Section 2 of Executive Order 13312, Department of State Delegations of Authority No. 245-1 (February 13, 2009), and No. 376 (October 31, 2011), I hereby identify the following entities as Participants under section 6(b) of the Act. Included in this List are the Importing and Exporting Authorities for Participants, as required by Section 6(b) of the Act. This list revises the previously published list of May 18, 2015 to reflect the reinstatement of the Central African Republic and Venezuela.

Angola—Ministry of Trade, Ministry of Geology and Mines (Exporting Authority), no Importing Authority specified.  
 Armenia—Ministry of Economy.  
 Australia—Department of Industry, Innovation and Science (Exporting Authority), Department of Immigration and Border Protection (Importing Authority).  
 Bangladesh—Export Promotion Bureau.  
 Belarus—Ministry of Finance.  
 Botswana—Ministry of Minerals Energy and Water Resources—Diamond Office.  
 Brazil—Ministry of Mines and Energy—National Department of Mineral Production.  
 Cambodia—Ministry of Commerce.  
 Cameroon—National Permanent Secretariat for the Kimberley Process in Cameroon.  
 Canada—Ministry of Natural Resources Canada.  
 Central African Republic—Ministry of Mines, Energy and Hydraulics.  
 China—General Administration of Quality Supervision, Inspection and Quarantine; in the Hong Kong Special Administrative Region: Trade and Industry Department.  
 Congo, Democratic Republic of the—Ministry of Mines—Le Centre d'Expertise, d'Evaluation et de Certification des Substances Minérales Précieuses et Semi-précieuses.  
 Congo, Republic of the—Ministry of Mines—Bureau d'Expertise, d'Evaluation et de Certification des Substances Minérales Précieuses.  
 Cote D'Ivoire (Ivory Coast)—General Directorate of Customs.  
 European Union—European Commission—Foreign Policy Instruments; in Belgium: Federal Public Service of Economy; in the Czech Republic: General Directorate of Customs; in Germany: Hauptzollamt Koblenz (Exporting Authority), Generalzolldirektion—Direktion VI (Importing Authority); in Portugal: Autoridade Tributária e Aduaneira—Direção de Serviços de Regulação Aduaneira; in Romania: General Department for Precious Metals, Precious Stones and the Kimberley Process—National Authority for Consumer Protection; in the United Kingdom: Foreign and Commonwealth Office—Government Diamond Office.

Ghana—Precious Minerals Marketing Company Limited.  
 Guinea—Ministry of Mines and Geology.  
 Guyana—Guyana Geology and Mines Commission.  
 India—The Gem and Jewellery Export Promotion Council.  
 Indonesia—Ministry of Trade—Director General for Foreign Trade.  
 Israel—Ministry of Economy and Industry—Office of the Diamond Controller.  
 Japan—Ministry of Economy, Trade and Industry—Agency for Natural Resources and Energy.  
 Kazakhstan—Ministry for Investments and Development—Committee for Technical Regulation and Metrology.  
 Korea, Republic of (South Korea)—Ministry of Trade, Industry and Energy.  
 Laos—Ministry of Industry and Commerce—Department of Import and Export.  
 Lebanon—Ministry of Economy and Trade.  
 Lesotho—Ministry of Mining—Department of Mines.  
 Liberia—Ministry of Lands, Mines and Energy.  
 Malaysia—Royal Malaysian Customs Department.  
 Mali—Ministry of Mines—Office of Expertise, Evaluation and Certification of Rough Diamonds.  
 Mauritius—Ministry of Industry, Commerce and Consumer Protection—Trade Division.  
 Mexico—Ministry of Economy—Directorate-General for International Trade in Goods.  
 Namibia—Ministry of Mines and Energy—Directorate of Diamond Affairs.  
 New Zealand—New Zealand Customs Service.  
 Norway—Norwegian Customs Service.  
 Panama—National Customs Authority.  
 Russia—Ministry of Finance.  
 Sierra Leone—National Minerals Agency, National Revenue Authority.  
 Singapore—Singapore Customs.  
 South Africa—South African Diamond and Precious Metals Regulator.  
 Sri Lanka—National Gem and Jewellery Authority.  
 Swaziland—Office of the Commissioner of Mines.  
 Switzerland—State Secretariat for Economic Affairs.  
 Taipei—Ministry of Economic Affairs—Bureau of Foreign Trade.  
 Tanzania—Ministry of Energy and Minerals—Commissioner for Minerals.  
 Thailand—Ministry of Commerce—Department of Foreign Trade.  
 Togo—Ministry of Mines and Energy—Head Office of Mines and Geology.  
 Turkey—Borsa Istanbul Precious Metals and Diamond Market.  
 Ukraine—State Gemological Centre of Ukraine.  
 United Arab Emirates—Dubai Multi Commodities Center Authority.  
 United States of America—U.S. Customs and Border Protection (Importing Authority), United States Census Bureau (Exporting Authority).  
 Venezuela—Central Bank of Venezuela.  
 Vietnam—Ministry of Industry and Trade—Import Export Management Divisions in Hanoi and Ho Chi Minh City.  
 Zimbabwe—Minerals Marketing Corporation of Zimbabwe (Exporting Authority),

Zimbabwe Revenue Authority (Importing Authority).

**Patricia M. Haslach,**

*Acting Assistant Secretary, Bureau of Economic and Business Affairs, Department of State.*

[FR Doc. 2017-08385 Filed 4-25-17; 8:45 am]

**BILLING CODE 4710-AE-P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-NEW]

### Agency Information Collection Activity Under OMB Review: PACT: Veteran's Health and Well-Being

**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 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information through [www.Regulations.gov](http://www.Regulations.gov), or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_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](mailto:cynthia.harvey-pryor@va.gov). Please refer to "OMB Control No. 2900-NEW."

#### SUPPLEMENTARY INFORMATION:

**Authority:** 44 U.S.C. 3501-3521.

**Titles:** PACT: Veteran's Health and Well-Being.

**OMB Control Number:** 2900-NEW.

**Type of Review:** New collection.

**Abstract:** The purpose of the study, which is funded by the PACT Demonstration Lab Coordinating Center,

is to conduct a survey of Veterans to capture novel predictors of hospital admission and identify clusters of complex patients based on survey- and claims-based covariates. This study provides the first empirical application of the Cycle of Complexity conceptual model that the study team developed and recently published, which postulates that patient complexity represents more than having multiple chronic conditions. It is critical to evaluate whether complexity defined on the basis of survey-based and claims-based covariates is more predictive than diagnosis of multiple chronic conditions based on claims data alone.

The proposed patient survey is designed to measure a broad range of self-reported patient factors that increase Veterans' risk for being admitted to hospital, including life stressors, perceived locus of control, grit, resilience, functional status, social support and loneliness, sleep problems, symptoms, food insecurity, and patient activation. This survey will help us understand, for the first time, the extent to which self-reported factors can markedly improve prediction of patient risk for hospital admission, which may help the PACT Demonstration Lab Coordinating Center Intelligence improve its risk prediction models. This project may also identify patient-reported outcomes (PROs) that can be effectively integrated into routine VA clinical practice, as the VA begins to explore inclusion of PROs into the VA electronic health record. We are requesting approval to conduct this survey to a nationally representative sample of 10,000 patients who obtain primary care in VA because there are no extant VA surveys that capture the range of patient factors that we propose to collect, which are not available in VA administrative databases. If we did not capture these patient factors, our risk prediction analysis might be incorrect or biased.

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 on Thursday, January 26, 2017, Volume 82, No. 16, pages 8563–8564.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 2500.

*Estimated Average Burden per Respondent:* 30 minutes.

*Frequency of Response:* Annually.

*Estimated Annual Responses:* 5,000.

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. 2017–08442 Filed 4–25–17; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0776]

**Agency Information Collection Activity: Artery and Vein Conditions (Vascular Diseases Including Varicose Veins) Disability Benefits Questionnaire, Hypertension Disability Benefits Questionnaire, Non-Ischemic Heart Disease (Including Arrhythmias and Surgery) Disability Benefits Questionnaire, Diabetic Peripheral Neuropathy (Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire, Diabetes Mellitus Disability Benefits Questionnaire, Scars/Disfigurement Disability Benefits Questionnaire, Skin Diseases Disability Benefits Questionnaire, Amputations Disability Benefits Questionnaire, Muscles Injuries Disability Benefits Questionnaire, Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire, Eye Conditions Disability Benefits Questionnaire**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Form 21–0960 series is used to gather necessary information from a claimant's treating physician regarding the results of medical examinations. VA gathers medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits. The Disability Benefit Questionnaire title will include the name of the specific disability for which it will gather information. VAF 21–0960A–2, Artery and Vein Conditions

vascular diseases including varicose veins) Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of arteries, veins, and/or peripheral vascular disease; VAF 21–0960A–3, Hypertension, Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of hypertension; VAF 21–0960A–4, Non-ischemic Heart Disease (including Arrhythmias and Surgery) Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of any non-ischemic heart disease; VAF 21–0960C–4, Diabetic Peripheral Neuropathy (diabetic sensory-motor peripheral neuropathy) Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of a diabetic sensory-motor peripheral neuropathy condition; VAF 21–0960E–1, Diabetes Mellitus Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of diabetes mellitus; VAF 21–0960F–1, Scars/Disfigurement Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of any scars or disfigurement; VAF 21–0960F–2, Skin Diseases Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of any skin disease. VAF 21–0960M–1 Amputations Disability Benefits Questionnaire, will gather information related to the claimant's amputations; VAF 21–0960M–10 Muscle Injuries Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of a muscle injury disability. VAF 21–0960M–15 Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of temporomandibular joint dysfunction or TMJ. VAF 21–0960N–2 Eye Conditions Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of an eye condition.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before June 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to “OMB Control No. 2900–0776” in any correspondence. During the comment

period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:**

Nancy J. Kessinger at (202) 632-8924 or FAX (202) 632-8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

**Authority:** Public Law 104-13; 44 U.S.C. 3501-21.

**Title:** (Artery and Vein Conditions (Vascular Diseases Including Varicose Veins) Disability Benefits Questionnaire (VA Form 21-0960A-2), Hypertension Disability Benefits Questionnaire (VA Form 21-0960A-3), Non-Ischemic Heart Disease (Including Arrhythmias and Surgery) Disability Benefits Questionnaire (VA Form 21-0960A-4), Diabetic Peripheral Neuropathy (Diabetic Sensory-Motor Peripheral Neuropathy) Disability Benefits Questionnaire (VA Form 21-0960C-4), Diabetes Mellitus Disability Benefits Questionnaire (VA Form 21-0960E-1), Scars/Disfigurement Disability Benefits Questionnaire (VA Form 21-0960F-1), Skin Diseases Disability Benefits Questionnaire (VA Form 21-0960F-2), Amputations Disability Benefits Questionnaire (VA Form 21-0960M-1), Muscles Injuries Disability Benefits Questionnaire (VA Form 21-0960M-10), Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire (VA Form 21-0960M-15), Eye Conditions Disability Benefits Questionnaire (VA Form 21-0960N-2)).

**OMB Control Number:** 2900-0776.

**Type of Review:** Extension of an approved collection.

**Abstract:** VA Form 21-0960 series is used to gather necessary information from a claimant's treating physician regarding the results of medical

examinations. VA gathers medical information related to the claimant that is necessary to adjudicate the claim for VA disability benefits. The Disability Benefit Questionnaire title will include the name of the specific disability for which it will gather information. VAF 21-0960A-2, Artery and Vein Conditions vascular diseases including varicose veins) Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of arteries, veins, and/or peripheral vascular disease; VAF 21-0960A-3, Hypertension, Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of hypertension; VAF 21-0960A-4, Non-ischemic Heart Disease (including Arrhythmias and Surgery) Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of any non-ischemic heart disease; VAF 21-0960C-4, Diabetic Peripheral Neuropathy (diabetic sensory-motor peripheral neuropathy) Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of a diabetic sensory-motor peripheral neuropathy condition; VAF 21-0960E-1, Diabetes Mellitus Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of diabetes mellitus; VAF 21-0960F-1, Scars/Disfigurement Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of any scars or disfigurement; VAF 21-0960F-2, Skin Diseases Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of any skin disease. VAF 21-0960M-1 Amputations Disability Benefits Questionnaire, will gather information related to the claimant's amputations; VAF 21-0960M-10 Muscle Injuries Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of a muscle injury disability. VAF 21-0960M-15 Temporomandibular Joint (TMJ) Conditions Disability Benefits Questionnaire, will gather information related to the claimant's diagnosis of temporomandibular joint dysfunction or TMJ. VAF 21-0960N-2 Eye Conditions Disability Benefits Questionnaire will gather information related to the claimant's diagnosis of an eye condition.

**Affected Public:** Individuals or households.

**Estimated Annual Burden:** 162,500.

**Estimated Average Burden per**

**Respondent:** 25 minutes.

**Frequency of Response:** One time.

**Estimated Number of Respondents:** 400,000.

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. 2017-08440 Filed 4-25-17; 8:45 am]

**BILLING CODE 8320-01-P**

**DEPARTMENT OF VETERANS AFFAIRS**

[OMB Control No. 2900-0720]

**Agency Information Collection**

**Activity: Operation Enduring Freedom/ Operation Iraqi Freedom Seriously Injured/III Service Member Veteran Worksheet**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice. VA Form 21-0773 is a checklist for Veterans Service Representatives to verify they have given information, applications, and/or referral service to our Operation Enduring Freedom or Operation Iraqi Freedom service members who have at least six months remaining on active duty and who may have suffered a serious injury or illness. This form will be maintained in the veteran's claims folder.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before June 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to "OMB Control No. 2900-0720" in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:**

Nancy J. Kessinger at (202) 632-8924 or FAX (202) 632-8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* Public Law 104-13; 44 U.S.C. 3501-21.

*Title:* Operation Enduring Freedom/ Operation Iraqi Freedom Seriously Injured/Ill Service Member Veteran Worksheet (VA Form 21-0773).

*OMB Control Number:* 2900-0720.

*Type of Review:* Revision of an approved collection.

*Abstract:* VA Form 21-0773 is a checklist for Veterans Service Representatives to verify they have given information, applications, and/or referral service to our Operation Enduring Freedom or Operation Iraqi Freedom service members who have at least six months remaining on active duty and who may have suffered a serious injury or illness. This form will be maintained in the veteran's claims folder.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 7,000 hours.

*Estimated Average Burden per Respondent:* 30 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 14,000.

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. 2017-08438 Filed 4-25-17; 8:45 am]

**BILLING CODE 8320-01-P**

**DEPARTMENT OF VETERANS AFFAIRS**

[OMB Control No. 2900-0091]

**Agency Information Collection Activity Under OMB Review: Application and Renewal for Health Care Benefits**

**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 26, 2017.

**ADDRESSES:** Submit written comments on the collection of information through [www.Regulations.gov](http://www.Regulations.gov), or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to [oir\\_submission@omb.eop.gov](mailto:oir_submission@omb.eop.gov). Please refer to "OMB Control No. 2900-0091" 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](mailto:cynthia.harvey-pryor@va.gov). Please refer to "OMB Control No. 2900-0091."

**SUPPLEMENTARY INFORMATION:**

*Authority:* 44 U.S.C. 3501-3521.

*Titles:*

1. Enrollment Application for VA Health Care—VA Form 10-10EZ.
2. Application for Renewal of Health Care Benefits—VA Form 10-10EZR.
3. Request for Hardship Determination—VA Form 10-10HS.

*OMB Control Number:* 2900-0091.

*Type of Review:* Reinstatement.

*Abstracts:*

- a. VA Form 10-10EZ collects information only from new applicants for VA medical care, nursing home, domiciliary, dental benefits, and new enrollees in the VA health care system.
- b. VA Form 10-10EZR, Health Benefits Renewal Form, is used to collect data from those veterans who wish to update their application data.

c. VA Form 10-10HS collects information only from veterans who are in a copay required status for hospital care and medical services, but due to a loss of income project their income for the current year will be substantially below the VA means test limits.

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 on February 1, January 19, 2017, Volume 82, No. 20, page 8971.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:*

- a. Enrollment Application for VA Health Care—VA Form 10-10EZ—270,000 hours.
- b. Application for Renewal of Health Care Benefits—VA Form 10-10EZR—343,600 hours.
- c. Request for Hardship Determination—VA Form 10-10HS—1,750 hours.

*Estimated Average Burden per Respondent:*

- a. Enrollment Application for VA Health Care—VA Form 10-10EZ—30 minutes.
- b. Application for Renewal of Health Care Benefits—VA Form 10-10EZR—24 minutes.
- c. Request for Hardship Determination—VA Form 10-10HS—15 minutes.

*Frequency of Response:* Annually.

*Estimated Annual Responses:*

- a. Enrollment Application for VA Health Care—VA Form 10-10EZ—540,000.
- b. Application for Renewal of Health Care Benefits—VA Form 10-10EZR—859,000.
- c. Request for Hardship Determination—VA Form 10-10HS—7,000.

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. 2017-08441 Filed 4-25-17; 8:45 am]

**BILLING CODE 8320-01-P**

**DEPARTMENT OF VETERANS AFFAIRS**

[OMB Control No. 2900–0252]

**Agency Information Collection  
Activity: Application for Authority To  
Close Loans on an Automatic Basis—  
Nonsupervised Lenders****AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed *extension*, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before *June 26, 2017*.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov) or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of

Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to [nancy.kessinger@va.gov](mailto:nancy.kessinger@va.gov). Please refer to “OMB Control No. 2900–0252” in any correspondence. During the comment period, comments may be viewed online through the FDMS.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA’s functions, including whether the information will have practical utility; (2) the accuracy of VBA’s estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

**Authority:** Public Law 104–13; 44 U.S.C. 3501–21.

*Title:* Application for Authority to Close Loans on an Automatic Basis—Nonsupervised Lenders (VA Form 26–8736).

*OMB Control Number:* 2900–0252.

*Type of Review:* Extension of a Previously Approved Collection.

*Abstract:* VA Form 26–8736 is used by non-supervised lenders requesting approval to close loans on an automatic basis. The form contains information and data considered crucial for making acceptability determinations as to lenders who shall be approved for this privilege. Upon receipt of the form, the VA Regional Loan Centers will process and evaluate the information. They will then advise the lender-applicant of their decision. Without this information, VA would not be able to determine if lender-applicants meet the qualifications for processing loans on an automatic basis.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 50 hours.

*Estimated Average Burden per Respondent:* 25 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 120.

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. 2017–08439 Filed 4–25–17; 8:45 am]

**BILLING CODE 8320–01–P**



# FEDERAL REGISTER

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Vol. 82

Wednesday,

No. 79

April 26, 2017

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Part II

The President

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Executive Order 13789—Identifying and Reducing Tax Regulatory Burdens





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# Presidential Documents

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Title 3—

Executive Order 13789 of April 21, 2017

The President

## Identifying and Reducing Tax Regulatory Burdens

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1. Policy.** The Federal tax system should be simple, fair, efficient, and pro-growth. The purposes of tax regulations should be to bring clarity to the already complex Internal Revenue Code (title 26, United States Code) and to provide useful guidance to taxpayers. Contrary to these purposes, numerous tax regulations issued over the last several years have effectively increased tax burdens, impeded economic growth, and saddled American businesses with onerous fines, complicated forms, and frustration. Immediate action is necessary to reduce the burden existing tax regulations impose on American taxpayers and thereby to provide tax relief and useful, simplified tax guidance.

**Sec. 2. Addressing Tax Regulatory Burdens.** (a) In furtherance of the policy described in section 1 of this order, the Secretary of the Treasury (Secretary) shall immediately review all significant tax regulations issued by the Department of the Treasury on or after January 1, 2016, and, in consultation with the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, identify in an interim report to the President all such regulations that:

- (i) impose an undue financial burden on United States taxpayers;
- (ii) add undue complexity to the Federal tax laws; or
- (iii) exceed the statutory authority of the Internal Revenue Service.

This interim report shall be completed no later than 60 days from the date of this order. In conducting the review required by this subsection, earlier determinations of whether a regulation is significant pursuant to Executive Order 12866 of September 30, 1993, as amended (Regulatory Planning and Review), shall not be controlling.

(b) No later than 150 days from the date of this order, the Secretary shall prepare and submit a report to the President that recommends specific actions to mitigate the burden imposed by regulations identified in the interim report required under subsection (a) of this section. The Secretary shall also publish this report in the *Federal Register* upon submitting it to the President. The Secretary shall take appropriate steps to cause the effective date of such regulations to be delayed or suspended, to the extent permitted by law, and to modify or rescind such regulations as appropriate and consistent with law, including, if necessary, through notice and comment rulemaking. The Secretary shall submit for publication in the *Federal Register* a summary of the actions taken in response to the report no later than 10 days following the finalization of such actions. Should all such actions not be finalized within 180 days following the submission of the report to the President, the Secretary shall submit for publication in the *Federal Register* an initial report summarizing the actions taken to that point.

(c) To ensure that future tax regulations adhere to the policy described in section 1 of this order, the Secretary and the Director of the Office of Management and Budget shall review and, if appropriate, reconsider the scope and implementation of the existing exemption for certain tax regulations from the review process set forth in Executive Order 12866 and any successor order.

(d) The Secretary shall cause section 32.1.5.4.7.5.3 of the Internal Revenue Manual to be revised, if necessary to fulfill the directives in subsection (c) of this section.

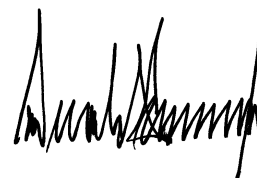
**Sec. 3. General Provisions.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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

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

THE WHITE HOUSE,  
*April 21, 2017.*

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