FEDERAL REGISTER

Vol. 83 Tuesday,

No. 142 July 24, 2018

Pages 34933–35104

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.federalregister.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.govinfo.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $860 plus postage, or $929, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

How To Cite This Publication: Use the volume number and the page number. Example: 83 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche **202–512–1800**

Assistance with public subscriptions **202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche **202–512–1800**

Assistance with public single copies **1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email *FRSubscriptions@nara.gov*

Phone **202–741–6000**

Contents

Federal Register

Vol. 83, No. 142

Tuesday, July 24, 2018

Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
13845.....35099

5 CFR
185.....34933

7 CFR
985.....34935
Proposed Rules:
956.....34953

14 CFR
Proposed Rules:
71.....34956

17 CFR
230.....34940
Proposed Rules:
230.....34958

33 CFR
165 (4 documents) 34944, 34946, 34948

40 CFR
52.....34949
Proposed Rules:
68.....34967
180.....34968

47 CFR
Proposed Rules:
52.....34974

50 CFR
224.....35062
226.....35062
622.....34951
679.....34951

Rules and Regulations

Federal Register
Vol. 83, No. 142
Tuesday, July 24, 2018

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 185

RIN 3206–AN39

Program Fraud Civil Remedies: Civil Monetary Penalty Inflation Adjustment

AGENCY: Office of Personnel Management (OPM).

ACTION: Final rule.

SUMMARY: This rule adjusts the level of civil monetary penalties contained in U.S. Office of Personnel Management regulations implementing the Program Fraud Civil Remedies Act of 1986, with an initial ''catch-up'' adjustment under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. It also makes subsequent annual catch up adjustments.

DATES: Effective August 23, 2018.

FOR FURTHER INFORMATION CONTACT: Austin Fulk, Office of the General Counsel, Office of Personnel Management, 1900 E St, NW, Washington, DC 20415, *Austin.Fulk@opm.gov,* (202) 606–1700.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (''the Act''). The Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rulemaking, and (2) make subsequent annual adjustments for inflation. The purpose of these adjustments is to maintain the deterrent effect of civil penalties.

On July 19, 2016, OPM made an initial adjustment to the following civil monetary penalties to carry out the requirements of the 2015 Act, based on instructions found in Office of Management and Budget Memorandum M–16–06:

CFR citation	Description of the penalty	Current penalty	Catchup adjustment	Adjusted penalty
5 CFR 185.103(a)	Civil Penalty for False Claims	$5,000	$5,781	$10,781
5 CFR 185.103(f)(2)	Civil Penalty for False Statements	5,000	5,781	10,781

That rule took effect on August 1, 2016.

This rule takes into account adjustments for the year 2016 based on inflation for that year. These calculations were made based on guidance contained in Office of Management and Budget Memorandum M–17–11:

CFR citation	Description of the penalty	Adjusted penalty	2016 Inflation adjustment	2016 Inflation adjusted amount
5 CFR 185.103(a)	Civil Penalty for False Claims	$10,781	$176	$10,957
5 CFR 185.103(f)(2)	Civil Penalty for False Statements	10,781	176	10,957

This rule makes additional adjustments for the year 2017 based on inflation for that year. These calculations were made based on guidance contained in Office of Management and Budget Memorandum M–18–03:

CFR citation	Description of the penalty	Adjusted penalty	2017 Inflation adjustment	2016 Inflation adjusted amount
5 CFR 185.103(a)	Civil Penalty for False Claims	$10,957	$223	$11,181
5 CFR 185.103(f)(2)	Civil Penalty for False Statements	10,957	223	11,181

This final rule is being issued without prior public notice or opportunity for public comments. The 2015 Act's amendments to the Inflation Adjustment Act required the agency to adjust penalties initially through an interim final rulemaking, which did not require the agency to complete a notice and comment process prior to promulgating the interim final rule. The amendments also explicitly required the agency to make subsequent annual adjustments notwithstanding 5 U.S.C. 553 (the section of the Administrative Procedure Act that normally requires agencies to engage in notice and comment). The formula used for adjusting the amount of civil penalties is given by statute, with no discretion provided to OPM regarding the computation of the adjustments. OPM is charged only with performing ministerial computations to determine the amount of adjustment to the civil penalties due to increases in

the Consumer Price Index for all Urban Consumers (CPI–U).

II. Calculation of Adjustment

The Office of Management and Budget (OMB) issued guidance on calculating the initial catch-up adjustment. *See* February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.* Under this guidance, OPM has identified applicable civil monetary penalties and calculated the catch-up adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. The calculated catch-up adjustment is based on the percent change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October in the year of the previous adjustment (or in the year of establishment, if no adjustment has been made) and the October 2015 CPI–U.

The Office of Management and Budget published guidance on adjusting penalties based on the increase in the CPI–U between October of 2015 and October of 2016, as well as between October of 2016 and 2017. *See* December 16, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015;* December 15, 2017 Memorandum for the Heads of Executive Departments and Agencies, from Mick Mulvaney, Director, Office of Management and Budget re: *Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.* This guidance provided OPM with the level to which civil penalties should be adjusted as annual inflation adjustments following the initial necessary update to comply with the 2015 Act. Although OPM published the initial interim final rulemaking to adjust its relevant penalties in compliance with the 2015 Act, OPM has not yet issued the 2017 or 2018 adjustments. As a result, the increases associated with the first two annual inflation adjustments mandated under the 2015 Act after the original adjustment are combined here.

III. Executive Order Requirements

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a not significant regulatory action, under Executive Order 12866. E.O. 13771.

This final rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

A. Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 *requires* agencies to adjust civil penalties annually. No discretion is allowed. Thus, the RFA does not apply to this final rule.

B. Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act. This rule:

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

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

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

C. Unfunded Mandate Reform Act of 1995 (2 U.S.C. 1532)

This rule does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

D. E.O. 12630, Takings

This rule does not have takings implications.

E. E.O. 13132, Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles, and responsibilities of State, local, or Tribal governments.

F. E.O. 12988, Civil Justice Reform

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system;

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

G. E.O. 13175, Consultation With Indian Tribes

In accordance with Executive Order 13175, OPM has evaluated this rule and determined that it has no tribal implications.

H. Paperwork Reduction Act

This rule does not involve any collections of information subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

List of Subjects in 5 CFR Part 185

Program fraud civil remedies, Claims, Penalties, Basis for civil penalties and assessments.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

For the reasons set forth in the preamble, OPM amends part 185 of title 5 of the Code of Federal Regulations as follows:

PART 185—PROGRAM FRAUD CIVIL REMEDIES: CIVIL MONETARY PENALTY INFLATION ADJUSTMENT

■ 1. The authority citation for part 185 continues to read:

Authority: 28 U.S.C. 2461 note.

§ 185.103 [Amended]

■ 2. Section 185.103 is amended as follows:

■ a. In paragraph (a) introductory text, revise ''$10,781'' to read ''$11,181''.

■ b. In paragraph (f)(2), revise ''$10,781'' to read ''$11,181''.

[FR Doc. 2018–15764 Filed 7–23–18; 8:45 am]

BILLING CODE 6325–48–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

[Doc. No. AMS–SC–17–0073; SC18–985–1 FR]

Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2018–2019 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the Far West Spearmint Oil Administrative Committee (Committee) to establish salable quantities and allotment percentages of Class 1 (Scotch) and Class 3 (Native) spearmint oil for the 2018–2019 marketing year. This rule also removes references to past volume regulation no longer in effect.

DATES: Effective August 23, 2018.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 985, as amended (7 CFR part 985), regulating the handling of spearmint oil produced in the Far West. Part 985 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of spearmint oil producers operating within the area of production, and a public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, salable quantities and allotment percentages may be established for classes of spearmint oil produced in the Far West. This rule establishes quantities and percentages for Class 1 (Scotch) and Class 3 (Native) spearmint oil for the 2018–2019 marketing year, which began on June 1, 2018.

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

Pursuant to §§ 985.50, 985.51, and 985.52, the Order requires the Committee to meet each year to consider supply and demand of spearmint oil and a marketing policy for the ensuing marketing year. When such considerations indicate a need to establish or maintain stable market conditions through volume regulation, the Committee recommends salable quantity limitations and producer allotments to regulate the quantity of Far West spearmint oil available to the market.

According to § 985.12, ''salable quantity'' is the total quantity of each class of oil that handlers may purchase from, or handle on behalf of, producers during a given marketing year. The total industry allotment base is the aggregate of all allotment bases held individually by producers as prescribed under § 985.53(d)(1). The total allotment base is generally revised each year on June 1 due to producer base being lost because of the bona fide effort production provision of § 985.53(e). The allotment percentage for each class of spearmint oil is derived by dividing the salable quantity by the total industry allotment base for that same class of oil. The allotment percentage is the percentage used to calculate each producer's prorated share of the salable quantity or their ''annual allotment,'' as defined in § 985.13.

The Committee met on October 25, 2017, to consider its marketing policy for the 2018–2019 marketing year. At that meeting, the Committee determined that, based on overall market and supply conditions, volume regulation for Classes 1 and 3 (Scotch and Native, respectively) spearmint oil is necessary. With a unanimous vote, the Committee recommended the establishment of a salable quantity and allotment percentage for Class 1 (Scotch) and Class 3 (Native) spearmint oil of 760,660 pounds and 35 percent, and 1,307,947 pounds and 53 percent, respectively. The Committee also unanimously set its 2018–2019 marketing year trade demand estimate for Far West Scotch spearmint oil at 850,000 pounds, and for Far West Native spearmint oil at 1,306,605 pounds. Salable quantities and allotment percentages have been placed into effect each season since the Order's inception in 1980.

Class 1 (Scotch) Spearmint Oil

The Committee's recommended 2018–2019 marketing year salable quantity and allotment percentage for Far West Scotch spearmint oil represent a decrease from the previous year's volume restrictions. The 2018–2019 marketing year salable quantity of 760,660 pounds is 13,985 pounds less than the 2017–2018 salable quantity of

774,645 pounds. The allotment percentage, at 35 percent for the 2018–2019 marketing year, is slightly less than the 36 percent in effect the previous year. The total estimated allotment base for the coming marketing year is estimated at 2,173,315 pounds. This figure represents a one-percent increase over the 2017–2018 total allotment base of 2,151,797.

The Committee considered several factors in making its recommendation, including the current and projected supply, estimated future demand, production costs, and producer prices. The Committee's recommendations also account for declining acreage of Far West Scotch spearmint oil, decreasing consumer demand, existing carry-in and reserve pool volume, and increasing production in competing markets.

According to the Committee, as costs of production have increased, many producers have forgone new plantings. This has resulted in a significant decline in production of Far West Scotch spearmint oil over past years. Production has decreased from 1,229,258 pounds produced in 2015, to 1,113,346 pounds produced in 2016 and, finally, to an estimated 817,857 pounds for 2017.

Industry reports also indicate that the relatively low trade demand for Far West spearmint oil is the result of decreased consumer demand for spearmint-flavored products, especially chewing gum in China and India. Far West Scotch spearmint oil sales have averaged 941,140 pounds per year over the last three years and 966,875 pounds over the last five years. For the 2017–2018 crop, the Committee estimated trade demand at 800,000 pounds.

In addition, increasing production of spearmint oil in competing markets, most notably Canada and the U.S. Midwest, has also put downward pressure on the Far West Scotch market.

Given the general decline in demand and anticipated market conditions for the coming year, the Committee decided it was prudent to anticipate 2018–2019 trade demand at 850,000 pounds. Should the established volume regulation levels prove insufficient to adequately supply the market, the Committee has the authority to recommend intra-seasonal increases, as has been implemented in previous marketing years.

The Committee calculated the minimum salable quantity of Far West Scotch spearmint oil that will be required during the 2018–2019 marketing year by subtracting the estimated salable carry-in on June 1, 2018, (215,757) from the estimated trade demand (850,000), resulting in 634,243 pounds. This salable quantity represents the minimum amount of Scotch spearmint oil that the Committee expects to be needed to satisfy estimated demand for the coming year. The Committee then factored in a projected 2019–2020 carry-in of 126,417 pounds to arrive at a recommended 2018–2019 salable quantity of 760,660 pounds.

The salable quantity of 760,660 pounds, combined with an estimated 215,757 pounds of salable quantity (salable carry-in) from the previous year, yields a total available supply of 976,417 pounds Far West Scotch spearmint oil for the 2018–2019 marketing year. This amount will adequately supply the Committee's estimated market demand of 850,000 pounds for the 2018–2019 marketing year and is expected to result in a desired 2019–2020 carry-in of 126,417 pounds.

Salable carry-in is the primary measure of excess spearmint oil supply under the Order, as it represents overproduction in prior years that is currently available to the market without restriction. Under volume regulation, spearmint oil that is designated as salable continues to be available to the market until it is sold and may be marketed at any time at the discretion of the owner. Salable quantities established under volume regulation over the last three seasons have exceeded sales, leading to a gradual build of Far West Scotch spearmint oil salable carry-in.

The Committee estimates that there will be 215,757 pounds of salable carry-in of Scotch spearmint oil on June 1, 2018. If current market conditions are maintained and the Committee's projections are correct, salable carry-in will decrease to 126,417 pounds at the beginning of the 2019–2020 marketing year. This level is slightly below the quantity that the Committee considers favorable (generally 150,000 pounds). However, the Committee believes that this lower salable carry-in will be manageable given the expected production level of Far West Scotch spearmint oil in the current marketing year and the quantity of oil held in the reserve pool.

Spearmint oil held in reserve is oil that has been produced in excess of a producer's marketing year allotment. Oil held in the reserve pool is a less reliable indicator of excess supply as it is not available to the market in the current marketing year without an increase in the salable quantity and allotment percentage.

Far West Scotch spearmint oil held in the reserve pool, which was completely depleted at the beginning of the 2014–2015 marketing year, has also been gradually increasing over the past four years. The Committee reported that there were 71,088 pounds of Far West Scotch spearmint oil held in the reserve pool as of May 31, 2017. The Committee estimates the reserve pool will increase to 114,274 pounds by May 31, 2018. This quantity of reserve pool oil should be an adequate buffer to supply the market, if necessary, if the industry experiences an unexpected increase in demand.

The Committee recommended an allotment percentage of 35 percent for the 2018–2019 marketing year. During its October 25, 2017, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (634,243 pounds) by the total estimated allotment base (2,173,315 pounds), resulting in 29.2 percent. However, producers and handlers at the meeting indicated that the computed percentage (29.2 percent) might not adequately supply the potential 2018–2019 Scotch spearmint oil market demand or may result in inadequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the targeted allotment percentage to 35 percent. The total estimated allotment base (2,173,315 pounds) for the 2018–2019 marketing year multiplied by the recommended salable allotment percentage (35 percent) yields 760,660 pounds, which is also the recommended salable quantity for the 2018–2019 marketing year.

The 2018–2019 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Scotch spearmint oil on June 1, 2018: 215,757 pounds.* This figure is the difference between the 2017–2018 marketing year total available supply of 1,015,757 pounds and the 2017–2018 marketing year estimated trade demand of 800,000 pounds.

(B) *Estimated trade demand of Far West Scotch spearmint oil for the 2018–2019 marketing year: 850,000 pounds.* This figure was established at the Committee meeting held on October 25, 2017.

(C) *Salable quantity of Scotch spearmint oil required from the 2018–2019 marketing year production: 634,243 pounds.* This figure is the difference between the estimated 2018–2019 marketing year trade demand (850,000 pounds) and the estimated carry-in on June 1, 2018 (215,757 pounds). This salable quantity represents the minimum amount of Scotch spearmint oil production that

may be needed to satisfy estimated demand for the coming year.

(D) *Total estimated allotment base of Scotch spearmint oil for the 2018–2019 marketing year: 2,173,315 pounds.* This figure represents a one-percent increase over the 2017–2018 marketing year total actual allotment base of 2,151,797 pounds as prescribed in § 985.53(d)(1). The one-percent increase equals 21,518 pounds of Scotch spearmint oil. This total estimated allotment base is generally revised each year on June 1 in accordance with § 985.53(e).

(E) *Computed Scotch spearmint oil allotment percentage for the 2018–2019 marketing year: 29.2 percent.* This percentage is computed by dividing the minimum required salable quantity (634,243 pounds) by the total estimated allotment base (2,173,315 pounds).

(F) *Recommended Scotch spearmint oil allotment percentage for the 2018–2019 marketing year: 35 percent.* This is the Committee's recommendation and is based on the computed allotment percentage (29.2 percent) and input from producers and handlers at the October 25, 2017, meeting. The recommended 35 percent allotment percentage reflects the Committee's belief that the computed percentage (29.2 percent) may not adequately supply anticipated 2018–2019 Scotch spearmint oil market demand.

(G) *Recommended Scotch spearmint oil salable quantity for the 2018–2019 marketing year: 760,660 pounds.* This figure is the product of the recommended salable allotment percentage (35 percent) and the total estimated allotment base (2,173,315 pounds) for the 2018–2019 marketing year.

(H) *Estimated total available supply of Scotch spearmint oil for the 2018–2019 marketing year: 976,417 pounds.* This figure is the sum of the 2018–2019 recommended salable quantity (760,660 pounds) and the estimated carry-in on June 1, 2018 (215,757 pounds).

For the reasons stated above, the Committee believes that the recommended salable quantity and allotment percentage for Scotch spearmint oil will adequately meet demand, will result in a reasonable carry-in for the following year, and will contribute to orderly marketing conditions as intended under the Order.

Class 3 (Native) Spearmint Oil

The Committee recommended a Native spearmint oil salable quantity of 1,307,947 pounds and an allotment percentage of 53 percent for the 2018–2019 marketing year. These figures are, respectively, 206,955 pounds and 9 percentage points less than the final levels established for the 2017–2018 marketing year after an intra-seasonal increase.

The Committee utilized handlers' anticipated sales estimates of Far West Native spearmint oil for the coming year, historical and current Native spearmint oil production, inventory statistics, and international market data obtained from consultants for the spearmint oil industry to arrive at these recommendations.

The Committee anticipates that 2017 production will total 1,462,976 pounds, down from 1,694,684 pounds in 2016. Committee figures show that declining production is the result of a 1,107-acre year-over-year reduction in total Native spearmint acres, and an average yield per acre drop from 166.2 pounds per acre in 2016 to 160.9 pounds per acre in 2017. Conversely, sales of Native spearmint oil have been increasing at about a 4 percent rate from the 2015–2016 season through the 2017–2018 marketing year.

The Committee expects that 57,968 pounds of salable Native spearmint oil from prior years will be carried into the 2018–2019 marketing year. This amount is down from the estimated 143,011 pounds of salable Native spearmint oil carried into the 2017–2018 marketing year, and 142,657 pounds carried into the 2016–2017 marketing year.

Further, the Committee estimates that there will be 1,237,237 pounds of Native spearmint oil in the reserve pool at the beginning of the 2018–2019 marketing year. This figure is 142,578 pounds higher than the quantity of reserve pool oil held by producers the previous year and is in line with the gradual increase in reserves over the past three marketing years.

Exports of Far West Native spearmint oil, as of July 2017, are above their five-year average. Canada, India, and China are the largest destination markets for Far West Native spearmint oil exports. As a common practice, large end users often buy spearmint oil to build reserve stocks when prices are low as a hedge against future price increases. End users of Native spearmint oil are expected to continue to rely on Far West production as their main source of high quality Native spearmint oil, but demand may be at lower quantities moving forward in response to long-term market factors. A sharp spike in demand for Far West Native spearmint oil was experienced by handlers late in the 2017–2018 marketing year, spurred by the popularity of a new product in the market. This sharp spike in demand caused the remaining available 2017–2018 salable quantity of Native oil to be depleted.

The Committee estimates the 2018–2019 marketing year Native spearmint oil trade demand to be 1,306,605 pounds. This figure is based on input provided by producers at six Native spearmint oil production area meetings held in mid-October 2017, as well as estimates provided by handlers and other meeting participants at the October 25, 2017, meeting. This figure represents an increase of 56,605 pounds from the previous year's initial estimate. The average estimated trade demand for Native spearmint oil from the six production area grower's meetings was 1,349,379 pounds, whereas the handlers' estimates ranged from 1,350,000 to 1,500,000 pounds. The average of Far West Native spearmint oil sales over the last three years is also 1,305,605 pounds. However, the quantity marketed over the most recent full marketing year, 2016–2017, was 1,287,691 pounds. The Committee chose to be slightly conservative in the establishment of its trade demand estimate for the 2018–2019 marketing year to avoid oversupplying the market.

The estimated 2018–2019 carry-in of 57,968 pounds of Native spearmint oil plus the recommended salable quantity of 1,307,947 pounds results in an estimated total available supply of 1,365,915 pounds of Native spearmint oil during the 2018–2019 marketing year. With the corresponding estimated trade demand of 1,306,605 pounds, the Committee projects that 59,310 pounds of Native spearmint oil will be carried into the 2019–2020 marketing year, resulting in a slight increase of 1,342 pounds year-over-year. The Committee estimates that there will be 1,237,237 pounds of Native spearmint oil held in the reserve pool at the beginning of the 2018–2019 marketing year. Should the industry experience an unexpected increase in trade demand, Native spearmint oil in the reserve pool could be released to satisfy that demand.

The Committee recommended an allotment percentage of 53 percent for the 2018–2019 marketing year. During its October 25, 2017, meeting, the Committee calculated an initial allotment percentage by dividing the minimum required salable quantity (1,248,637 pounds) by the total estimated allotment base (2,467,825 pounds), resulting in 50.6 percent. However, producers and handlers at the meeting expressed that the computed percentage (50.6 percent) may not adequately supply the potential 2018–2019 Native spearmint oil market demand or result in adequate carry-in for the subsequent marketing year. After deliberation, the Committee increased the recommended allotment percentage

to 53 percent. The total estimated allotment base (2,467,825 pounds) for the 2018–2019 marketing year multiplied by the recommended salable allotment percentage (53 percent) yields 1,307,947 pounds, which is also the recommended salable quantity for the upcoming marketing year.

The 2018–2019 marketing year computational data for the Committee's recommendations is further outlined below.

(A) *Estimated carry-in of Native spearmint oil on June 1, 2018: 57,968 pounds.* This figure is the difference between the revised 2017–2018 marketing year total available supply of 1,657,968 pounds and the revised 2017–2018 marketing year estimated trade demand of 1,600,000 pounds.

(B) *Estimated trade demand of Native spearmint oil for the 2018–2019 marketing year: 1,306,605 pounds.* This estimate was established by the Committee at the October 25, 2017, meeting.

(C) *Salable quantity of Native spearmint oil required from the 2018–2019 marketing year production: 1,248,637 pounds.* This figure is the difference between the estimated 2018–2019 marketing year estimated trade demand (1,306,605 pounds) and the estimated carry-in on June 1, 2018 (57,968 pounds). This is the minimum amount of Native spearmint oil that the Committee believes will be required to meet the anticipated 2018–2019 marketing year trade demand.

(D) *Total estimated allotment base of Native spearmint oil for the 2018–2019 marketing year: 2,467,825 pounds.* This figure represents a one-percent increase over the 2017–2018 total actual allotment base of 2,443,391 pounds as prescribed in § 985.53(d)(1). The one-percent increase equals 24,434 pounds of Native spearmint oil. This estimate is generally revised each year on June 1, due to producer base being lost because of the bona fide effort production provisions of § 985.53(e).

(E) *Computed Native spearmint oil allotment percentage for the 2018–2019 marketing year: 50.6 percent.* This percentage is calculated by dividing the required salable quantity (1,248,637 pounds) by the total estimated allotment base (2,467,825 pounds) for the 2018–2019 marketing year.

(F) *Recommended Native spearmint oil allotment percentage for the 2018–2019 marketing year: 53 percent.* This is the Committee's recommendation based on the computed allotment percentage (50.6 percent) and input from producers and handlers at the October 25, 2017, meeting. The recommended 53 percent allotment percentage is also based on the Committee's belief that the computed percentage (50.6 percent) may not adequately supply the potential market for Native spearmint oil in the 2018–2019 marketing year.

(G) *Recommended Native spearmint oil 2018–2019 marketing year salable quantity: 1,307,947 pounds.* This figure is the product of the recommended allotment percentage (53 percent) and the total estimated allotment base (2,467,825 pounds). After completely depleting the remaining salable quantity for the 2017–2018 marketing year, to prevent this from happening again, the Committee recommended that the 2018–2019 salable quantity be set at a level slightly higher than the estimated trade demand for the same year (1,306,605 pounds).

(H) *Estimated available supply of Native spearmint oil for the 2018–2019 marketing year: 1,365,915 pounds.* This figure is the sum of the 2018–2019 recommended salable quantity (1,307,947 pounds) and the estimated carry-in on June 1, 2018 (57,968 pounds).

The Committee's recommended Scotch and Native spearmint oil salable quantities and allotment percentages of 760,660 pounds and 35 percent, and 1,307,947 pounds and 53 percent, respectively, match the available supply of each class of spearmint oil to the estimated demand of each, thus avoiding extreme fluctuations in inventories and prices. This volume regulation final rule is similar to regulations issued in prior seasons.

The salable quantities established herein are not expected to cause a shortage of spearmint oil supplies. Any unanticipated or additional market demand for spearmint oil which may develop during the marketing year could be satisfied by an intra-seasonal increase in the salable quantity. The Order contains a provision in § 985.51 for intra-seasonal increases to allow the Committee the flexibility to respond quickly to changing market conditions.

Under volume regulation, producers who produce more than their annual allotments during the marketing year may transfer such excess spearmint oil to producers who have produced less than their annual allotment. In addition, on December 1 of each year, producers who have not transferred their excess spearmint oil to other producers must place their excess spearmint oil production into the reserve pool to be released in the future in accordance with market needs and under the Committee's direction.

In conjunction with the issuance of this rule, USDA has reviewed the Committee's marketing policy statement for the 2018–2019 marketing year. The Committee's marketing policy statement, a requirement whenever the Committee recommends volume regulation, meets the requirements of §§ 985.50 and 985.51.

The establishment of the salable quantities and allotment percentages will allow for adequate supply to meet anticipated market needs. In determining anticipated market needs, the Committee considered historical sales, as well as changes and trends in production and demand. This rule also provides producers with information on the amount of spearmint oil that should be produced during the 2018–2019 growing season to meet anticipated market demand.

Final Regulatory Flexibility Act

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

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

There are approximately 43 producers and 94 producers of Scotch and Native spearmint oil, respectively, in the regulated production area and approximately seven spearmint oil handlers subject to regulation under the Order. Small agricultural service firms are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

The Committee reported that recent producer prices for spearmint oil range from $15.50 to $18.00 per pound. The National Agricultural Statistics Service (NASS) reported that the 2016 U.S. season average spearmint oil grower price per pound was $17.40. Multiplying $17.40 per pound by 2016–17 spearmint oil utilization of 2,168,257 million pounds yields a crop value estimate of about $37.7 million. Total 2016–17 spearmint oil utilization, reported by the Committee, is 958,711 pounds and 1,209,546 pounds for Scotch and Native spearmint oil, respectively.

Given the accounting requirements for the volume regulation provisions of the Order, the Committee maintains accurate records of each producer's production and sales. Using the $17.40 average spearmint oil price, and Committee production data for each producer, the Committee estimates that 38 of the 43 Scotch spearmint oil producers and 88 of the 94 Native spearmint oil producers could be classified as small entities under the SBA definition.

There is no third party or governmental entity that collects and reports spearmint oil prices received by spearmint oil handlers. However, the Committee estimates an average spearmint oil handling markup at approximately 20 percent of the price received by producers. Multiplying 1.20 by the 2016 producer price of $17.40 yields a handler f.o.b. price per pound estimate of $20.88.

Multiplying this handler f.o.b price by spearmint oil utilization of 2,168,257 pounds results in an estimated handler-level spearmint oil value of $45.3 million. Dividing this figure by the number of handlers (7) yields estimated average annual handler receipts of about $6.5 million, which is below the SBA threshold for small agricultural service firms.

Using confidential data on pounds handled by each handler, and the abovementioned handler price per pound, the Committee reported that it is likely that at least two of the seven handlers had 2016–2017 marketing year spearmint oil sales value that exceeded the SBA threshold.

Therefore, in view of the foregoing, the majority of producers and handlers of spearmint oil may be classified as small entities.

This final rule establishes the quantity of spearmint oil produced in the Far West, by class, which handlers may purchase from, or handle on behalf of, producers during the 2018–2019 marketing year. The Committee recommended this action to help maintain stability in the spearmint oil market by matching supply to estimated demand, thereby avoiding extreme fluctuations in supplies and prices. Establishing quantities that may be purchased or handled during the marketing year through volume regulations allows producers to coordinate their spearmint oil production with the expected market demand. Authority for this action is provided in §§ 985.50, 985.51, and 985.52.

The Committee estimated trade demand for the 2018–2019 marketing year for both classes of oil at 2,156,605 pounds and expects that the combined salable carry-in will be 273,725 pounds. The combined required salable quantity is 1,882,880 pounds. Under volume regulation, total sales of spearmint oil by producers for the 2018–2019 marketing year will be held to 2,342,332 pounds (the recommended salable quantity for both classes of spearmint oil of 2,068,607 pounds plus 273,725 pounds of carry-in). This total available supply of 2,342,332 pounds should be more than adequate to supply the 2,156,605 pounds of anticipated total trade demand for spearmint oil. In addition, as of May 31, 2017, the total reserve pool for both classes of spearmint oil stood at 1,067,138 pounds. Furthermore, that quantity is expected to rise over the course of the 2017–2018 marketing year. Should trade demand increase unexpectedly during the 2018–2019 marketing year, reserve pool spearmint oil could be released into the market to supply that increase in demand.

The recommended allotment percentages, upon which 2018–2019 marketing year producer allotments are based, are 35 percent for Scotch spearmint oil and 53 percent for Native spearmint oil. Without volume regulation, producers would not be held to these allotment levels, and could produce and sell unrestricted quantities of spearmint oil. The USDA econometric model estimated that the season average producer price per pound (from both classes of spearmint oil) would decline about $1.90 per pound because of the higher quantities of spearmint oil that would be produced and marketed without volume regulation. The surplus situation for the spearmint oil market that would exist without volume regulation in 2018–2019 also would likely dampen prospects for improved producer prices in future years because of the buildup in stocks.

The use of volume regulation allows the industry to fully supply spearmint oil markets while avoiding the negative consequences of over-supplying these markets. The use of volume regulation is believed to have little or no effect on consumer prices of products containing spearmint oil and will not result in fewer retail sales of such products.

The Committee discussed alternatives to the recommendations established by this rule for both classes of spearmint oil. The Committee discussed and rejected the idea of not regulating any volume for either class of spearmint oil because of the severe, price-depressing effects that would likely occur without volume regulation. The Committee also discussed and considered salable quantities and allotment percentages that were above and below the levels that were ultimately recommended for both classes of spearmint oil. Ultimately, the action taken by the Committee was to decrease the salable quantity and allotment percentage for Class 1 (Scotch) spearmint oil, and to increase the salable quantity and allotment percentage Class 3 (Native) spearmint oil from the 2017–2018 marketing year levels.

As noted earlier, the Committee's recommendation to establish salable quantities and allotment percentages for both classes of spearmint oil was made after careful consideration of all available information including: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil; (4) the total of allotment bases of each class of oil for the current marketing year and the estimated total of allotment bases of each class for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil, including prices for each class of oil; and (7) general market conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity.

Based on its review, the Committee believes that the salable quantities and allotment percentages established herein will achieve the objectives sought. The Committee also believes that, should there be no volume regulation in effect for the upcoming marketing year, the Far West spearmint oil industry would return to the pronounced cyclical price patterns that occurred prior to the promulgation of the Order. As previously stated, annual salable quantities and allotment percentages have been issued for both classes of spearmint oil since the Order's inception. The salable quantities and allotment percentages established by this final rule are expected to facilitate the goal of maintaining orderly marketing conditions for Far West spearmint oil for the 2018–2019 and future marketing years.

Costs to producers and handlers, large and small, resulting from this final rule are expected to be offset by the benefits derived from a more stable market and increased returns. The benefits of this rule are expected to be equally available to all producers and handlers regardless of their size. In addition, the Committee's meeting was widely publicized throughout the Far West spearmint oil industry, and all interested persons were invited to attend the meeting and participate in

Committee deliberations on all issues. Like all Committee meetings, the October 25, 2017, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

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

This rule establishes salable quantities and allotment percentages for Class 1 (Scotch) spearmint oil and Class 3 (Native) spearmint oil produced in the Far West during the 2018–2019 marketing year. Accordingly, this rule imposes no additional reporting or recordkeeping requirements on either small or large Far West spearmint oil producers or handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies. As mentioned in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on April 6, 2018 (83 FR 14766). Copies of the proposed rule were also mailed or sent via facsimile to all Far West spearmint oil handlers. Finally, the proposal was made available through the internet by USDA and the Office of the **Federal Register.** A 60-day comment period ending June 5, 2018, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

List of Subjects in 7 CFR Part 985

Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR part 985 is amended as follows:

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

■ 1. The authority citation for 7 CFR part 985 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 985.233 to read as follows:

§ 985.233 Salable quantities and allotment percentages.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year beginning on June 1, 2018, shall be as follows:

(a) Class 1 (Scotch) oil—a salable quantity of 760,660 pounds and an allotment percentage of 35 percent.

(b) Class 3 (Native) oil—a salable quantity of 1,307,947 pounds and an allotment percentage of 53 percent.

§§ 985.234 and 985.235 [Removed]

■ 3. Remove §§ 985.234 and 985.235.

Dated: July 19, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–15788 Filed 7–23–18; 8:45 am]

BILLING CODE 3410–02–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–10520; File No. S7–17–18]

RIN 3235–AM39

Exempt Offerings Pursuant to Compensatory Arrangements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission is adopting an amendment to its regulations under the Securities Act of 1933 (the ''Securities Act''), which provide an exemption from registration for securities issued by non-reporting companies pursuant to compensatory arrangements. As mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act (the ''Act''), the amendment revises a rule to increase from $5 million to $10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors.

DATES:

Effective date: July 23, 2018.

Comment date: Comments regarding the collection of information requirements within the meaning of the Paperwork Reduction Act of 1995 should be received on or before August 23, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/final.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–xx–18 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–17–18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/final.shtml*). Comments are also available for website 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anne M. Krauskopf, Senior Special Counsel, and Adam F. Turk, Special Counsel, Office of Chief Counsel, Division of Corporation Finance, at (202) 551–3500.

SUPPLEMENTARY INFORMATION: We are adopting an amendment to 17 CFR

230.701 (Rule 701) [1] under the Securities Act.[2]

I. Background

Rule 701 provides an exemption from the registration requirements of the Securities Act for offers and sales of securities under certain compensatory benefit plans or written agreements relating to compensation. The exemption covers securities offered or sold under a plan or agreement between a non-reporting company [3] and the company's employees, officers, directors, partners, trustees, consultants, and advisors.[4]

II. Rule Amendment

As mandated by Section 507 of the Act,[5] we are amending Rule 701(e) [6] to increase from $5 million to $10 million [7] the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosure to investors. As amended, Rule 701(e) will otherwise continue to operate in the same manner as it currently does.[8] Specifically, the additional disclosures required by Rule 701(e) [9] will not be required for sales up to $10 million in the 12-month period. If aggregate sales during that period exceed $10 million, however, the issuer must deliver those additional disclosures a reasonable period of time before the date of sale to all investors in the 12-month period. Issuers that have commenced an offering in the current 12-month period will be able to apply the new $10 million disclosure threshold immediately upon effectiveness of the amendment.

III. Procedural Matters

The Administrative Procedure Act (''APA'') generally requires an agency to publish notice of a proposed rulemaking in the **Federal Register** and provide an opportunity for public comment.[10] This requirement does not apply, however, if the agency ''for good cause finds . . . that notice and public procedure are impracticable, unnecessary, or contrary to the public interest.'' [11] As discussed above, Section 507 of the Act directs the Commission, not later than 60 days after the date of enactment, to amend Rule 701(e) to increase from $5 million to $10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors. Because the amendment is necessary to conform Rule 701(e) to the requirements of the Act, and involves no exercise of agency discretion, we find that notice and public comment are unnecessary.[12] The APA also generally requires that an agency publish an adopted rule in the **Federal Register** 30 days before it becomes effective.[13] This requirement, however, does not apply if the agency finds good cause for making the rule effective sooner.[14] For the same reasons as we are forgoing notice and comment, we find good cause to make the rules effective immediately upon publication in the **Federal Register**. In addition, we find that the amendment relieves a restriction in our rules.[15]

IV. Economic Analysis

We are mindful of the costs imposed by and the benefits obtained from our rules and amendments.[16] The discussion below addresses the potential economic effects of the amendment, including the likely benefits and costs. The Commission is adopting an amendment to implement the specific statutory mandate of Section 507 of the Act. The legislative history suggests that Section 507 of the Act was intended to address two concerns with the existing $5 million threshold for requiring additional disclosure. Namely, that the additional disclosure makes it more expensive for companies to compensate their employees with the company's stock and that this disclosure puts non-reporting companies at risk of disclosing confidential financial information.[17] By increasing the threshold from $5 million to $10 million, we believe that Congress intended to alleviate some of these concerns. The costs and benefits of this amendment stem entirely from the statutory mandate of Section 507.[18] In addition, given that the amendment implements a statutory mandate and involves no exercise of agency discretion, we believe there are no reasonable alternatives to the amendment.[19]

A. Baseline

The baseline for our economic analysis is the disclosure requirement of Item 701(e) prior to the amendment being adopted, which required an issuer to deliver additional disclosures to investors if the aggregate sales price or amount of securities sold during any consecutive 12-month period exceeded $5 million. The amendment will affect non-reporting companies that rely on Rule 701 to offer securities to plan

[1] Unless otherwise noted, all references to statutory sections are to the Securities Act, and all references to rules under the Securities Act are to title 17, part 230 of the Code of Federal Regulations [17 CFR part 230].

[2] 15 U.S.C. 77a *et seq.*

[3] Only issuers that are not subject to the reporting requirements of Section 13 [15 U.S.C. 78m] or 15(d) [15 U.S.C. 78o(d)] of the Securities Exchange Act of 1934 (''Exchange Act'') and are not investment companies registered or required to be registered under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] are eligible to rely on Rule 701.

[4] The rule applies to compensatory arrangements established by the issuer, its parents, its majority-owned subsidiaries and majority-owned subsidiaries of the issuer's parent.

[5] Public Law 115–174, 132 Stat. 1296 (2018).

[6] 17 CFR 230.701(e).

[7] Section 507 of the Act also requires that every five years we index for inflation such aggregate sales price or amount of securities sold to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics, rounding to the nearest $1 million.

[8] Concurrent with the adoption of this amendment to Rule 701, we are issuing a concept release requesting public comment on various other issues relating to Rule 701. *See* Release No. 33–10521 (Jul. 18, 2018).

[9] These disclosures consist of:

- A copy of the summary plan description required by the Employee Retirement Income Security Act of 1974 (''ERISA'') [29 U.S.C. 1104–1107] or, if the plan is not subject to ERISA, a summary of the plan's material terms;
- risk factors associated with investment in the securities under the plan or agreement; and
- the financial statements required in an offering statement on Form 1–A [17 CFR 239.90] under Regulation A [17 CFR 230.251 through 230.263].

[10] *See* 5 U.S.C. 553(b).

[11] *Id.*

[12] This finding also satisfies the requirements of 5 U.S.C. 808(2), allowing the amendment to become effective notwithstanding the requirement of 5 U.S.C. 801 (if a federal agency finds that notice and public comment are impractical, unnecessary, or contrary to the public interest, a rule shall take effect at such time as the federal agency promulgating the rule determines). The amendment also does not require analysis under the Regulatory Flexibility Act. *See* 5 U.S.C. 604(a) (requiring a final regulatory flexibility analysis only for rules required by the APA or other law to undergo notice and comment).

[13] *See* 5 U.S.C. 553(d).

[14] *Id.*

[15] *Id.*

[16] Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] requires the Commission, when engaging in rulemaking where it is required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.

[17] *See, e.g.,* Report of the Financial Services Committee of the House of Representatives to H.R. 1343 (''These exemptions assist privately-held companies that want to provide their employees with the option to purchase the company's securities to increase employee ownership. . . . Rule 701 should be updated by raising the $5 million threshold requirement because the disclosures make it more expensive for companies to compensate their employees with the company's stock. In addition, these disclosure requirements put private companies at risk of disclosing confidential financial information.'').

[18] As the intent of this rulemaking is to implement the specific regulatory change mandated by Congress, this analysis focuses on the economic effects arising from that change.

[19] As noted above, concurrent with the adoption of this amendment, we are issuing a concept release requesting public comment on various other issues relating to Rule 701.

participants pursuant to compensatory benefit plans. In particular, the amendment will affect non-reporting companies that issue, or seek to issue, between $5 million and $10 million in a 12-month period. Non-reporting companies that issue less than $5 million or more than $10 million in a 12-month period will not be affected by the amendment. The Commission lacks data on non-reporting companies that rely on, or seek to rely on, Rule 701 to offer securities pursuant to compensatory benefit plans. We can approximate the number of growth companies with external financing needs using data on companies conducting exempt securities offerings under Regulation D, Regulation A, and Regulation Crowdfunding. This group may be likely to rely on Rule 701 for the purpose of offering competitive compensation packages to attract and retain key individuals. Based on filings in 2017, we estimate there are approximately 16,491 non-reporting companies conducting exempt offerings of unregistered securities under the aforementioned exemptions.[20] Some of these companies may currently be too small to offer securities in compensatory benefit plans that would fall in the $5 million to $10 million range over a 12-month period, but could potentially be able to do so in the future if they successfully grow their businesses. We do not have access to equivalent data for non-reporting foreign private issuers, who also can rely on Rule 701 to offer securities pursuant to compensatory benefit plans.

Plan participants who make use of issuer disclosures will also be affected by the amendment mandated by the Act. To the extent a company issues more than $5 million but less than $10 million in aggregate sales price of securities under the rule in a 12-month period, the company will not be required to deliver the Rule 701(e) disclosures to plan participants.

B. Economic Effects of the Amendment

The statutory mandate requires the Commission to raise the threshold for requiring issuers to deliver additional disclosure to plan participants in Rule 701 offerings from $5 million to $10 million in any consecutive 12-month period. This will lower the regulatory burden in terms of required disclosures and thereby reduce the cost of securities offerings in this range pursuant to compensatory benefit plans by affected non-reporting companies. In addition, if the regulatory burden under the baseline currently deters some non-reporting companies from using this form of compensation arrangement to an extent that otherwise would be desired, such companies may be able to improve the efficiency of their employee compensation plans or contracts under the amendment and thereby improve company performance (*e.g.,* through improved incentive provisions). Such increases in efficiency may permit these companies to deploy resources more productively. Further, these efficiency gains may be passed through to some plan participants through increases in the value of securities offered by non-reporting companies as these companies are able to avail themselves of the Rule 701 exemption without having to provide the previously required disclosure.

The amendment may reduce the amount of information available to plan participants, as issuers conducting offerings in the $5 million to $10 million range will not be required to provide Rule 701(e) disclosures to investors a reasonable period of time before the date of sale. Less information to plan participants may in turn make it harder for them to accurately value the offerings, and may partially offset the efficiency gains noted above. To the extent non-reporting issuers have issued securities in reliance on Regulation A and made available the information required by Rule 701(e) or have issued securities in excess of $5 million in reliance on Rule 701 in the current 12-month period, and, at their option, continue to provide the disclosures required by Rule 701(e), there may be no loss of information to participants.[21]

We expect the amendment to make compliance burdens the same between companies seeking to use Rule 701 to offer amounts up to $5 million and companies seeking to use Rule 701 to offer amounts between $5 million and $10 million. By doubling the amount of securities that can be offered to employees without requiring the additional disclosure under Rule 701(e) from $5 million to $10 million, the amendment to Rule 701 may have competitive effects for non-reporting companies that offer or sell securities as compensation. Although the Commission does not anticipate that the amendment will have substantial competitive effects among firms that currently rely on Rule 701, the amendment may permit some smaller companies to compete with larger companies to recruit and retain employees by increasing the offering amount threshold for additional disclosure from $5 million to $10 million.

Relatedly, companies seeking to offer amounts between $5 million and $10 million will experience a reduction in regulatory burden compared to companies wishing to offer amounts over $10 million. As discussed below in Section V.A, for the purposes of the Paperwork Reduction Act, the Commission estimates that approximately 10% of the 16,149 non-reporting companies, or 1,600 issuers, provide information under Rule 701, and that approximately one-half of those issuers (800) will sell securities in compensatory benefit plans between $5 million to $10 million over a 12-month period. Using these estimates, we further estimate that the amendment will reduce the regulatory burden associated with Rule 701 by 400 hours of company personnel time and $480,000 in professional costs per year.

Finally, to the extent compensatory benefit plans are used by non-reporting companies to attract and retain persons that are in demand internationally, a reduction in regulatory burden due to the amendment of Rule 701(e) may also increase the international competiveness of the companies affected by the amendment.

V. Paperwork Reduction Act

A. Background and Summary

Certain provisions of Rule 701 that will be affected by the amendment contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[22] The Commission is submitting the amendment to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[23] The title for the affected collection of information is:

Rule 701 (OMB Control No. 3235–0522).

[20] Based on staff analysis of EDGAR filings in calendar year 2017, there were approximately 15,960 non-reporting operating companies conducting Regulation D offerings. In addition, there were 88 newly qualified offerings under Regulation A during calendar year 2017, excluding post-qualification amendments and withdrawn offerings. Finally, 443 non-reporting companies conducted offerings solely under Regulation Crowdfunding in 2017 (companies conducting both Regulation D and Regulation Crowdfunding offerings in 2017 are included in the number for Regulation D offerings).

[21] Based on a review of Regulation A offering statements, irrespective of the offering amount sought, the staff identified approximately seven cases of companies that disclosed unregistered securities sold in reliance upon Rule 701 in the past twelve months in Part I of Form 1–A; however, this would not account for companies that have conducted a Regulation A offering and subsequently have relied upon Rule 701 for unregistered sales.

[22] 44 U.S.C. 3501 *et seq.*

[23] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

Rule 701 provides an exemption from registration for offers and sales of securities pursuant to certain compensatory benefit plans and contracts relating to compensation. Issuers conducting employee benefit plan offerings in excess of $5 million in reliance on Rule 701 are required to provide plan participants with certain disclosures, including financial statement disclosures. This disclosure constitutes a collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information requirement unless it displays a currently valid OMB control number. Compliance with the information collection is mandatory. Responses to the information collection are not kept confidential and there is no mandatory retention period for the information disclosed.

We estimate that currently approximately 1,600 issuers [24] provide information under Rule 701, and that the estimated number of burden hours per respondent is two.[25] Therefore, we estimate an aggregate of 3,200 burden hours per year. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the issuer internally is reflected in hours. We estimate that 25% of the burden per response is completed by the issuer internally and the other 75% of burden per response is attributed to outside cost, using $400 as the professional cost per burden hour.[26] We believe the amendment will reduce the current burden estimates associated with Rule 701 for issuers that sell securities in compensatory benefit plans in the $5 million to $10 million range over a 12-month period, especially for issuers that do not otherwise prepare the same types of disclosure in their normal course of business. We estimate this will impact one-half of the issuers that currently provide information under Rule 701, or 800 issuers.

We therefore estimate the total annual decrease in the paperwork burden for all affected companies to comply with the collection of information requirements of Rule 701, as amended, will be approximately 1,600 hours, allocated as a decrease of 400 hours (800 issuers × 0.5 burden hour) of company personnel time and a decrease of $480,000 of professional costs (800 issuers × 1.5 hours × $400 per hour).

TABLE 1—DECREASE IN PAPERWORK BURDEN UNDER THE FINAL AMENDMENT

	Estimated number of affected responses	Decrease in burden hours per response	Total decrease in burden hours	25% Company	75% Professional	Professional costs
	(A)	(B)	(C) = (A) * (B)	(E) = (C) * 0.25	(E) = (C) * 0.75	(F) = (E) * $400
Rule 701(e) disclosure	800	2	(1,600)	(400)	(1,200)	($480,000)

B. Request for Comment

We request comments in order to evaluate: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) whether there are ways to enhance the quality, utility and clarity of the information to be collected; and (4) whether there are ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–17–18. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–17–18 and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–0213. Interested persons are encouraged to send comments to the OMB by August 23, 2018.

VI. Statutory Authority

The amendment contained in this release is adopted under the authority set forth in sections 3(b), 19(a), and 28 of the Securities Act and section 507 of the Economic Growth, Regulatory Relief, and Consumer Protection Act.

List of Subjects in 17 CFR Part 230

Reporting and recordkeeping requirements, Securities.

Text of Amendment

For the reasons set out in the preamble, title 17 chapter II of the Code of Federal Regulations is amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The authority citation for part 230 continues to read in part as follows:

[24] *See* Section IV.A, above. While we estimate that there are 16,491 non-reporting companies conducting exempt offerings of unregistered securities under Regulation A, Regulation Crowdfunding and Regulation D, some of these issuers may currently be too small to offer securities in compensatory benefit plans in excess of $5 million over a 12-month period. For purposes of this PRA analysis, we estimate that approximately 10% of those issuers currently provide information under Rule 701.

[25] Issuers are required to provide information that is similar to, but not as extensive as, the information required by Form 1–SA [17 CFR 239.90], the semiannual report required to be filed with the Commission under Regulation A [17 CFR 230.251 through 230.263]. We believe, however, that many of these issuers already prepare the same types of disclosure in their normal course of business, such as for using other exemptions, so we estimate that the burden is two hours.

[26] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis we estimate that such costs will be an average of $400 per hour. This estimate is based on consultations with several registrants, law firms and other persons who regularly assist registrants in preparing and filing periodic reports with the Commission.

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l,* 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78*ll*(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), and Pub. L. 115–174, sec. 507, 132 Stat. 1296 (2018), unless otherwise noted.

* * * * *

■ 2. Section 230.701 is amended by revising the introductory text of paragraph (e) to read as follows:

§ 230.701 Exemption for offers and sales of securities pursuant to certain compensatory benefit plans and contracts relating to compensation.

* * * * *

(e) *Disclosure that must be provided.* The issuer must deliver to investors a copy of the compensatory benefit plan or the contract, as applicable. In addition, if the aggregate sales price or amount of securities sold during any consecutive 12-month period exceeds $10 million, the issuer must deliver the following disclosure to investors a reasonable period of time before the date of sale:

* * * * *

By the Commission.

Dated: July 18, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–15730 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0698]

RIN 1625–AA08

Safety Zones; Pipeline Construction, Tennessee River Miles 465 to 466, Chattanooga, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Tennessee River from mile marker 465 to mile marker 466. This safety zone is necessary to protect persons, property, and the marine environment from potential hazards associated with the construction of an underground pipeline. Entry of vessels or persons into this zone is prohibited unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 7:30 a.m. on July 24, 2018, through 7 p.m. on August 24, 2018. This rule will be enforced from 7:30 a.m. through 7 p.m. each day during the effective period, excluding Saturdays and Sundays.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0698 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Nicholas Jones, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *MSDNashville@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On July 10, 2018, Reynolds Construction, L.L.C notified Marine Safety Detachment Nashville that their underwater pipeline construction operations at mile marker 465.2 of the Tennessee River would be ready to commence on July 24, 2018. Reynolds Construction estimates that the work will take 20 days, excluding weekends and holidays, and will conclude no later than August 24, 2018.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by July 24, 2018, and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to potential safety hazards associated with the underwater pipeline construction.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the underwater blasting and pipeline construction will be a safety concern for anyone on a one-mile stretch of the Tennessee River. This rule is necessary to protect persons, vessels, and the marine environment during the construction operations.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 7:30 a.m. on July 24, 2018 through 7 p.m. on August 24, 2018 from mile marker 465 to mile marker 466 on the Tennessee River in Chattanooga, TN. The safety zone will be enforced from 7:30 a.m. through 7 p.m. each day, excluding Saturdays and Sundays. A safety vessel will coordinate all vessel traffic during the enforcement periods. The COTP may terminate enforcement of this rule if the work is finished earlier. The duration of the safety zone is intended to protect persons, vessels, and the marine environment during the construction operations.

No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector Ohio Valley, U.S. Coast Guard. They may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465. All persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all directions issued by the COTP or the designated representative. The COTP or a designated representative will inform the public of the enforcement times and dates for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses

based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget, and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. This safety zone prohibits transit on a one-mile stretch of the Tennessee River for about 12 hours on weekdays only during a one-month period. The rule also allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule prohibits transit on a one-mile stretch of the Tennessee River for about 12 hours on weekdays only during a one-month period. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.2.

■ 2. Add § 165.35T08–0698 to read as follows:

§ 165.35T08–0698 Safety Zone; Pipeline Construction, Tennessee River, Miles 465 to 466, Chattanooga, TN.

(a) *Location.* All navigable waters of the Tennessee River from mile marker 465.0 to mile marker 466.0, Chattanooga, TN.

(b) *Effective period.* This section is effective from 7:30 a.m. on July 24, 2018 through 7 p.m. on August 24, 2018.

(c) *Enforcement periods.* This section will be enforced each day during the

effective period from 7:30 a.m. through 7 p.m., excluding Saturdays and Sundays. The COTP may terminate enforcement of this section if the work is finished earlier.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.801 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of Sector Ohio Valley, U.S. Coast Guard.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the COTP or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

(3) A safety vessel will coordinate all vessel traffic during the enforcement of this safety zone. All persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all directions issued by the COTP or the designated representative.

(e) *Information broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and dates for this safety zone through Broadcast Notices to Mariners (BNMs), Local Notices to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: July 18, 2018.

M.B. Zamperini,

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

[FR Doc. 2018–15775 Filed 7–23–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0656]

RIN 1625–AA00

Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliot Bay, Seattle, Washington

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily amending the Fleet Week Maritime Festival safety zone. This year's Parade of Ships will commence with the aerial demonstration followed by the pass and review of ships. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with the Parade of Ships. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Puget Sound.

DATES: This temporary rule is effective from 8 a.m. until 8 p.m. on July 31, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0656 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule, without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule due to unanticipated modifications to this year's Fleet Week Maritime Festival's sequence of events imposed by event organizers on the Coast Guard. It is impracticable to publish an NPRM for this temporary rule because the safety zone must be established by July 31, 2018, to protect the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** for the same reasons stated in the preceding paragraph.

III. Legal Authority and Need for Rule

On June 28, 2018, the Fleet Week planning Committee notified the Coast Guard of a change to the sequence of events for this year's Parade of Ships to conduct aerial demonstrations prior to instead of immediately following the pass and review of ships. This temporary amendment to our safety zone regulation for the Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, Washington, 33 CFR 165.1330, will reflect the actual order of events for this year's Parade of Ships, and is needed to notify the public of the change in the sequence of events this year and avoid uncertainty as to the effective period of the rule, which remains unchanged.

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone associated with the Parade of Ships.

IV. Discussion of the Rule

This rule temporarily amends § 165.1330 to reflect this year's sequence of events. During this year's Parade of Ships, the aerial demonstration will occur before the pass and review of ships near Pier 66. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters immediately before and after the aerial demonstration and the parade of the ships near Pier 66. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

The regulation will be enforced for the same area as in past years and for same hours—from 8 a.m. until 8 p.m. The only change to the regulation is how it describes the sequence of events.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant

regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which will impact a small designated area of Elliott Bay for 12 hours. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule will allow vessel operators to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves amending a safety zone to specify the sequence of events during this year's Fleet Week Maritime Festival. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.1330, from 8 a.m. until 8 p.m. on July 31, 2018, temporarily suspend paragraph (b) and temporarily add paragraph (e) to read as follows:

§ 165.1330 Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliott Bay, Seattle, Washington.

* * * * *

(e) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subpart C, no vessel operator may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port or Designated Representative, thirty minutes prior to the beginning, during and thirty minutes following the conclusion of the Parade of Ships. For the purpose of this rule, the Parade of Ships includes both the pass and review of the ships near Pier 66 and the aerial demonstrations immediately before the pass and review. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

Dated: July 18, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Acting Captain of the Port Puget Sound.

[FR Doc. 2018–15752 Filed 7–23–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0695]

Security Zone; Seattle's Seafair Fleet Week Moving Vessels, 2018, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce Seattle's Seafair Fleet Week Moving Vessels security zones from 10 a.m. on July 31, 2018, through 6 p.m. on August 6, 2018. These security zones are necessary to help ensure the security of the vessels from sabotage or other subversive acts during Seafair Fleet Week Parade of Ships. The designated participating vessels are: HMCS YELLOWKNIFE (MM 706), HMCS WHITEHORSE (MM 705), and USCGC MELLON (WHEC 717). During the enforcement period, no person or vessel may enter or remain in the security zones without the permission of the Captain of the Port (COTP), Puget Sound or her designated representative. The COTP has granted general permission for vessels to enter the outer 400 yards of the security zones as long as those vessels within the outer 400 yards of the security zones operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules.

DATES: The regulations in 33 CFR 165.1333 will be enforced from 10 a.m. July 31, 2018, through 6 p.m. on August 6, 2018, unless cancelled sooner by the Captain of the Port Puget Sound or her designated representative.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zones for Seattle's Seafair Fleet Week Moving Vessels in 33 CFR 165.1333 from 10 a.m. on July 31, 2018, through 6 p.m. on August 6, 2018.

In accordance with the general regulations in 33 CFR part 165, subpart D, no person or vessel may enter or remain in the security zones without the permission of the Captain of the Port, Puget Sound or her designated representative. For 2018, the following areas are § 165.1333 security zones: All navigable waters within 500 yards of HMCS YELLOWKNIFE (MM 706), HMCS WHITEHORSE (MM 705), and USCGC MELLON (WHEC 717) while each such vessel is in the Sector Puget Sound COTP Zone.

The COTP has granted general permission for vessels to enter the outer 400 yards of the security zones as long as those vessels within the outer 400 yards of the security zones operate at the minimum speed necessary to maintain course unless required to maintain speed by the navigation rules. The COTP may be assisted by other federal, state or local agencies with the enforcement of the security zones.

All vessel operators who desire to enter the inner 100 yards of the security zones or transit the outer 400 yards at greater than minimum speed necessary to maintain course must obtain permission from the COTP or her designated representative by contacting the on-scene patrol craft on VHF Ch 13 or Ch 16. Requests must include the reason why movement within this area is necessary. Vessel operators granted permission to enter the security zones will be escorted by the on-scene patrol craft until they are outside of the security zones.

This notice of enforcement is issued under authority of 33 CFR 165.1333 and 5 U.S.C. 552(a). In addition to this notice of enforcement, the Coast Guard will provide the maritime community with advanced notification of the security zones via the Local Notice to Mariners and marine information broadcasts on the day of the event. In the event that there are changes to the participating vessels, due to operational requirements, the Coast Guard will provide actual notice for any additional designated participating vessels not covered in this notice. In addition, members of the public may contact Sector Puget Sound COTP at 206–217–6002 for an up-to-date list of designated participating vessels. For a pending amendment to § 165.1333(a) related to possible changes in participating vessels after the notice of enforcement is published, see final rule published June 28, 2018 (83 FR 30345). That rule will become effective July 30, 2018. If the COTP determines that the security zones need not be enforced for the full duration stated in this notice of enforcement, a Broadcast Notice to Mariners may be used to grant general permission to enter all portions of the regulated areas.

Dated: July 18, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Acting Captain of the Port Puget Sound.

[FR Doc. 2018–15759 Filed 7–23–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0703]

Safety Zone; Fleet Week Maritime Festival, Pier 66, Elliot Bay, Seattle, Washington

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Fleet Week Maritime Festival's Pier 66 Safety Zone in Elliott Bay, WA on July 31, 2018. This action is necessary to promote the safety of personnel, vessels and the marine environment on navigable waters. During the enforcement period, entry into, transit through, mooring, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Puget Sound, or her designated representative.

DATES: The regulations in 33 CFR 165.1330 will be enforced from 8 a.m. until 8 p.m. on July 31, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Zachary Spence, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the Fleet Week Maritime Festival in 33 CFR 165.1330, as amended by Temporary Final Rule (Docket Number USCG–2018–0656), from 8 a.m. until 8 p.m. on July 31, 2018 to ensure the safe completion of the Parade of Ships and associated aerial demonstrations. For the purpose of this notice of enforcement, the Parade of Ships includes both the pass and review of the ships near Pier 66 and the aerial demonstrations immediately before the pass and review. The Captain of the Port may be assisted by other federal, state, or local agencies as needed.

In accordance with the general regulations in 33 CFR part 165, subpart C, no vessel operator may enter, transit, moor, or anchor within this safety zone, except for vessels authorized by the Captain of the Port, Puget Sound or her designated representative. All vessel operators desiring entry into this safety zone shall gain prior authorization by contacting either the on-scene patrol craft on VHF Ch. 13 or Ch. 16, or Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) via telephone at (206) 217–6002. Vessel operators granted individual permission to enter this safety zone will be escorted by the on-scene patrol until no longer within the safety zone.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advanced notification of the safety zone via the Local Notice to Mariners and marine information broadcasts. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice of enforcement, he may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: July 18, 2018.

M.M. Balding,

Captain, U.S. Coast Guard, Acting Captain of the Port, Puget Sound.

[FR Doc. 2018–15757 Filed 7–23–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2018–0171; FRL–9980–01—Region 9]

Approval of California Plan Revisions; Northern Sonoma County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Northern Sonoma County Air Pollution Control District (NSCAPCD or District) portion of the California State Implementation Plan (SIP). These revisions concern the District's prevention of significant deterioration (PSD) permitting program for new and modified sources of air pollution. We are approving local rules under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on August 23, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2018–0171. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: T. Khoi Nguyen, EPA Region IX, (415) 947–4120, *nguyen.thien@epa.gov.*

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

Table of Contents

I. Proposed Action

On April 4, 2018, the EPA proposed an approval of Rules 130—Definitions, 220—New Source Review, and 230—Action on Applications, as noted in Table 1, submitted by the California Air Resources Board (CARB) for incorporation into the NSCAPCD portion of the California SIP. 81 FR 69390. Table 1 also lists the dates the rules were adopted by the NSCAPCD and submitted by CARB, which is the governor's designee for California SIP submittals.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
NSCAPCD	130	Definitions	5/3/2017	6/12/17
NSCAPCD	220	New Source Review	5/3/2017	6/12/17
NSCAPCD	230	Action on Applications	5/3/2017	6/12/17

Rules 130, 220, and 230 contain the requirements for review and permitting of individual stationary sources in the NSCAPCD. We proposed to approve these rules because we determined that they comply with the relevant CAA requirements. The changes the District made to the rules listed above resolve the limited disapproval issues identified in a previous action. 81 FR 69390 (October 6, 2016). The EPA listed four items that need addressing for the three rules with limited approval to become fully approved—listing lead as a pollutant and indicating a significant emission rate, requiring provisions for air quality modeling based on applicable models, databases, and other requirements as specified in Part 51 Appendix W, correcting a typographic error, and including specific language regarding source obligations. The revisions to the three submitted rules address these four deficiencies.

We are now finalizing approval of Rules 130, 220, and 230 because we have determined these rules satisfy all of the statutory and regulatory requirements for an NSR permit program (including the PSD program) as set forth in the applicable provisions of part C of title I of the Act and in 40 CFR 51.165 and 40 CFR 51.307.

Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received six comments. Only one comment pertained to the action. This comment was submitted by the NSCAPCD expressing support for the EPA's proposed action. The NSCAPCD states that this action will help the District maintain its portion of the California SIP in good standing. The EPA thanks the NSCAPCD for its support of our proposed action.

The comments have been added to the docket for this action and are accessible at *www.regulations.gov.*

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the NSCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 2018. Filing a petition for reconsideration by the Administrator of these final rules does not affect the finality of these rules for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rules or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: June 12, 2018.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(480)(i)(A)(*5*) through (*7*) and (c)(504)(i)(B) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(480) * * *

(i) * * *

(A) * * *

(*5*) Previously approved on October 6, 2016, in paragraph (c)(480)(i)(A)(*1*) of this section and now deleted with replacement in (c)(504)(i)(B)(*1*), Rule 130, ''Definitions'' adopted on November 14, 2014.

(*6*) Previously approved on October 6, 2016, in paragraph (c)(480)(i)(A)(*3*) of this section and now deleted with replacement in (c)(504)(i)(B)(*2*), Rule 220, ''New Source Review'' adopted on November 14, 2014.

(*7*) Previously approved on October 6, 2016, in paragraph (c)(480)(i)(A)(*4*) of this section and now deleted with replacement in (c)(504)(i)(B)(*3*), Rule 230, ''Action on Applications'' adopted on November 14, 2014.

* * * * *

(504) * * *

(i) * * *

(B) Northern Sonoma County Air Pollution Control District.

(*1*) Rule 130, ''Definitions,'' amended on May 3, 2017.

(*2*) Rule 220, ''New Source Review Standards (including PSD Evaluations),'' amended on May 3, 2017.

(*3*) Rule 230, ''Action on Applications,'' amended on May 3, 2017.

* * * * *

[FR Doc. 2018–15727 Filed 7–23–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 0907271173–0629–03]

RIN 0648–XG357

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2018 Commercial Accountability Measure and Closure for South Atlantic Snowy Grouper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial snowy grouper in the exclusive economic zone (EEZ) of the South Atlantic. NMFS projects commercial landings for snowy grouper will reach the commercial annual catch limit (ACL) by July 24, 2018. Therefore, NMFS closes the commercial sector for snowy grouper in the South Atlantic EEZ on July 24, 2018, and it will remain closed until the start of the next commercial fishing season on January 1, 2019. This closure is necessary to protect the snowy grouper resource.

DATES: This rule is effective 12:01 a.m., local time, July 24, 2018, until 12:01 a.m., local time, January 1, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *mary.vara@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (commercial quota) for snowy grouper in the South Atlantic is 144,315 lb (65,460 kg), gutted weight, 170,291 lb (77,243 kg), round weight, for the current fishing year, January 1 through December 31, 2018, as specified in 50 CFR 622.190(a)(1)(iv).

Under 50 CFR 622.193(b)(1), NMFS is required to close the commercial sector for snowy grouper when the commercial quota is reached or projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS projects that commercial landings of South Atlantic snowy grouper, as estimated by the Science and Research Director, will reach the commercial quota by July 24, 2018. Accordingly, the commercial sector for South Atlantic snowy grouper is closed effective 12:01 a.m., local time, July 24, 2018, until 12:01 a.m., local time, January 1, 2019.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper on board must have landed and bartered, traded, or sold such snowy grouper prior to 12:01 a.m., local time, July 24, 2018. During the commercial closure, harvest and possession of snowy grouper in or from the South Atlantic EEZ is limited to the bag and possession limits, as specified in § 622.187(b)(2)(ii) and (c)(1). Also during the commercial closure, the sale or purchase of snowy grouper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 24, 2018, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limits and the sale and purchase provisions of the commercial closure for snowy grouper would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of snowy grouper and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(b)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for snowy grouper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the implementing final rule for these AMs has already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect snowy grouper since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 18, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–15791 Filed 7–19–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XG309

Fisheries of the Exclusive Economic Zone Off Alaska; Reapportionment of the 2018 Gulf of Alaska Pacific Halibut Prohibited Species Catch Limits for the Trawl Deep-Water and Shallow-Water Fishery Categories

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

ACTION: Temporary rule; reapportionment.

SUMMARY: NMFS is reapportioning the seasonal apportionments of the 2018

Pacific halibut prohibited species catch (PSC) limits for the trawl deep-water and shallow-water species fishery categories in the Gulf of Alaska. This action is necessary to account for the actual halibut PSC use by the trawl deep-water and shallow-water species fishery categories from May 15, 2018 through June 30, 2018. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), July 19, 2018 through 2400 hours, A.l.t., December 31, 2018.

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

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

The final 2018 and 2019 harvest specifications for groundfish in the GOA (83 FR 8768, March 1, 2018) apportions the 2018 Pacific halibut PSC limit for trawl gear in the GOA to two trawl fishery categories: A deep-water species fishery and a shallow-water species fishery. The halibut PSC limit for these two trawl fishery categories is further apportioned by season, including four seasonal apportionments to the shallow-water species fishery and three seasonal apportionments to the deep-water species fishery. The two fishery categories also are apportioned a combined, fifth seasonal halibut PSC limit. Unused seasonal apportionments are added to the next season apportionment during a fishing year.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. Furthermore, NMFS is required to reapportion the halibut PSC limit between the deep-water and shallow-water species fisheries after June 30 to account for actual halibut PSC use by each fishery category during May 15 through June 30. As of July 18, 2018, NMFS has determined that the trawl deep-water and shallow-water fisheries used 133 metric tons (mt) and 4 mt of halibut PSC, respectively, from May 15 through June 30. Accordingly, pursuant to § 679.21(d)(4)(iii)(D), the Regional Administrator is reapportioning the combined first and second seasonal apportionments (810 mt) of halibut PSC limit between the trawl deep-water and shallow-water fishery categories to account for the actual PSC use (533 mt) in each fishery from January 1, 2018 through June 30, 2018. Therefore, Table 15 of the final 2018 and 2019 harvest specifications for groundfish in the GOA (83 FR 8768, March 1, 2018) is revised consistent with this adjustment.

TABLE 15—FINAL 2018 AND 2019 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY CATEGORIES

[Values are in metric tons]

Season	Shallow-water	Deep-water [1]	Total
January 20–April 1	15	81	96
April 1–July 1	9	428	437
Subtotal, combined first and second season limit (January 20–July 1)	24	509	533
July 1–September 1	179	610	789
September 1–October 1	128	Any remainder	128
Subtotal January 20–October 1	331	1,119	1,450
October 1–December 31 [2]	.....	.....	256
Total	.....	.....	1,706

[1] Vessels participating in cooperatives in the Central GOA Rockfish Program will receive 191 mt of the third season (July 1 through September 1) deep-water species fishery halibut PSC apportionment.

[2] There is no apportionment between trawl shallow-water and deep-water species fishery categories during the fifth season (October 1 through December 31).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the originally specified apportionment of the halibut PSC limits to the deep-water and shallow-water fishery categories. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 18, 2018.

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

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

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

Dated: July 19, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–15814 Filed 7–19–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 142
Tuesday, July 24, 2018

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[Doc. No.: AMS–SC–18–0028; SC–18–956–1]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Proposed Amendments to the Marketing Order (No. 956)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on proposed amendments to Marketing Order No. 956, which regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. The proposed amendments would change the Walla Walla Sweet Onion Marketing Committee's (Committee) size, quorum, and voting requirements. It would also change the staggered term limits so that one-half of the producer and handler member terms expire every two fiscal periods instead of one-third every three fiscal periods.

DATES: Comments must be received by September 24, 2018.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Rulemaking Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Julie.Santoboni@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal is issued under Marketing Order No. 956, as amended (7 CFR part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon. Part 956 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Committee locally administers the Order and is comprised of sweet onion producers and handlers operating within the area of production and a public member.

Section 608c(17) of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900) authorizes amendment of the Order through this informal rulemaking action. The Agricultural Marketing Service (AMS) will consider comments received in response to this proposed rule, and based on all the information available, will determine if the Order amendment is warranted. If AMS determines amendment of the Order is warranted, a subsequent proposed rule and notice of referendum would be issued and producers would be allowed to vote for or against the proposed Order amendments. AMS would then issue a final rule effectuating any amendments approved by producers in the referendum.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule shall not be deemed to preclude, preempt, or supersede any State program covering sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed no later than 20 days after the date of entry of the ruling.

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill)(Pub. L. 110–246) amended section 8c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR

part 900 (73 FR 49307; August 21, 2008). The amendment of section 8c(17) of the Act and the supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

AMS has considered these factors and has determined that the amendments proposed are not unduly complex and the nature of the proposed amendments is appropriate for utilizing the informal rulemaking process to amend the Order. A discussion of the potential regulatory and economic impacts on affected entities is discussed later in the ''Initial Regulatory Flexibility Analysis'' section of this proposed rule.

The proposed amendments were unanimously recommended by the Committee following deliberations at two public meetings held on November 14, 2017 and March 3, 2018. The proposals would amend the Order by changing the Committee's size, quorum, and voting requirements. This action would also change the staggered term limits so that one-half of the producer and handler member terms expire every two fiscal periods instead of one-third every three fiscal periods.

Proposal 1—Reduce Committee Size

Section 956.20 provides that the Committee consists of ten members, six of whom shall be producers, three of whom shall be handlers, and one public member. This proposal would amend § 956.20 by reducing the size of the Committee from ten to seven members, four of whom shall be producers, two of whom shall be handlers, and one public member. The requirement that each member have an alternate with the same qualifications as the member would remain unchanged.

Since promulgation of the Order in 1995, the number of Walla Walla sweet onion producers and handlers operating in the industry has decreased, which makes it difficult to find enough members and alternates to fill all the positions on the Committee. Decreasing the Committee's size from ten members to seven members would make it more reflective of today's industry. Having a smaller size committee would enable it to fulfill membership and quorum requirements. These changes should help the Committee streamline its operations and increase its effectiveness.

Proposal 2—Revise Term of Office and Staggered Term Limits

Section 956.21 requires Committee members and their alternates to serve for three years in staggered terms with one-third of the terms expiring each year.

This proposal would change § 956.21 by revising the terms of office for the producer and handler members from three years to two years beginning on June 1 so that one-half of the Committee changes every year. The staggered terms would also change so that one-half of the producer and handler member terms expire every two fiscal periods instead of one-third of the producer and handler members forms expiring every three fiscal periods. The proposed term limit changes would only apply to producer and handler members, and the public member term would remain three years.

Proposal 3—Revise Quorum and Voting Requirements

Currently, Section 956.28(a) states that six members of the Committee shall constitute a quorum, and six concurring votes shall be required to pass any motion or approve any Committee action, except that recommendations made pursuant to § 956.61 shall require seven concurring votes.

The proposed changes would modify § 956.28 to state that four rather than six members would constitute a quorum and four rather than six concurring votes would be required to pass any motion to approve any Committee action, except for recommendations made pursuant to § 956.61, which would require five rather than seven concurring votes. These changes would help to streamline the Committee's operations and increase its effectiveness.

Initial Regulatory Flexibility Analysis

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

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

There are eight handlers of Walla Walla sweet onions subject to regulation under the Order and approximately 15 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration as those having annual receipts of less than $7,500,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

The Committee reported that approximately 390,000 50-pound bags or equivalents of Walla Walla sweet onions were shipped into the fresh market in 2017. Based on information reported by USDA's Market News Service, the average 2017 marketing year f.o.b. shipping point price for the Walla Walla sweet onions was $14.90 per 50-pound equivalent. Multiplying the $14.90 average price by the shipment quantity of 390,000 50-pound equivalents yields an annual crop revenue estimate of $5,811,000. The average annual revenue for each of the eight handlers is therefore calculated to be $726,375 ($5,811,000 divided by eight), which is considerably less than the Small Business Administration threshold of $7,500,000. Consequently, all the Walla Walla sweet onion handlers could be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service (NASS), the average producer price for Walla Walla sweet onions for the 2012 through 2016 marketing years is $15.27 per 50-pound equivalent. NASS has not released data regarding the 2017 marketing year at this time. Multiplying the 2012–2016 marketing year average price of $15.27 by the 2017 marketing year shipments of 390,000, 50-pound equivalents yields an annual crop revenue estimate of $5,955,300. The estimated average annual revenue for each of the 15 producers is therefore calculated to be approximately $397,020 ($5,955,300 divided by 15), which is less than the Small Business Administration threshold of $750,000. In view of the foregoing, the majority of Walla Walla sweet onion producers, and all of the Walla Walla sweet onion handlers, may be classified as small entities.

The proposed amendments would change the Committee's size, quorum, and voting requirements. They would also change the staggered term limits so that one-half of the producer and handler member terms expire every two fiscal periods instead of one-third every three fiscal periods.

The Committee's proposed amendments were unanimously recommended at two public meetings on November 14, 2017 and March 3, 2018. If these proposals are approved in

a referendum, there would be no direct financial effects on producers or handlers. The number of producers and handlers operating in the industry has decreased, which makes it difficult to find enough members to fill positions on the Committee. Decreasing the Committee's size would make it more reflective of today's industry.

The Committee believes these changes will serve the needs of the Committee and the industry. No economic impact is expected if the proposed amendments are approved because they would not establish any new regulatory requirements on handlers, nor would they have any assessment or funding implications. There would be no change in financial costs, reporting, or recordkeeping requirements if this proposal is approved.

Alternatives to this proposal, including making no changes at this time, were considered by the Committee. Due to changes in the industry, AMS believes the proposals are justified and necessary to ensure the Committee's ability to locally administer the program. Reducing the size of the Committee would enable it to fulfill membership and quorum requirements fully, thereby ensuring a more efficient and orderly flow of business.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178 (Vegetable and Specialty Crops). No changes in those requirements are necessary because of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Walla Walla Valley sweet onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public-sector agencies.

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

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

The Committee's meetings were widely publicized throughout the Walla Walla Valley sweet onion production area. All interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the November 14, 2017 and March 3, 2018, meetings were public, and all entities, both large and small, were encouraged to express their views on the proposals.

Finally, interested persons are invited to submit comments on the proposed amendments to the Order, including comments on the regulatory and information collection impacts of this action on small businesses.

Following analysis of any comments received on the amendments proposed in this proposed rule, AMS will evaluate all available information and determine whether to proceed. If appropriate, a proposed rule and notice of referendum would be issued, and producers would be provided the opportunity to vote for or against the proposed amendments. Information about the referendum, including dates and voter eligibility requirements, would be published in a future issue of the **Federal Register.** A final rule would then be issued to effectuate any amendment favored by producers participating in the referendum.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

General Findings

The findings hereinafter set forth are supplementary to the findings and determinations which were previously made in connection with the issuance of Marketing Order 956; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. Marketing Order 956 as hereby proposed to be amended and all the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

2. Marketing Order 956 as hereby proposed to be amended regulates the handling of sweet onions grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon and is applicable only to persons in the respective classes of commercial and industrial activity specified in the Order;

3. Marketing Order 956 as hereby proposed to be amended is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several marketing orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. Marketing Order 956 as hereby proposed to be amended prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of onions produced or packed in the production area; and

5. All handling of onions produced or packed in the production area as defined in Marketing Order 956 is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

A 60-day comment period is provided to allow interested persons to respond to these proposals. Any comments received on the amendments proposed in this proposed rule will be analyzed, and if AMS determines to proceed based on all the information presented, a producer referendum would be conducted to determine producer support for the proposed amendments. If appropriate, a final rule would then be issued to effectuate the amendments favored by producers participating in the referendum.

List of Subjects in 7 CFR Part 956

Onions, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 956 is proposed to be amended as follows:

PART 956—SWEET ONIONS GROWN IN THE WALLA WALLA VALLEY OF SOUTHEAST WASHINGTON AND NORTHEAST OREGON

■ 1. The authority citation for 7 CFR part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 956.20 to read as follows:

§ 956.20 Establishment and membership.

(a) The Walla Walla Sweet Onion Marketing Committee, consisting of seven members, is hereby established. The Committee shall consist of four producer members, two handler members, and one public member. Each

member shall have an alternate who shall have the same qualifications as the member.

* * * * *

■ 3. Revise § 956.21 to read as follows:

§ 956.21 Term of office.

(a) Except as otherwise provided in paragraph (b) of this section, the term of office of grower and handler Committee members and their respective alternates shall be two years beginning on June 1. The terms shall be determined so that one-half of the grower membership and one-half of the handler membership shall terminate every year. Members and alternates shall serve during the term of office for which they are selected and have been qualified, or during that portion thereof beginning on the date on which they qualify during such term of office and continuing until the end thereof, or until their successors are selected and have qualified.

(b) The term of office of the initial members and alternates shall begin as soon as possible after the effective date of this subpart. One-half of the initial industry grower and handler members and alternates shall serve for a one year term and one-half shall serve for a two year term. The initial, as well as all successive terms of office of the public member and alternate member shall be for three years.

(c) The consecutive terms of office for all members shall be limited to two two-year terms. There shall be no such limitation for alternate members.

■ 4. Revise § 956.28 to read as follows:

§ 956.28 Procedure

(a) Four members of the Committee shall constitute a quorum, and four concurring votes shall be required to pass any motion or approve any Committee action, except that recommendations made pursuant to § 956.61 shall require five concurring votes.

* * * * *

Dated: July 19, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018–15792 Filed 7–23–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0878; Airspace Docket No. 14–AWP–10]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace, and Establishment of Class E Airspace; Honolulu, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class D airspace, and Class E airspace extending upward from 700 feet above the surface, and establish Class E surface area airspace at Wheeler Army Airfield (AAF), Honolulu, HI. This action also would update the airport name and geographic coordinates in the associated Class D and E airspace areas to match the FAA's aeronautical database, and would replace outdated language in the airspace description. An editorial change to the airspace designations also would be made.

DATES: Comments must be received on or before September 7, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2014–0878; Airspace Docket No. 14–AWP–10, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Steve Haga, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 231–2252.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would amend Class D and Class E airspace at Wheeler Army Airfield (AAF), Honolulu, HI, to support standard instrument approach procedures 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. Persons 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 FAA–2014–0878; Airspace Docket No. 14–AWP–10''. The postcard will be date/time stamped and returned to the commenter.

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

public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198–6547.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B 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 D airspace, Class E airspace extending upward from 700 feet above the surface, and establishing Class E surface area airspace at Wheeler AAF, Honolulu, HI.

Class D airspace extending upward from the surface to and including 3,300 feet MSL would be modified to within a 2.6-mile radius of Wheeler AAF, (formerly Wheeler AFB), then extend to a 3.7-mile radius from the southeast to the southwest, adjoining the boundary of Restricted Area R–3109 to the west, excluding that airspace below 1,800 feet MSL beyond 3.3 miles from the airport from the 89° bearing clockwise to the 218° bearing from the airport.

Additionally, an editorial change would be made to the Class D airspace legal description removing the words ''Airport/Facility Directory''. An editorial change also would be made removing the city associated with the airport name in the airspace designation to comply with a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters.

Class E surface area airspace would be established to be coincident with the lateral dimensions of the Class D airspace, and would be effective continuously to provide protection to instrument procedures.

Class E airspace extending upward from 700 feet would be modified to that airspace within a 4.2-mile radius of Wheeler AAF. The Koko Head VORTAC navigation aid would be removed, as it is no longer needed to describe the boundary.

Additionally, this action proposes to update the airport name from Wheeler AFB to Wheeler AAF, and the geographic coordinates for the associated Class D and Class E airspace areas to match the FAA's aeronautical database.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP HI D Honolulu, HI [Amended]

Wheeler AAF, HI
(Lat. 21°28′53″ N, long. 158°02′16″ W)

That airspace extending upward from the surface to and including 3,300 feet MSL bounded by a line from lat. 21°31′03″ N, long. 158°04′30″ W; to lat. 21°31′25″ N, long. 158°03′00″ W, thence clockwise along a 2.6-mile radius of Wheeler AAF to lat. 21°30′33″ N, long. 158°00′07″ W; to lat. 21°28′41″ N, long. 157°58′19″ W, thence clockwise along a 3.7-mile radius of the airport to lat. 21°25′46″ N, long. 158°04′24″ W; to lat. 21°26′52″ N, long. 158°04′31″ W; to lat. 21°27′17″ N, long. 158°05′45″ W; to lat. 21°29′14″ N, long. 158°04′50″ W; to lat. 21°30′18″ N, long. 158°03′59″ W; thence to the point of beginning, excluding that airspace below 1,800 feet MSL beyond 3.3 miles from the airport from the 89° bearing clockwise to the 218° bearing from the 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 Pacific Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP HI E2 Honolulu, HI [New]

Wheeler AAF, HI
(Lat. 21°28′53″ N, long. 158°02′16″ W)

That airspace extending upward from the surface bounded by a line from lat. 21°31′03″ N, long. 158°04′30″ W; to lat. 21°31′25″ N, long. 158°03′00″ W, thence clockwise along a 2.6-mile radius of Wheeler AAF to lat. 21°30′33″ N, long. 158°00′07″ W; to lat.

21°28′41″ N, long. 157°58′19″ W, thence clockwise along a 3.7-mile radius of the airport to lat. 21°25′46″ N, long. 158°04′24″ W; to lat. 21°26′52″ N, long. 158°04′31″ W; to lat. 21°27′17″ N, long. 158°05′45″ W; to lat. 21°29′14″ N, long. 158°04′50″ W; to lat. 21°30′18″ N, long. 158°03′59″ W; thence to the point of beginning; excluding that airspace below 1,800 feet MSL beyond 3.3 miles from the airport from the 89° bearing clockwise to the 218° bearing from the airport.

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

* * * * *

AWP HI E5 Honolulu, HI [Amended]

Wheeler AAF, HI

(Lat. 21°28′53″ N, long. 158°02′16″ W)

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of Wheeler AAF, excluding that portion within Restricted Area R–3109, when active.

Issued in Seattle, Washington, on July 17, 2018.

Shawn M. Kozica,

Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–15738 Filed 7–23–18; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–10521; File No. S7–18–18]

RIN 3235–AM38

Concept Release on Compensatory Securities Offerings and Sales

AGENCY: Securities and Exchange Commission

ACTION: Concept release; request for comment.

SUMMARY: The Securities and Exchange Commission (''Commission'') is publishing this release to solicit comment on the exemption from registration under the Securities Act of 1933 (the ''Securities Act'') for securities issued by non-reporting companies pursuant to compensatory arrangements, and Form S–8, the registration statement for compensatory offerings by reporting companies. Significant evolution has taken place both in the types of compensatory offerings issuers make and the composition of the workforce since the Commission last substantively amended these regulations. Therefore, as we amend the exemption as mandated by the Economic Growth, Regulatory Relief, and Consumer Protection Act (the ''Act''), we seek comment on possible ways to modernize the exemption and the relationship between it and Form S–8, consistent with investor protection.

DATES: Comments should be received on or before September 24, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/concept.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–18–18 on the subject line.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–18–18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's website (*http://www.sec.gov/rules/concept.shtml*). Comments are also available for website viewing and copying 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. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anne M. Krauskopf, Senior Special Counsel, and Adam F. Turk, Special Counsel, Office of Chief Counsel, Division of Corporation Finance, at (202) 551–3500.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview

Under the Securities Act, every offer and sale of securities must be registered or subject to an exemption from registration. The Commission has long recognized that offers and sales of securities as compensation present different issues than offers and sales that raise capital for the issuer of the securities.[1] Among other considerations, the Commission has recognized that the relationship between the issuer and recipient of securities is often different in a compensatory rather than capital raising transaction. The Commission has thus provided a limited exemption from registration—17 CFR 230.701 (Rule 701)—for certain compensatory securities transactions as well as a specialized form—Form S–8—for registering certain compensatory transactions. Both Rule 701 and Form S–8 require the issuer to make specific disclosures. However, depending on the circumstances, compensatory transactions also may be conducted under the Securities Act Section 4(a)(2) exemption from registration or under a ''no sale'' theory,[2] which would not require specific disclosures.

Equity compensation can be an important component of the employment relationship. Using equity for compensation can align the incentives of employees with the success of the enterprise, facilitate

[1] *See, e.g.,* Release No. 33–3469–X (Apr. 10, 1953) [18 FR 2182 (Apr. 17, 1953)] and *Registration of Securities Offered Pursuant to Employees Stock Purchase Plans,* Release No. 33–3480 (Jun. 16, 1953) [18 FR 3688 (Jun. 27, 1953)], each observing that the investment decision to be made by the employee is of a different character than when securities are offered for the purpose of raising capital.

[2] *See Changes to Exchange Act Registration Requirements to Implement Title V and Title VI of the JOBS Act,* Release No. 33–10075 (May 3, 2016) [81 FR 28689 (May 10, 2016)] at n. 82, stating ''The ''no sale'' theory relates to the issuance of compensatory grants made by employers to broad groups of employees pursuant to broad-based stock bonus plans without Securities Act registration under the theory that the awards are not an offer or sale of securities under Section 2(a)(3) of the Securities Act [15 U.S.C. 77b(a)(3)].'' Where securities are awarded to employees at no direct cost through broad based bonus plans, the staff has taken the position generally that there has been no sale since employees do not individually bargain to contribute cash or other tangible or definable consideration to such plans. Where securities are awarded to or acquired by employees pursuant to individual employment arrangements, however the staff has expressed the view that such arrangements involve separately bargained consideration, and a sale of the securities has occurred. *See Employee Benefit Plans: Interpretations of Statute,* Release No. 33–6188 (Jan. 15, 1981) [29 FR 8960 (Feb. 11, 1980)] at Section II.A.5.d and n. 84.

recruitment and retention, and preserve cash for the company's operations.[3]

Since Rule 701 and Form S–8 [4] were last amended, forms of equity compensation have continued to evolve, and new types of contractual relationships between companies and the individuals who work for them have emerged. In light of these developments, as well as the Act's mandate to increase to $10 million the Rule 701(e) threshold in excess of which the issuer is required to deliver additional disclosure to investors, which we are implementing in a separate release,[5] we believe this is an appropriate time to revisit the Commission's regulatory regime for compensatory securities transactions. We therefore solicit comment on possible ways to update the requirements of Rule 701 and Form S–8, consistent with investor protection. We also solicit comment on what effects any revised rule or form may have on a company's decision to become a reporting company.

II. Rule 701

A. Background

In 1988, the Commission adopted Rule 701 under the Securities Act [6] to allow non-reporting companies to sell securities to their employees without the need to register the offer and sale of such securities.[7] Only issuers that are not subject to the reporting requirements of Section 13 [8] or 15(d) [9] of the Securities Exchange Act of 1934 (''Exchange Act'') and are not investment companies registered or required to be registered under the Investment Company Act of 1940 [10] are eligible to use Rule 701. The rule provides an exemption from the registration requirements of Section 5 of the Securities Act [11] for offers and sales of securities under compensatory benefit plans [12] or written agreements relating to compensation. In adopting the rule, the Commission determined that it would be an unreasonable burden to require these non-reporting companies, many of which are small businesses, to incur the expenses and disclosure obligations of public companies where their sales of securities were to employees.[13] In addition to domestic non-reporting companies, Rule 701 is also available for foreign private issuers.[14]

The rule provides an exemption from registration only for securities issued in compensatory circumstances and is not available for plans or schemes inconsistent with this purpose, such as to raise capital.[15] The exemption is available only to the issuer of the securities, not to its affiliates, and does not cover resales of securities by any person.[16] The rule exempts only the transactions in which the securities are offered or sold, and not the securities themselves.[17] In addition to complying with Rule 701, the issuer also must comply with any applicable state law relating to the offer and sale of securities.[18]

Since 1999,[19] the rule has provided that the amount of securities that may be sold in reliance on the exemption during any consecutive 12-month period is limited to the greatest of: [20]

- $1 million;
- 15% of the total assets of the issuer,[21] measured at the issuer's most recent balance sheet date; or
- 15% of the outstanding amount of the class of securities being offered and sold in reliance on the rule, measured at the issuer's most recent balance sheet date.

These measures apply on an aggregate basis, not plan-by-plan. For securities underlying options, the aggregate sales price is determined when the option grant is made, without regard to when it becomes exercisable.[22] For deferred compensation plans, the calculation is made at the time of the participant's irrevocable election to defer.[23] There is no separate limitation on the amount of securities that may be offered.

In all cases, the issuer must deliver to investors a copy of the compensatory benefit plan or contract. Further, Rule 701 transactions are subject to the antifraud provisions of the federal securities laws.[24]

In addition, if the aggregate sales price or amount of securities sold during the 12-month period exceeds $5 million,[25] the issuer must deliver to investors a reasonable period of time before the date of sale: [26]

- A copy of the summary plan description required by ERISA,[27] or a summary of the plan's material terms, if it is not subject to ERISA;
- Information about the risks associated with investment in the securities sold under the plan or contract; and

---

[3] *See Executive Compensation and Related Person Disclosure,* Release No. 33–8732A (Aug. 29, 2006) [71 FR53158 (Sept. 6, 2006)] at Section II.A.1.

[4] 17 CFR 239.16b.

[5] Section 507 of the Act directs the Commission, not later than 60 days after the date of enactment, to amend Rule 701(e) to increase this threshold. *See* Public Law 115–174, sec. 507, 132 Stat. 1296 (2018). In Release 33–10520, we adopt an amendment to Rule 701(e) to implement this change.

[6] 15 U.S.C. 77a *et seq.*

[7] *See Compensatory Benefit Plans and Contracts,* Release No. 33–6768 (Apr. 14, 1988) [53 FR 12918 (Apr. 20, 1988)] (''1988 Adopting Release'').

[8] 15 U.S.C. 78m.

[9] 15 U.S.C. 78o(d).

[10] 15 U.S.C. 80a–1 *et seq.*

[11] 15 U.S.C. 77e.

[12] A ''compensatory benefit plan'' is defined in Rule 701(c)(2) [17 CFR 230.701(c)(2)] as ''any purchase, savings, option, bonus, stock appreciation, profit sharing, thrift, incentive, deferred compensation, pension or similar plan.''

[13] As the Commission stated in re-proposing Rule 701, ''The essential concern [. . .] remains the same—many privately-held companies have found the costs of complying with the registration requirements of the Securities Act and the subsequent reporting obligations under section 15(d) of the Exchange Act so burdensome that employee incentive arrangements are not being provided by them. As a consequence, employees must forego [*sic*] potentially valuable means of compensation. The Commission historically has recognized that when transactions of this nature are primarily compensatory and incentive oriented, some accommodation should be made under the Securities Act.'' *See Employee Benefit and Compensation Contracts* Release No. 33–6726 (Jul. 30, 1987) [52 FR 29033 (Aug. 5, 1987)] (''Rule 701 Proposing Release'') at Section I.

[14] A ''foreign private issuer'' is defined in 17 CFR 230.405 (Securities Act Rule 405) as a foreign issuer other than a foreign government, except an issuer meeting the following conditions as of the last business day of its most recently completed second fiscal quarter:

(i) More than 50 percent of the outstanding voting securities of which are directly or indirectly owned of record by residents of the United States; and

(ii) Any of the following:

(A) The majority of the executive officers or directors are United States citizens or residents;

(B) More than 50 percent of the assets of the issuer are located in the United States; or

(C) The business of the issuer is administered principally in the United States.

[15] Preliminary Note 5 to Rule 701 provides ''This section also is not available to exempt any transaction that is in technical compliance with this section but is part of a plan or scheme to evade the registration provisions of the [Securities] Act. In any of these cases, registration under the [Securities] Act is required unless another exemption is available.''

[16] Preliminary Note 4 to Rule 701.

[17] *Id.*

[18] Preliminary Note 2 to Rule 701.

[19] *See Rule 701—Exempt Offerings Pursuant to Compensatory Arrangements,* Release No. 33–7645 (Feb. 25, 1999) [64 FR 11095 (Mar. 8, 1999)] (''1999 Adopting Release'').

[20] Rule 701(d) [17 CFR 230.701(d)].

[21] The relevant limit applies to the total assets of the issuer's parent if the issuer is a wholly-owned subsidiary and the securities represent obligations that the parent fully and unconditionally guarantees.

[22] *See* Rule 701(d)(3)(ii) [17 CFR 230.701(d)(3)(ii)].

[23] *Id.*

[24] Preliminary Note 1 to Rule 701 (''Issuers and persons acting on their behalf have an obligation to provide investors with disclosure adequate to satisfy the antifraud provisions of the federal securities laws.'').

[25] Rule 701(e) [17 CFR 230.701(e)].

[26] Rule 701(e). This amount will change to $10 million upon effectiveness of the final rule amendment that raises this threshold. *See* n. 5, above, *See also* n. 49 and Section II.C.1, below.

[27] The Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.*).

• Financial statements required to be furnished by Part F/S of Form 1–A[28] under 17 CFR 230.251 through 230.263 (Regulation A). These financial statements must be as of a date no more than 180 days before the sale of securities relying on Rule 701.[29]

This disclosure should be provided to all investors before sale. For options and other derivative securities, the issuer must deliver disclosure a reasonable period of time before the date of exercise or conversion.[30] If disclosure has not been provided to all investors before sale, the issuer will lose the exemption for the entire offering when sales exceed the $5 million threshold during the 12-month period.[31]

The exemption covers securities offered or sold under a plan or agreement between a non-reporting company (or its parents, majority-owned subsidiaries or majority-owned subsidiaries of its parent) and the company's employees, officers, directors, partners, trustees, consultants and advisors.[32] Rule 701 is also available for sales, such as option exercises, to their family members [33] who acquire such securities through gifts or domestic relations orders.

Consultants and advisors may participate in Rule 701 offerings only if:

• They are natural persons;

• They provide *bona fide* services to the issuer, its parents, its majority-owned subsidiaries or majority-owned subsidiaries of the issuer's parent; and

• The services are not in connection with the offer or sale of securities in a capital-raising transaction, and do not directly or indirectly promote or maintain a market for the issuer's securities.[34]

In adopting these restrictions on the range of eligible consultants and advisors, the Commission also provided that a person in a *de facto* employment relationship with the issuer, such as a non-employee providing services that traditionally are performed by an employee, with compensation paid for those services being the primary source of the person's earned income, would qualify as an eligible person under the exemption.[35] Such services, however, must not be in connection with the offer or sale of securities in a capital-raising transaction, and must not directly or indirectly promote or maintain a market for the issuer's securities.[36]

Offers and sales under Rule 701 are deemed part of a single discrete offering and are not subject to integration with any other offers or sales, whether registered under the Securities Act or exempt from registration.[37] An issuer that attempts to comply with Rule 701, but fails to do so, may claim any other exemption that is available.[38] Securities issued under Rule 701 are deemed to be ''restricted securities,'' [39] as defined in 17 CFR 230.144 (Securities Act Rule 144).

Section 502 of the Jumpstart Our Business Startups Act [40] (''JOBS Act'') amended Exchange Act Section 12(g)(5) [41] to exclude from the definition of ''held of record,'' for the purposes of determining whether an issuer is required to register a class of equity securities, securities that are held by persons who received them pursuant to an ''employee compensation plan'' in transactions exempted from the registration requirements of Section 5 of the Securities Act. This statutory exclusion applies solely for purposes of determining whether an issuer is required to register a class of equity securities under the Exchange Act and does not apply to a determination of whether such registration may be terminated or suspended. The Commission amended the definition of ''held of record'' in 17 CFR 240.12g5–1 (Exchange Act Rule 12g5–1) to exclude certain securities held by persons who received them pursuant to employee compensation plans in a transaction exempt from, or not subject to, the registration requirements of Section 5.[42] This amendment also established a non-exclusive safe harbor for determining whether securities are ''held of record'' for purposes of registration under Exchange Act Section 12(g), providing that an issuer may deem a person to have received securities pursuant to an employee compensation plan if the plan and the person who received the securities pursuant to it met the plan and participant conditions of Rule 701(c). These provisions help enable private companies to offer securities to their employees under Rule 701 without triggering the obligation to register the class of securities and file periodic reports with the Commission.

Questions have arisen about whether the current requirements of Rule 701 would benefit from updates in light of developments since the Commission last substantively revised the rule. Forms of equity compensation that were not typically used at that time, particularly restricted stock units (''RSUs''), have become common, and new types of contractual relationships between companies and individuals involving alternative work arrangements have emerged in the so-called ''gig economy.'' [43] In this release, we solicit comment on various aspects of Rule 701

[28] Regulation A Offering Statement [17 CFR 239.90].

[29] Rule 701(e)(4) [17 CFR 230.701(e)(4)].

[30] Rule 701(e)(6) [17 CFR 230.701(e)(6)]. As described in Section II.C.3, below, for options and other derivative securities, whether the issuer is obligated to deliver Rule 701(e) disclosure is determined based on whether the option or other derivative security was granted during a 12-month period in which the disclosure threshold is exceeded. If the grant occurred during such a period, the issuer must deliver the Rule 701(e) disclosure a reasonable period of time before the date of exercise or conversion.

[31] *See* 1999 Adopting Release at Section II.B.

[32] Rule 701(c) [17 CFR 230.701(c)]. The rule also exempts offers and sales to former employees, directors, general partners, trustees, officers, consultants and advisors only if such persons were employed by or providing services to the issuer at the time the securities were offered.

[33] Rule 701(c)(3) [17 CFR 230.701(c)(3)] defines ''family member'' for this purpose.

[34] Rule 701(c)(1) [17 CFR 230.701(c)(1)]. Where the consultant or advisor performs services for the issuer through a wholly-owned corporate alter ego, the issuer may contract with, and issue securities as compensation to, that corporate entity. *Cf., Registration of Securities on Form S–8,* Release No. 33–7646 (Feb. 25, 1999) [64 FR 11103 (Mar. 8, 1999)] at n. 20, (''1999 S–8 Adopting Release'') addressing such a corporate alter ego in the Form S–8 context.

[35] 1999 Adopting Release at Section II.D.

[36] 1999 Adopting Release at n. 39. *See also* 1988 Adopting Release (''Consequently, the rule has been modified to extend to consultants and advisers who provide *bona fide* services to a company, its parents or majority-owned subsidiaries.'').

[37] Rule 701(f) [17 CFR 230.701(f)].

[38] Preliminary Note 3 to Rule 701.

[39] Rule 701(g) [17 CFR 230.701(g)]. Ninety days after the issuer becomes subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 [15 U.S.C. 78m or 78o(d)], securities issued under Rule 701 may be resold by non-affiliates in reliance on Rule 144 without compliance with Rules 144(c) and (d), and by affiliates without compliance with Rule 144(d).

[40] Sec. 502, 126 Stat. at 326. Section 501 of the JOBS Act [Sec. 601, 126 Stat. at 325] amended Section 12(g)(1) of the Exchange Act to require an issuer to register a class of equity securities (other than exempted securities) within 120 days after its fiscal year-end if, on the last day of its fiscal year, the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by either (i) 2,000 persons, or (ii) 500 persons who are not accredited investors. Section 601 of the JOBS Act [Sec. 601, 126 Stat. at 326] further amended Exchange Act Section 12(g)(1) to require an issuer that is a bank or bank holding company, as defined in Section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841], to register a class of equity securities (other than exempted securities) within 120 days after the last day of its first fiscal year ended after the effective date of the JOBS Act, on which the issuer has total assets of more than $10 million and the class of equity securities is ''held of record'' by 2,000 or more persons.

[41] 15 U.S.C. 78*l*(g)(5).

[42] *See Changes to Exchange Act Registration Requirements to Implement Title V and Title VI of the JOBS Act,* Release No. 33–10075; (May 3, 2016) [81 FR 28689 (May 10, 2016)].

[43] *See The Rise and Nature of Alternative Work Arrangements in the United States,* 1995–2015, Lawrence F. Katz and Alan B.Krueger, National Bureau of Economic Research, *available at http://www.nber.org/papers/w22667* (defining alternative work arrangements as temporary help agency workers, on-call workers, contract workers, and independent contractors or freelancers).

to determine whether and if so, how, the rule should be amended to address these concerns and developments. Our evaluation of any potential changes will focus on retaining the compensatory purpose of Rule 701 and avoiding potential abuse of the rule for capital-raising purposes, consistent with the Commission's investor protection mandate. Comments are of greatest assistance if accompanied by supporting data and analysis of the issues addressed in those comments.

B. Rule 701(c) Eligible Plan Participants

Due in large part to the internet, new types of contractual relationships are arising between companies and individuals in the labor markets and the workplace economy. These can involve short-term, part-time or freelance arrangements, where the individual—rather than the company—may set the work schedule. Typically, this involves the individual's use of the company's internet ''platform'' for a fee to find business, whether that involves the individual providing services to end users, or using the platform to sell goods or lease property. Platforms are available that offer end users such services as ride-sharing, food delivery, household repairs, dog-sitting, and tech support. Other platforms offer hand-made craft objects, lodging, or car rentals. An individual who provides services or goods through these platforms may have similar relationships with multiple companies, through which the individual may engage in the same or different business activities.

Individuals participating in these arrangements do not enter into traditional employment relationships, and thus may not be ''employees'' eligible to receive securities in compensatory arrangements under Rule 701.[44] Similarly, they also may not be consultants or advisors, or *de facto* employees under Rule 701. As with traditional employees, however, companies may have the same compensatory and incentive motivations to offer equity compensation to these individuals. Accordingly, we solicit comment regarding these ''gig economy'' relationships to better understand how they work and determine what attributes of these relationships potentially may provide a basis for extending eligibility for the Rule 701 exemption.

Our comment requests focus on what activities an individual should need to engage in to be eligible to participate in exempt compensatory offerings:

1. To what extent should definitions of ''employee'' under other regulatory regimes guide our thinking on eligible participants in compensatory securities offerings? Which regulatory regimes should we consider for this purpose? Should any new test apply equally to all companies, or would there be a reason to apply different tests based on the nature of the working relationship?

2. Would the application of Rule 701 to consultants and advisors in any circumstances cover the alternative work arrangements described above?

3. What, if any, services should an individual participating in the ''gig economy'' need to provide to the issuer to be eligible under Rule 701? Do these individuals in fact provide services to the issuer, or instead to the issuer's customers or end users? Should this fact make any difference for purposes of Rule 701 eligibility?

4. Should we consider a test that identifies Rule 701 eligible participants as individuals who use the issuer's platform to secure work providing lawful services to end users?

a. Are any other factors necessary to establish any level of control by the issuer, such as requiring the work to be assigned by the issuer? Or is it necessary that the issuer control what the individual charges end users for services, such as by setting hourly rates or ride fares? Should a written contractual relationship between the issuer and individual be necessary? Why or why not?

b. Does it matter whether the individual goes through a vetting or screening process by the issuer to use the platform?

c. Does it matter whether the issuer controls when and how the individual receives monetary compensation for the services provided?

5. Would it be sufficient for an individual to use the issuer's platform to sell goods, to earn money from leasing real estate or personal property, or to conduct a business activity? Would the individual be considered to be providing a service to either or both the company and its end-users or customers? Does it matter whether that business activity provides a service typically provided by an employee or is of a more entrepreneurial nature? How do the answers to these questions affect whether there is a sufficient nexus between the individual and the issuer to justify application of the exemption for compensatory transactions?

6. Should it make a difference whether the end user pays the issuer for the goods or leased property, and the issuer then provides a monetary payment to the individual, or the end user pays the individual directly, who then pays a fee to the issuer?

Our comment requests also focus on whether a potential eligibility test should consider the individual's level of dependence on the issuer, or, conversely, the issuer's degree of dependence on the individuals:

7. For example, should it matter what percentage of the individual's earned income is derived from using the issuer's platform? If so, should this be based on earned income during the last year, a series of consecutive years, or current expectations? Should there be a minimum percentage? How should this be verified? How should such a test be applied where the individual provides services to multiple companies? How would the issuer be able to determine how much of an individual's income is derived from using the issuer's platform?

8. Alternatively, where the individual provides services, should eligibility be based on information objectively verifiable by the issuer, such as amount of income earned, or percentage of time or number of hours worked?

9. Where use of the platform relates to leasing a property, should the test focus on how frequently the property is available, how often it actually is leased, the revenues generated by the property, or other factors?

10. Should the test focus on the extent to which the individual uses the issuer's platform to obtain business on a regular basis? Should it consider the duration of time over which the individual has so used the issuer's platform?

11. Should the test instead focus on the extent to which the issuer's business is dependent on individuals' use of the issuer's platform? If so, why, and how should that dependence be measured?

12. What test or tests would leave an issuer best positioned to determine whether it could rely on Rule 701?

We are mindful that extending eligibility to individuals participating in the ''gig economy'' could increase the volume of Rule 701 issuances. In this regard:

13. Would revising the rule have an effect on a company's decision to become a reporting company? Would such revisions encourage companies to stay private longer?

14. Would investors be harmed if the exemption is expanded to individuals participating in the ''gig economy,'' potentially resulting in higher levels of equity ownership in the hands of persons who would not be shareholders of record for purposes of triggering

[44] They may also not be ''employees'' for purposes of labor, tax and other regulatory regimes.

Exchange Act registration and reporting?

15. Should the amount of securities issuable pursuant to Rule 701 to individuals participating in the ''gig economy'' in a 12-month period be subject to a separate ceiling rather than the current Rule 701(d) ceilings? If so, how should that ceiling be designed and measured?

16. Should additional disclosures be provided? If so, what and when?

Employers have many reasons for compensating employees with securities. These can include aligning the company's interests with those of employees', retaining staff, and offering higher compensation than the company may be able to pay in cash or other benefits.

17. Do companies utilizing ''gig economy'' workers issue securities as compensation to those individuals? If so, how prevalent is this practice?

18. How might companies benefit from the ability to offer securities to a broader range of individuals by expanding Rule 701 eligibility to individuals participating in the ''gig economy''?

19. What effect would the use of Rule 701 for ''gig economy'' companies have on competition among those companies and newer companies and more established companies vying for the same talent?

The ''gig economy'' has enabled even very small companies to conduct cross-border operations.

20. Do existing regulations affect the ability of employers to use Rule 701 to compensate overseas employees through securities?

21. To the extent that U.S. companies would seek to use Rule 701 to compensate non-U.S. based workers in a ''gig economy'' model, would there be any competitive effects?

C. Rule 701(e) Disclosure Requirements

1. General

When Rule 701 was originally adopted in 1988,[45] the Commission relied on Section 3(b) of the Securities Act [46] to exempt offers and sales of up to $5 million per year. In 1999, the Commission amended Rule 701 to reflect that the National Securities Markets Improvement Act of 1996 (''NSMIA'') [47] had given the Commission authority to provide exemptive relief in excess of $5 million for transactions such as these.[48]

The 1999 adoption of the $5 million disclosure threshold reflected concern that eliminating the overall $5 million ceiling on the annual amount of securities sold during a 12-month period ''could result in some very large offerings of securities without the protections of registration, even though made pursuant to compensatory arrangements.'' [49] Because the Commission had not witnessed abuse of Rule 701 in offerings below the prior $5 million ceiling, it did not believe imposing the burdens of preparing and disseminating additional disclosure for these smaller offerings would justify potential benefits to employee-investors. In contrast, large non-reporting companies could issue substantial amounts of securities exceeding $5 million. Based on comments received, the Commission believed that many of these companies already prepared the same types of disclosure in their normal course of business, such as for using other exemptions, so that the disclosure requirement generally would be less burdensome for them. If these companies did not want to provide the new disclosures, the Commission noted that they could keep the amount sold below $5 million in the 12-month period.[50]

Inflation since 1999 [51] has made it more likely for non-reporting issuers, regardless of size, to cross this threshold in a 12-month period. In circumstances where the required disclosure is inadvertently not provided to all investors before the $5 million threshold is crossed, issuers may not rely on the exemption. Accordingly, the current structure of the rule results in issuers needing to anticipate, up to 12 months before exceeding the $5 million threshold, the possibility that they may do so, and to supply plan participants with the additional disclosures for that period.

As noted above, in a separate release, the Commission is amending Rule 701(e) to implement the Act's mandate to increase from $5 million to $10 million the aggregate sales price or amount of securities sold during any consecutive 12-month period in excess of which the issuer is required to deliver additional disclosures to investors.[52] Because the amendment does not otherwise revise Rule 701(e), the rule will continue to operate in the same manner as it has under the previous $5 million threshold.

While the adopted amendment may provide non-reporting issuers flexibility in further utilizing the exemption, it does not address some of the concerns we have heard regarding Rule 701(e). In particular, although the threshold is higher, the need to anticipate the consequences of crossing it remains.[53] Concern also has been expressed that some non-reporting companies are not necessarily familiar with Regulation A financial disclosure and that compliance can be burdensome, especially for companies first utilizing Rule 701.[54]

In light of these concerns, we request comment:

22. Should Rule 701(e) continue to require more disclosure for a period that precedes the threshold amount being exceeded? If so, should the consequence for failure to deliver continue to be loss of the exemption for the entire offering?

23. To what extent are non-reporting companies that issue securities in an amount that would exceed the new threshold already preparing forms of financial disclosure, such as in connection with 17 CFR 230.500 through 230.508 (Regulation D) or Regulation A?

24. Alternatively, should the consequence for failing to provide the disclosure be loss of the exemption only for transactions in offerings that occur after the threshold is crossed and for which disclosure was not provided?

a. If disclosure is required only for transactions that occur after the $10 million threshold is crossed, should disclosure be required for all transactions immediately following that event, or should an interval of time be provided to permit the disclosure to be prepared before it must be delivered? If

[45] *See* 1988 Adopting Release.

[46] 15 U.S.C. 77c(b).

[47] Public Law 104–290, 110 Stat. 3416 (1996).

[48] 1999 Adopting Release at Section II.A.

[49] 1999 Adopting Release at Section II.B. In adopting this requirement, the Commission stated it would have investor protection concerns in the context of offerings of securities with an aggregate sales price or amount of securities sold during the 12-month period exceeding $5 million without imposing specific disclosure requirements. The Commission noted that, ''[m]oreover, we believe that many of these companies already have prepared the type of disclosure required in their normal course of business, either for using other exemptions, such as Regulation D or for other purposes.''

[50] *Id.*

[51] Based on data provided by the U.S. Department of Labor, Bureau of Labor Statistics, $5 million in 1999 dollars would be approximately $7.5 million in 2018.

[52] *See* n. 5, above.

[53] U.S. Securities and Exchange Commission Advisory Committee on Small and Emerging Companies, Recommendation Regarding Securities Act Rule 701 (Sept. 21, 2017) (''Advisory Committee Recommendation''), *available at: https://www.sec.gov/info/smallbus/acsec/acsec-rule-701-recommendation-2017-09-21.pdf.* Among other things, the Advisory Committee Recommendation expresses concern that crossing the disclosure threshold could result in the loss of the exemption for earlier Rule 701 transactions in the same 12-month period for which the Rule 701(e) disclosure was not provided a reasonable time before sale.

[54] Advisory Committee Recommendation.

so, how long should that time interval be?

b. Should the disclosure subsequently also be made available to investors in transactions that occurred before the $10 million threshold is crossed?

25. Alternatively, should there instead be a grace period, such that if the threshold is crossed, the issuer has an opportunity to provide the required disclosure before losing the exemption for the entire offering?

26. Should we provide a regulatory option whereby all Rule 701(e) information would be disclosed to all investors, so that all would receive equal information and there would be no risk of losing the exemption in the manner there is today? Should we provide a different regulatory alternative that would provide all investors all Rule 701(e) information other than the financial statement disclosure?

Part F/S of Form 1–A prescribes that financial statements are required for Regulation A Tier 1 and Tier 2 offerings. In Regulation A offerings, companies include two years of consolidated balance sheets, statements of income, cash flows, and changes in stockholders' equity.[55] Issuers relying on Rule 701 may choose to provide financial statements that comply with the requirements of either Tier. This information must be provided as of a date no more than 180 days before the date of sale. As a result, for issuers seeking to maintain current information, this has the effect of requiring financial statements to be available on at least a quarterly basis, and to be completed within three months after the end of each quarter, for sales to be permitted continuously. The Commission, in adopting the current version of Rule 701, stated that because of the pre-existing relationship a compensated individual has with the issuer, the disclosures provided in Rule 701(e) are appropriate.[56] It also noted that the ''amount and type of disclosure required for this person is not the same as for the typical investor with no particular connection with the issuer.'' [57]

27. Should the type of information provided depend on who is the recipient of the securities? For example, should more disclosure be provided to the types of recipients described in Section II.B. above? Why or why not? If so, what, specifically, should be added to the disclosures and why?

28. Should this disclosure be updated less frequently than currently required? For example, should we require updates once a year unless an event results in a material change to the company's enterprise value or value of the securities issued? [58] Should the frequency of disclosure depend on who is the recipient of the securities? For example, should the frequency be greater for recipients described in Section II.B, above? Why or why not? If so, what is the appropriate frequency and why?

29. Should we consider other alternatives to the Regulation A financial statements, such as the issuer's most recent balance sheet and income statement as of a date no more than 180 days before the sale of securities?

30. Should we provide a regulatory option that would provide valuation information regarding the securities in lieu of, or in addition to, financial statements? If so, what valuation method should be used? Would ASC Topic 718 [59] grant date fair value information be informative? Would Internal Revenue Code Section 409A [60] valuation information be informative? If so, would issuers be able to determine Section 409A valuations regardless of whether the offering involves securities other than options?

Under existing Rule 701, foreign private issuers are required to provide financial information on the same schedule as domestic issuers.[61] Foreign private issuers may issue securities in reliance on Rule 701 throughout the year, which could lead them to update their financial statements more frequently than required under Form 20–F.[62]

31. Because foreign private issuers that are subject to the Exchange Act reporting requirements generally are not required to submit quarterly financial statements, should non-reporting foreign private issuers that rely on Rule 701 be subject to the condition to provide quarterly financial statements if they are continuing to sell securities throughout the year? Why or why not?

32. Should we amend any other aspect of the Rule 701 financial statement requirements that apply to foreign private issuers? If so, what should we amend and why?

2. Timing and Manner of Rule 701(e) Disclosure

Rule 701(e) requires the prescribed disclosure to be delivered ''a reasonable period of time before the date of sale.'' However, the rule does not prescribe the manner or medium in which disclosure should be delivered. We are aware that non-reporting companies are sensitive to maintaining the confidentiality of financial information so that it does not fall into the hands of competitors.

To determine if the rule needs further clarification, we request comment:

33. Do we need to clarify what it means to deliver disclosure ''a reasonable period of time before the date of sale''? Should that mean any time before sale such that the recipient has an opportunity to review the disclosure? Should any new standard further clarify that the disclosure provided to the recipient must remain current during that time?

34. Should we specify a different time for providing disclosure? If so, when should that be and why?

35. Should we also specify the manner or medium in which disclosure should be delivered? Should we specify how to deliver information electronically? Should we require a method for confirming receipt of the information? If so, what vehicles would best give effect to the purpose of disclosure without undermining issuers' confidentiality concerns?

36. Should the rule specify that confidentiality safeguards should not be so burdensome that intended recipients cannot effectively access the required disclosures?

3. Options and Other Derivative Securities/RSUs

For options and other derivative securities, whether the issuer is obligated to deliver Rule 701(e) disclosure is based on whether the option or other derivative security was granted during a 12-month period during which the disclosure threshold is exceeded.[63] If so, the issuer must deliver Rule 701(e) disclosure a reasonable period of time before the date of exercise or conversion.[64]

This approach simplifies the operation of Rule 701 for options and other derivative securities for which the recipient must make an investment decision to exercise or convert. However, because instruments such as RSUs settle by their terms without the recipient taking such an action, the relevant investment decision for the RSU, if there is one, likely takes place

[55] 17 CFR 210.1–01 through 201.12–29. Tier 2 offerings require audited financial statements. *See* Part F/S of Form 1–A [17 CFR 239.90].

[56] 1999 Adopting Release at Section II.B.

[57] *Id.*

[58] Advisory Committee Recommendation.

[59] FASB ASC Topic 718.

[60] 26 U.S.C. 409A.

[61] 1999 Adopting Release at Section II.C.

[62] 17 CFR 249.220f. *See* Item 8A.5 of Form 20–F.

[63] Rule 701(d)(3)(ii) provides that the aggregate sales price for options is determined when an option grant is made (without regard to when it becomes exercisable). Use of this measure for both Rule 701(d) and (e) simplifies the operation of the rule.

[64] Rule 701(e)(6).

at the date of grant. Consequently, the issuer's obligation to provide Rule 701(e) disclosure would apply a reasonable period of time before the date the RSU award is granted. Concern has been expressed, however, that disclosure of financial information before an RSU is granted could compel disclosure to recipients at a time when they are negotiating their employment contracts before joining the company.

In light of this concern, we request comment:

37. Should Rule 701 be amended to specifically address when disclosure is required for RSUs? If so, when should Rule 701(e) disclosure be required for an RSU? Should we revisit the concept of ''convert or exercise'' as providing the relevant date for disclosure? For new hires who receive RSUs, should we require that disclosure be provided within 30 days after commencing employment? If not, when should Rule 701(e) disclosure be required for RSUs issued to new hires?

38. Should we clarify that RSUs should be valued for Rule 701 purposes based on the value of the underlying securities on the date of grant? If not, how should they be valued?

39. Are there any other instruments that should be specifically addressed in the rule?

D. Rule 701(d) Exemptive Conditions

Questions have arisen whether the current 12-month sales cap of the greater of 15% of the total assets of the issuer or 15% of the total outstanding amount of the class of securities being offered and sold in reliance on the rule, subject to the annual availability of a $1 million cap if greater than either of these tests, is unduly restrictive, particularly for smaller and start-up companies that may be more dependent on equity compensation to attract and retain necessary talent.[65] Each of the 15% amounts is measured as of the issuer's most recent balance sheet date, if no older than its last fiscal year end.[66] In proposing the original version of the rule, the Commission explained that the purpose of a 12-month cap is to ''assur[e] that the exemption does not provide a threshold that small issuers could use to raise substantial capital from employees.'' [67] The alternatives based on 15% of total assets or 15% of the outstanding amount of the class of securities were intended to increase the flexibility and utility of the exemption.[68] The $1 million alternative provides an amount that any issuer can use, regardless of size.

Recently, however, concern has been expressed that because there is no longer any statutorily imposed ceiling on the exemption,[69] compliance with an annual regulatory ceiling requires an on-going analysis with no clear benefit.[70] At the same time, the implications of qualifying for the Rule 701 exemption have expanded, as securities held by persons who receive them in transactions exempted by Rule 701 are excluded from the definition of ''held of record,'' for the purposes of determining whether an issuer is required to register a class of equity securities under the Exchange Act.

In light of these factors, we request comment:

40. Is there a continuing need for any annual regulatory ceiling for Rule 701 transactions? Why or why not? Would investors be harmed if the ceiling is eliminated or raised significantly? Does an annual ceiling provide benefits in curbing potential abuse of the rule for non-compensatory sales? If so, how?

41. If a ceiling is retained, should it be raised? If so, what threshold would be appropriate, and why? Would compliance be easier if issuers are permitted to measure the 15% alternatives as of last fiscal year-end, rather than at the issuer's most recent balance sheet date?

III. Form S–8

A. Background

Form S–8 was originally adopted in 1953, as a simplified form for the registration of securities to be issued pursuant to employee stock purchase plans.[71] It retains certain disclosure obligations. For example, it requires that employees receiving securities as compensation receive public company disclosure to which the full spectrum of Securities Act protections apply. In addition, reporting company securities received pursuant to Form S–8 registration are generally not restricted.[72] As described below, from time to time the Commission has amended Form S–8 to streamline its operations, such as by providing immediate effectiveness upon filing and updating of the registration statement through incorporation by reference.[73] Form S–8 is available solely to register compensatory sales of securities to ''employees,'' including consultants and advisors and *de facto* employees. The form is not available for the registration of securities offered for the purpose of raising capital.[74]

Form S–8 is available for the registration of securities to be offered under any employee benefit plan [75] to a registrant's employees or employees of its subsidiaries or parents. Form S–8 registration is utilized for many different types of employee benefit plans, including Internal Revenue Code Section 401(k) [76] plans and similar defined contribution retirement savings plans, employee stock purchase plans, nonqualified deferred compensation plans, and incentive plans that issue options, restricted stock, or RSUs. The form may be used by any issuer that is subject, at the time of filing, to the periodic reporting requirements of Section 13 or 15(d) of the Exchange Act and has filed all reports required during the preceding 12 months or such shorter period that it was subject to those requirements.[77] Form S–8 is not available for shell companies.[78]

---

[65] Advisory Committee Recommendation. *But see, e.g.,* Edward M. Zimmerman, *Late Stage Startups Trip SEC Rule 701 Long Before IPO,* Forbes (Aug. 2, 2016) (stating that ''[b]ecause the test [provided in Rule 701(d)] is analyzed on the basis of a 12-month period, because the test excludes Exempt Issuances and because founders and investors have significant business reasons for limiting the dilutive impact of compensatory equity awards, startups rarely come near the Rule 701(d) thresholds.'').

[66] Rules 701(d)(2)(ii) and (iii).

[67] *See* Rule 701 Proposing Release. As originally adopted, the rule permitted the amounts of securities offered and sold annually to be the greatest of $500,000, 15% of total assets of the issuer, or 15% of the outstanding securities of the class, subject to an absolute limit of $5,000,000 derived from Securities Act Section 3(b). *See* 1988 Adopting Release.

[68] *See* 1988 Adopting Release at Section I.A.(2).

[69] NSMIA enacted Securities Act Section 28 [15 U.S.C. 77z–3], giving the Commission general exemptive authority. Because the Commission relied on this authority in the 1999 Adopting Release, the Securities Act Section 3(b) absolute limit of $5,000,000 no longer applies to Rule 701.

[70] Advisory Committee Recommendation.

[71] *Registration of Securities Offered Pursuant to Employees Stock Purchase Plans,* Release No. 33–3480 (Jun. 16, 1953) [18 FR 3688 (Jun. 27, 1953)].

[72] In addition, General Instruction C to Form S–8 permits registrants to file a resale prospectus for control securities, and restricted securities issued under any employee benefit plan of the issuer that were acquired by the selling security holder prior to the filing of the Form S–8.

[73] *See e.g., Registration and Reporting Requirements for Employee Benefit Plans,* Release No. 33–6867 (June 6, 1990) [55 FR 23909 (June 13, 1990)] (''1990 Adopting Release'').

[74] The abbreviated disclosure format of Form S–8 reflects the Commission's historic distinction between offerings made to employees for compensatory and incentive purposes and offerings made for capital-raising purposes. See 1990 Adopting Release.

[75] ''Employee benefit plan'' is defined in Securities Act Rule 405 and includes the same restrictions on the scope of eligible consultants and advisors as set forth in Rule 701.

[76] 26 U.S.C. 401(k).

[77] *See* General Instruction A.1 to Form S–8.

[78] ''Shell company'' is defined in Securities Act Rule 405. When a company ceases to be a shell company, by combining with a formerly private operating business, it is required to file Form 10 equivalent information with the Commission. General Instruction A.1 to Form S–8 provides that it then becomes eligible to use Form S–8 60 days following that filing.

Form S–8 does not require that a form of prospectus be filed with the registration statement for employee benefit plan offerings. Instead, 17 CFR 230.428 (Rule 428) specifies the documents that, together, constitute a prospectus that meets the requirements of Securities Act Section 10(a): [79]

- Certain documents containing the employee benefit plan information required by Item 1 of the Form;
- the statement of availability of company information, employee benefit plan annual reports and other information required by Item 2 of the Form; and
- the documents containing registrant information and employee benefit plan annual reports that are incorporated by reference in the registration statement pursuant to Item 3 of the Form.

Companies are also permitted to file a resale prospectus covering only control securities or restricted securities acquired pursuant to an employee benefit plan.[80]

B. Form S–8 Eligible Plan Participants

To prevent abuse of Form S–8 to register securities issued in capital-raising transactions, in 1999 the Commission revised the eligibility standards for ''consultants and advisors'' for the purposes of Form S–8.[81] In so doing the Commission sought to preclude the issuance of securities on Form S–8 to consultants either (i) as compensation for any service that directly or indirectly promotes or maintains a market for the registrant's securities, or (ii) as conduits for a distribution to the general public.[82] At the same time, the Commission revised the Rule 701 ''consultants and advisors'' definition to be consistent with Form S–8.[83] In adopting the changes, the Commission also noted that issuers may continue to use securities registered on Form S–8, or issued under the Rule 701 exemption, to compensate persons with whom they have a *de facto* employment relationship.[84] We are soliciting comment regarding the continued harmonization of the scope of ''consultants and advisors'' between Form S–8 and Rule 701, and more broadly whether the scope of eligible individuals should be the same under both the form and the exemption. Specifically:

42. To the extent we change the application of Rule 701 by changing the scope of individuals eligible for compensatory offerings, such as to include individuals participating in the ''gig economy,'' [85] should we make corresponding changes to Form S–8? Why or why not? If the scope of individuals who are eligible for Form S–8 offerings were expanded, would there be concerns about misuse of the form for capital-raising activities? If so, how could we safeguard against those concerns?

43. Would differences between the eligibility standards of Rule 701 and Form S–8 cause problems for issuers or recipients?

C. Administrative Burdens

Issuers register a specified number of company shares on Form S–8. For registration fee purposes, if the offering price is not known, the fee is computed based on the price of securities of the same class, in the same manner as for other offerings at fluctuating market prices.[86] No additional fee is assessed for securities offered for resale.[87]

The Commission has sought to reduce the costs and burdens incident to registration of securities issued through such plans, where consistent with investor protection,[88] for example by:

- Allowing Form S–8 to go effective automatically without review by the staff or other action by the Commission; [89]
- allowing the incorporation by reference of certain past and future reports required to be filed by the issuer under Section 13 or 15(d) under the Exchange Act; [90]
- adopting an abbreviated disclosure format that eliminated the need to file a separate prospectus and permitting the delivery of regularly prepared materials to advise employees about benefit plans to satisfy prospectus delivery requirements; [91]
- providing for registration of an indeterminate amount of plan interests and providing that there is no separate fee calculation for registration of plan interests; [92] and
- providing a procedure for the filing of a simplified registration statement covering additional securities of the same class to be issued pursuant to the same employee benefit plan.[93]

We remain interested in simplifying the requirements of Form S–8 and reducing the complexity and cost of compliance to issuers for securities issuances to employees and other eligible employee benefit plan participants while retaining appropriate investor protections. We therefore seek comment on ways we could further reduce the burdens associated with registration on Form S–8:

44. What effects would stem from revising the form in this way? Would such revisions encourage more companies to become reporting companies?

45. Should we further simplify the registration requirements of Form S–8? For example, does registering a specific number of shares result in Section 5 compliance problems when plan sales exceed the number of shares registered, such as for Section 401(k) plans and similar defined contribution retirement savings plans? If so, how should we address this issue?

[79] 15 U.S.C. 77j(a).

[80] The resale prospectus is prepared in accordance with the requirement of Part I of Form S–3 (or, if the registrant is a foreign private issuer, in accordance with Part I of Form F–3) and filed with the registration statement on Form S–8 or, in the case of control securities, a post-effective amendment thereto. Restricted securities must have been acquired by the holder before the Form S–8 is filed and the resale prospectus for them must be filed with the initial Form S–8. *See* General Instruction C to Form S–8.

[81] *See* 1999 S–8 Adopting Release.

[82] Since the adoption of the 1999 amendments, the Commission has brought enforcement actions related to Form S–8 abuse, particularly the misuse of the form for capital-raising activities involving coordinated unregistered resales into the public market by the purported ''consultants'' or employees acting as underwriters, funding the company with the proceeds and denying Securities Act protection to the genuine public purchasers. *See, e.g., SEC.* v. *Phan,* 500 F.3d 895 (9th Cir. 2007) (holding the resale of publicly traded stock, which had the effect of supplying the company with capital from the public at the company's behest, could not be covered by a Form S–8 registration statement); *SEC* v. *East Delta Resources Corp.,* No. 10–CV–0310 (SJF/wdw) 2012 WL 10975938 (E.D.N.Y. 2012) (finding violations of Sections 5 notwithstanding the existence of a Form S–8 registration statement and consulting agreement where the defendant's consulting role was capital-raising and promotional and thus contrary to the eligibility requirements for effective Form S–8 registration); and *SEC* v. *Esposito,* No. 8:08–CV–494–T–26EAJ, 2011 WL 13186000 (M.D. Fla. June 24, 2011) (finding defendants violated Section 5 where Form S–8 was used to register shares received by consultant as compensation for arranging a reverse merger).

[83] 1999 Adopting Release at Section II.D.

[84] *See* Section II.A, above.

[85] *See* Section II.B, above.

[86] 17 CFR 230.457(h) and (c).

[87] 17 CFR 230.457(h)(3).

[88] *See, e.g.,* Release No. 33–5767 (November 22, 1976) [41 FR 52701 (Dec. 1, 1976)], *Amendments to Registration Statement Form S–8 and Related New and Amended Rules Under the Securities Act of 1933,* Release No. 33–6190 (February 22, 1980) [45 FR 13438 (Feb. 29, 1980)] (''1980 S–8 Adopting Release'') and 1990 Adopting Release.

[89] In the 1980 S–8 Adopting Release the Commission initially provided that automatic effectiveness for Form S–8 occurred 20 days after filing, while post-effective amendments became effective upon filing. Now, all registration statements on Form S–8 become effective upon filing with the Commission. *See* 17 CFR 230.462(a) and 1990 Adopting Release.

[90] *See* Item 3 and General Instruction G of Form S–8.

[91] 17 CFR 230.428(a)(1).

[92] 17 CFR 230.416(c) and 17 CFR 230.457(h)(2), respectively.

[93] *See* General Instruction E to Form S–8.

46. Should Form S–8 allow an issuer to register on a single form the offers and sales pursuant to all employee benefit plans that it sponsors? [94] When shares are authorized for issuance by a given plan what information would need to be disclosed that would have been previously omitted from the effective registration statement? [95]

47. If we facilitate a single registration statement for all employee benefit plan securities, should the number of shares to be registered continue to be specified in the initial registration statement? Alternatively, should issuers be able to add securities to the existing Form S–8 by an automatically effective post-effective amendment? [96] If so, what would be the best way to implement such a system?

48. With respect to either alternative above, would the ability to have a single Form S–8 reduce administrative burdens given that many issuers currently monitor and track multiple registration statements on Form S–8? [97] Would this be practicable where the securities to be registered relate to different forms of plans, such as Section 401(k) plans and incentive plans? Would it be practicable if some of the plans involved the issuance of plan interests, which trigger the individual plan's obligation to file an Exchange Act annual report on Form 11–K? [98] Would the offer and sale of shares pursuant to multiple plans registered on the same Form S–8 create difficulties keeping track of which registered shares are being issued pursuant to which plan? For example, upon the expiration of a plan, would there be difficulties transferring shares between plans?

49. Well-known seasoned issuers are permitted, at their option, to pay filing fees on a ''pay-as-you-go'' basis at the time of each takedown off the shelf registration statement in an amount calculated for that takedown.[99] Should we adopt a similar ''pay-as-you-go'' fee structure for Form S–8 pursuant to which all issuers eligible to use Form S–8 could, at their option, pay filing fees on Form S–8 on an as needed basis rather than when the form is originally filed? What, if any, variations from the pay-as-you-go fee structure would be needed to adapt it to employee benefit plan registration statements?

a. For well-known seasoned issuers using the pay-as-you-go fee structure, a cure is available that allows such issuers to pay required filing fees after the original payment due date if the issuer makes a good faith effort to pay the fee timely and then pays the fee within four business days of the original fee due date.[100] If we adopted a pay-as-you-go fee structure for Form S–8, should we adopt a similar cure provision? What, if any, variations from the cure provision for well-known seasoned issuers would be needed to adapt it to employee benefit plan registration statements?

50. Alternatively, should we require the payment of registration fees on a periodic basis with respect to the securities, the offer and sale of which were registered on Form S–8, during the prior period? How would such a system best be implemented? How could we structure such a system consistent with the requirements of Securities Act Section 6(c)? [101]

51. Are there any other ways to reduce the administrative burdens associated with filing and updating Form S–8? If so, please explain.

D. Form S–8 Generally

We also are soliciting comment more broadly on Form S–8 itself:

52. Does the current operation of Form S–8 present significant challenges to the use of employee benefit plans? If so, please explain how.

53. It has been suggested that Form S–8 registration would no longer be necessary if the Commission were to extend the Rule 701 exemption to Exchange Act reporting companies.[102] What would be the advantages and disadvantages of allowing Exchange Act reporting companies to use Rule 701 and, in turn, eliminating Form S–8? Would permitting Exchange Act reporting companies to use Rule 701 raise any investor protection concerns or be inconsistent with the purposes underlying Rule 701?

54. Form S–8 requires issuers to remain current in their Exchange Act reports in order to be eligible to use the form,[103] and Form S–8 disclosure relies upon incorporation by reference [104] and delivery [105] of these Exchange Act reports. Would the elimination of Form S–8 reduce an incentive for public companies to remain current in their Exchange Act reporting obligations? If we permit reporting companies to use Rule 701, should we require these companies to be current in their Exchange Act reports in order to rely on the exemption?

55. Since Exchange Act reports are automatically incorporated by reference into Form S–8, would the lack of a filed registration statement for employee benefit plans result in reduced scrutiny of Exchange Act filings by issuers and their representatives? [106] Would the potential lack of Securities Act Section 11 [107] and Section 12(a)(2) [108] liability for these filings as a result of the elimination of Form S–8 have a meaningful impact on the quality of disclosure?

56. If Form S–8 were rescinded, how would issuers be likely to register the resale of restricted securities issued pursuant to employee benefit plans? Would Form S–8 remain necessary as a method of registering resales of control securities or restricted securities acquired pursuant to an employee benefit plan? Alternatively, should the provisions of General Instruction C to Form S–8 be moved to Securities Act Form S–3? [109] If so, should Form S–3 eligibility requirements be revised for this purpose?

---

[94] *Cf. Simplification of Registration Procedures for Primary Securities Offerings,* Release No. 33–6964 (October 22, 1992) [57 FR 48970 (Oct. 29, 1992)] (adopting the unallocated shelf procedure). *See also Securities Offering Reform,* Release No. 33–8591 (December 1, 2005) [70 FR 44722 (Aug. 3, 2005)] (''Securities Offering Reform Adopting Release'').

[95] For example, in unallocated shelf offerings conducted under 17 CFR 203.415(a)(1)(x) (Rule 415(a)(1)(x)) and 17 CFR 230.430B (Rule 430B), prospectus supplements are filed to disclose information that would have been previously omitted from a prospectus filed as part of the effective registration statement. *See* 17 CFR 230.424(b)(2) and Rule 430B.

[96] This would be analogous to how well-known seasoned issuers are currently permitted to add other securities or even new classes of securities at any time by post-effective amendment to an existing automatic shelf registration statement on Form S–3. *See* 17 CFR 230.413(b)(1). *See also,* Securities Offering Reform Adopting Release.

[97] For example, Form S–8 filers update their registration statement through the incorporation by reference of Exchange Act reports. Such updates require the consent of an auditor where the auditor's report is contained in the Exchange Act report which is automatically incorporated by reference into a previously filed Securities Act filing, such as a Form S–3 or Form S–8. *See* 17 CFR 229.601(b)(23) (Item 601(b)(23) of Regulation S–K) and 17 CFR 229.601, footnote 5 of the exhibit table (Footnote 5 of the Item 601 Exhibit Table). The primary purpose of obtaining a consent or acknowledgement letter is to assure that the auditor is aware of the use of its report and the context in which it is used. Where such consents are required in an update to a registration statement, the auditor frequently refers to all active Securities Act registration statements. The ability to file a single Form S–8 for all securities to be issued pursuant to employee benefit plans would mean that the auditor's consent would refer to a single Form S–8.

[98] 17 CFR 249.311.

[99] *See* 17 CFR 230.456(b) and 17 CFR 230.457(r).

[100] 17 CFR 230.456(b)(1)(i).

[101] 15 U.S.C. 77f(c).

[102] Keith F. Higgins, *Is It Time to Retire Form S–8?,* Insights: Corporate and Securities Law Advisor, September 2017 at 16.

[103] Item 3 of Form S–8.

[104] Item 3 of Form S–8.

[105] Rule 428(b)(2).

[106] Part II, Item 3 to Form S–8.

[107] 15 U.S.C. 77k.

[108] 15 U.S.C. 77*l*(a)(2).

[109] 17 CFR 239.33.

IV. Conclusion

We are interested in the public's opinions regarding the matters discussed in this concept release. We encourage all interested parties to submit comments on these topics. In addition, we solicit comment on any other aspect of Rule 701 and Form S–8 that commenters believe may be improved upon.

By the Commission.

Dated: July 18, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–15731 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[EPA–HQ–OEM–2015–0725; FRL–9981–07–OLEM]

RIN 2050–AG95

Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Notification of Data Availability and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notification of data availability and extension of comment period.

SUMMARY: EPA is providing notice that it is supplementing the record for the proposed Risk Management Program (RMP) Reconsideration rule published on May 30, 2018. We have placed into the rulemaking docket the November 2017 version of the RMP database containing risk management plans submitted to EPA. EPA used this version to support analysis of changes in the RMP reporting facility universe discussed in the Regulatory Impact Analysis of the proposed Reconsideration rule. To afford the public an opportunity to comment on the updated RMP database and its impacts on the proposed Reconsideration rule, EPA is extending the comment period for the proposed rule.

DATES: The comment period for the proposed rule published on May 30, 2018 at 83 FR 24850, is extended. Comments and additional material must be received on or before August 23, 2018.

ADDRESSES: Submit comments and additional materials, identified by docket EPA–HQ–OEM–2015–0725 to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: James Belke, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8023; email address: *belke.jim@epa.gov,* or Kathy Franklin, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–7987; email address: *franklin.kathy@epa.gov.*

SUPPLEMENTARY INFORMATION: Detailed background information describing the proposed RMP Reconsideration rulemaking may be found in a previously published document: Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Proposed Rule (83 FR 24850, May 30, 2018).

I. What action is EPA taking?

During the week of July 9, 2018 several stakeholders notified EPA that we had failed to provide in the rulemaking docket for the proposed RMP Reconsideration rule (referred to herein as the Reconsideration Proposal) the risk management plan data we used to compare the number of facilities reporting in the February 2015 version of the RMP database to those reporting in the November 2017 version. This analysis of the change in the number of facilities was presented in the Regulatory Impact Analysis (RIA) for the Reconsideration Proposal. Stakeholders requested that EPA supply the risk management plan data used in the RIA that supported the comparison analysis. They also requested that EPA extend the comment period for the Reconsideration Proposal for 60 days to allow the public to access and review the data so that they may have enough time to assess the impacts of the updated data on the proposal and provide comments.[1]

As a result, in this supplemental action, EPA is providing additional information in the docket for the proposed action. On July 11, 2018, EPA placed into the docket the November 2017 version of the database containing risk management plans submitted by RMP facilities. This database does not contain the restricted offsite consequence analysis (OCA) data. This database (Docket ID: EPA–HQ–OEM–2015–0725–0989) consists of a digital versatile disc (DVD) containing the RMP database as a 1.4 gigabyte size file in .mdb format. The database file is too large to be provided online through *regulations.gov.* To view or receive a copy of the DVD, contact the EPA Docket Center, Public Reading Room, as follows: In person/writing: Environmental Protection Agency, Docket Center, 1301 Constitution Ave. NW, 2822T, Room 3334, Washington, DC 20004, telephone: 202–566–1744, fax: 202–566–9744, email: *docket-customerservice@epa.gov.* EPA will address all comments received on the supplemental data being provided and any comments submitted in response to this action in our final rulemaking action. EPA is extending the comment period for Reconsideration Proposal through August 23, 2018.

II. What is the background for this action?

On May 30, 2018, EPA proposed a rule (Reconsideration Proposal) that seeks comment on various proposed changes to the final RMP Amendments rule (Amendments rule) issued on

[1] Earthjustice first informed EPA about the failure to place the November 2017 version in the docket in an email dated July 9, 2018. Between July 10th through close of business on July 11th, EPA received requests for a 60 day-extension of the comment period from, or on behalf of, the: Utah Physicians for a Healthy Environment, Ohio Valley Environmental Coalition, the Union of Concerned Scientists, Coming Clean, Air Alliance Houston, Coalition For A Safe Environment, Clean Air Council, Sierra Club, the United Steelworkers, the United Autoworkers, and the States of New York, Illinois, Maine, Massachusetts, Oregon, Rhode Island, and Vermont.

January 13, 2017 (82 FR 4594). The comment period for the Reconsideration Proposal was to end on July 30, 2018. The 2017 Amendments rule amended 40 CFR part 68, the chemical accident prevention provisions under section 112(r) of the CAA (42 U.S.C. 7412(r)).

The RIA for the Amendments rule utilized a February 2015 version of the RMP database to compile the universe of RMP facilities. The database reflected that approximately 12,500 facilities had filed current risk management plans with EPA and could have been potentially affected by the Amendments final rule. EPA had provided in the rulemaking docket, the non-OCA version of the risk management plan data submitted by facilities as of February 2015. (Docket ID: EPA–HQ–OEM–2015–0725–0311). For the RIA for the Reconsideration Proposal (Docket ID: EPA–HQ–OEM–2015–0725–0907), EPA compared the February 2015 version of the risk management plan database to the most recent version of the database from November 2017 for the purposes of understanding and comparing how the universe of RMP facilities had changed in the intervening period between developing the Amendments rule RIA and the Reconsideration Proposal RIA. EPA also developed a comparison of the number of RMP facilities by industry sector, by employee size, by RMP program level, by process complexity and by responding/nonresponding status. These counts of RMP facilities are presented in various data tables in Chapter 3 of the Reconsideration Proposal RIA and were extracted from the two versions of the RMP database. The comparison revealed that the number of RMP facilities and processes had experienced minor changes in the more than two years between rulemakings. In total, the number of RMP facilities decreased by 1.8% over the time-period and included small changes in the number of facilities in most industry codes and process levels. As discussed in Chapter 3 of the Reconsideration Proposal RIA, EPA determined that the differences between the databases were minor, with the exception of the number of accidents. As a result, EPA utilized the costs estimated for the 2017 Amendments rule RIA as the baseline set of costs to be impacted by the Reconsideration Proposal.

For the Amendments rule, EPA had also provided in the docket as a separate dataset data on accidents occurring at RMP facilities from 2004–2013, as reported in the risk management plan database as of February 2015. This accident data was provided in an Excel spreadsheet file (Docket ID: EPA–HQ–OEM–2015–0725–0002). This ten-year set of accident data was used as the basis of some of the cost estimates discussed in the Amendments rule RIA. EPA provided similar accident data in an Excel spreadsheet in the docket for RMP accidents occurring in 2014–2016 (Docket ID: EPA–HQ–OEM–2015–0725–0909), as a supporting document for the Reconsideration Proposal. EPA developed the latter spreadsheet from the November 2017 version of the database.

While the various parties requesting an extension of the comment period asked that EPA extend the period 60 days, we are extending the comment period through August 23, 2018. EPA notes that the November 2017 database was used for limited purposes in the preparation of the Reconsideration Proposal. Primarily, it was used to corroborate that the information from the prior RIA regarding the universe of stationary sources subject to the RMP rule did not change significantly by the time we prepared the RIA for the Reconsideration Proposal. Tables in the Reconsideration Proposal RIA presented the information extracted from the database, so the public could always comment on the information. The major impact was the inability to verify the information from its source. The updated database also was used to confirm that the 2004–2013 trend of declining accident rates over time continued. EPA included in the Reconsideration Proposal docket an Excel spreadsheet on accident data for RMP accidents occurring from 2014–2016 that we derived from the November 2017 database.

Because the November 2017 database was used mostly for corroboration, we do not believe there were fundamental data about sources subject to the RMP Rule that could not have been observed in the 2015 database that was already in the docket. We also note that we have docketed the November 2017 RMP database (non-OCA version) as of July 11, 2018 and on July 10, 2018, provided it to the first party to draw our attention to it not being in the docket. In the interest of expeditiously completing the reconsideration process and putting into effect provisions of the Amendments that we intend to retain or modify, we believe closing comments on August 23, 2018 strikes an appropriate balance.

Dated: July 18, 2018.

Reggie Cheatham,

Director, Office of Emergency Management.

[FR Doc. 2018–15715 Filed 7–23–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2018–0006; FRL–9980–31]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before August 23, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.,* Michael Goodis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

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

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

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

Amended Tolerances

1. PP 7E8616. (EPA–HQ–OPP–2017–0674). Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 7E8616, to remove existing tolerances in 40 CFR 180.658 for residues of the fungicide, penthiopyrad, (N-[2-(1,3-dimethylbutyl)-3-thienyl]-1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide) in or on the following raw agricultural commodities: Brassica, head and stem, subgroup 5A at 5.0 ppm; Brassica, leafy greens, subgroup 5B at 50 ppm; Canola at 1.5 ppm; Cotton, seed at 1.5 ppm; Fruit, stone, group 12 at 4.0 ppm; Nut, tree, group 14 at 0.06 ppm; Pistachio at 0.06 ppm; Sunflower, seed at 1.5 ppm and Vegetable, leafy, except brassica, group 4 at 30 ppm. *Contact:* RD.

2. PP 7E8629. (EPA–HQ–OPP–2017–0671). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend 40 CFR 180.637 by removing the tolerances for residues of mandipropamid: 4-chloro-N-[2-(3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-alpha-(2-propynyloxy)-benzeneacetamide in or on the raw agricultural commodities Bean, snap at 0.90 ppm; Brassica, head and stem, subgroup 5A at 3 ppm; Brassica, leafy greens, subgroup 5B at 25 ppm; Vegetable, leafy except Brassica, group 4 at 20 ppm. Analytical method RAM 415–01 was developed for determination of mandipropamid residues in crops. *Contact:* RD.

3. PP 7E8644. (EPA–HQ–OPP–2018–0088). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend 40 CFR 180.505 by removing the tolerances for residues of emamectin benzoate, including its metabolites and degradates, determined by measuring only the sum of emamectin (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B1a and maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B1b) and its metabolites 8,9-isomer of the B1a and B1b component of the parent (8,9–ZMA), or 4′-deoxy-4′-epi-amino-avermectin B1a and 4′-deoxy-4′-epi-amino-avermectin B1b; 4′-deoxy-4′-epi-amino avermectin B1a (AB1a); 4′-deoxy-4′-epi-(N-formyl-N-methyl)amino-avermectin (MFB1a); and 4′-deoxy-4′-epi-(N-formyl)amino-avermectin B1a (FAB1a), calculated as the stoichiometric equivalent of emamectin in or on the raw agricultural commodities Fruit, pome, group 11 at 0.025 parts per million, ppm, Nut, tree, group 14 at 0.02 ppm, Pistachio at 0.02 ppm, Turnip, greens at 0.050 ppm, Vegetable, leafy, except brassica, group 4 at 0.100 ppm, Vegetable, brassica, leafy, group 5 at 0.050 ppm, and Vegetable fruiting, group 8 at 0.020 ppm. Adequate analytical methods (HPLC-fluorescence methods) are

available for enforcement purposes. *Contact:* RD.

4. PP 7E8648. (EPA–HQ–OPP–2018–0094). Interregional Research Project No.4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend the tolerances in 40 CFR part 180.474 upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 7E8648, by removing established tolerances for residues of the fungicide tebuconazole [α-[2-(4-chlorophenyl) ethyl]-α-(1,1-dimethylethyl)-1H–1,2,4-triazole-1-ethanol], in or on the raw agricultural commodities: Brassica, leafy greens, subgroup 5B at 2.5 parts per million, ppm; Cotton, undelinted seed at 2.0 ppm; Fruit, pome, group 11 at 0.05 ppm; Fruit, stone, group 12, except cherry at 1.0 ppm; Grape at 5.0 ppm; Lychee at 1.6 ppm; Nut, tree, group 14 at 0.05 ppm; Peach at 1.0 ppm; Pistachio at 0.05 ppm; Plum, pre- and post-harvest at 1.0 ppm; Sunflower, seed at 0.05 ppm. *Contact:* RD.

5. PP 7E8652. (EPA–HQ–OPP–2018–0128). The Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 8E8652, to remove existing tolerances in 40 CFR 180.317 for residues of the herbicide pronamide (propyzamide), 3,5-dichloro-*N*-(1,1-dimethyl-2-propynyl)benzamide in or on apple at 0.1 parts per million (ppm); blackberry at 0.05 ppm; blueberry at 0.05 ppm; boysenberry at 0.05 ppm; fruit, stone, group 12 at 0.1 ppm; grape at 0.1 ppm; pear at 0.1 ppm; and raspberry at 0.05 ppm. *Contact:* RD.

6. PP 7E8654. (EPA–HQ–OPP–2018–0161). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend 40 CFR 180.511 by removing the established tolerances for residues of buprofezin, 2-(1,1-dimethylethyl)iminotetrahydro-3(1-methylethyl)-5-phenyl-4H-1,3,5-thiadiazin-4-one in or on the raw agricultural commodities: Acerola at 0.30 parts per million (ppm); Brassica, head and stem, subgroup 5A at 12.0 ppm, Brassica, leafy greens, subgroup 5B at 60 ppm, Cotton, undelinted seed at 0.35 ppm; Fruit, citrus, group 10 at 2.5 ppm; Fruit, stone, group 12, except apricot and peach at 1.9 ppm; Grape at 2.5 ppm; Longan at 0.30 ppm; Lychee at 0.30 ppm; Nut, tree group 14 at 0.05 ppm; Olive at 3.5 ppm; Olive, oil at 4.8 ppm; Pistachio at 0.05 ppm; Spanish lime at 0.30 ppm; Turnip, greens at 60 ppm; Vegetable, leafy, except Brassica, group 4, except head lettuce and radicchio at 35 ppm; and Wax jambu at 0.30 ppm. The enforcement analytical methods are available in PAM I and PAM II for the enforcement of buprofezin tolerances, which include gas chromatography methods with nitrogen phosphorus detection (GC/NPD), and a gas chromatography/mass spectrometry (GC/MS) method for confirmation of buprofezin residues in plant commodities. *Contact:* RD.

7. PP 8E8658. (EPA–HQ–OPP–2018–0127). Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes, upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 8E8758, the following: (i). To remove existing tolerances in 40 CFR 180.613(a) for the residues of propiconazole, including its metabolites and degradates, in or on the raw agricultural commodities: Beet, garden, roots at 0.30 parts per million (ppm); Brassica leafy greens, subgroup 5B at 20 ppm; Carrot, roots at 0.25 ppm; Leaf petioles subgroup 4B at 5.0 ppm; Pistachio at 0.1 ppm; Radish, roots at 0.04 ppm; and Tomato at 3.0 ppm, and (ii). To amend 40 CFR 180.434(b) *Section 18 emergency exemption:* By removing the established time-limited tolerance for residues of propiconazole and its metabolites for Avocado at 10 ppm. *Contact:* RD.

8. PP 8E8664. (EPA–HQ–OPP–2018–0143). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend 40 CFR 180.449 by removing the established tolerances for residues of abamectin, including its metabolites and degradates, in or on the following commodities: Lychee at 0.01 parts per million (ppm) and Vegetable, leafy, except brassica, group 4 at 0.10 ppm. The analytical methods involve homogenization, filtration, partition, and cleanup with analysis by high performance liquid chromatography (HPLC)-fluorescence detection. The methods are sufficiently sensitive to detect residues at or above the tolerances proposed. All methods have undergone independent laboratory validation. *Contact:* RD.

9. PP 8E86669. (EPA–HQ–OPP–2018–0179). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to amend 40 CFR 180.668 by removing the established tolerances for residues of Sulfoxaflor ((N-methyloxido1-6-(trifluoromethyl)-3-pyridinyl]ethyl]-γ4-sulfanylidene]cyanamide) in or on the raw agricultural commodities: Fruit, stone, group 12 at 3.0 ppm, Leafy greens, subgroup 4A at 6.0 ppm, Leafy petiole, subgroup 4B at 2.0 ppm, Nuts, tree, group 14 at 0.015 ppm, Pistachio at 0.015 ppm and Vegetable, brassica, leafy, group 5, except cauliflower at 2.0 ppm. Analytical method 091116, ''Enforcement Method for the Determination of Sulfoxaflor (XDE–208) and its Main Metabolites in Agricultural Commodities using Offline Solid-Phase Extraction and Liquid Chromatography with Tandem Mass Spectrometry Detection'' was validated on a variety of plant matrices. *Contact:* RD.

10. PP 8E8673. (EPA–HQ–OPP–2018–0286). Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes upon establishment of tolerances referenced in this document under ''New Tolerances'' for PP 8E8673, to remove existing tolerances in 40 CFR 180.414 for residues of the insecticide cyromazine, (N-cyclopropyl-1,3,5-triazine-2,4,6-triamine) in or on cabbage, abbyssinian at 10.0 parts per million (ppm); cabbage, seakale at 10.0 ppm, garlic at 0.2 ppm; garlic, great-headed, bulb at 0.2 ppm; hanover salad, leaves at 10.0 ppm; leek at 3.0 ppm; onion, bulb at 0.2 ppm; onion, green at 3.0 ppm; onion, potato at 3.0 ppm; onion, tree at 3.0 ppm; onion, welsh at 3.0 ppm; pepper at 1.0 ppm; potato at 0.8 ppm; rakkyo, bulb at 0.2 ppm; shallot, bulb at 0.2 ppm; shallot, fresh leaves at 3.0 ppm; tomato at 0.5 ppm; turnip, greens at 10.0 ppm; vegetable, brassica, leafy, group 5, except broccoli at 10.0; vegetable, leafy, except brassica, group 4 at 7.0 ppm. The analytical methods AG–408 and AG–417 are used to measure and evaluate the chemical cyromazine. Contact: RD

New Tolerance Exemptions for Inerts (Except PIPS)

PP IN–11080. (EPA–HQ–OPP–2018–0202). OMC Ag Consulting, Inc., 828 Tanglewood Ln., East Lansing, MI 48823, on behalf of Nutri Ag Inc., 4740 N Interstate 35 E., Waxahachie, TX 75165, requests to establish an exemption from the requirement of a tolerance for residues of protein hydrolyzates, animal (CAS Reg. No. 100085–61–8) when used as an inert ingredient (carrier) in pesticide formulations applied to growing crops and raw agricultural commodities under

40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

New Tolerance Exemptions for Non–Inerts (Except PIPS)

PP 8F8670. (EPA–HQ–OPP–2018–0244). Monsanto Company, 800 N Lindbergh Blvd., St. Louis, MO 63167, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the plant regulator LCO MOR116 (chemical name: D-glucose, O-6-deoxy-2-O-methyl-α-L-galactopyranosyl-(1→6)-O-[O-2-deoxy-2-[[(11Z)-1-oxo-11-octadecen-1-yl]amino]-β-D-glucopyranosyl-(1→4)-O-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)-O-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)]-2-(acetylamino)-2-deoxy-; and D-glucose, O-2-deoxy-2-[[(11Z)-1-oxo-11-octadecen-1-yl]amino]-β-D-glucopyranosyl-(1→4)-O-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)-O-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)-O-2-(acetylamino)-2-deoxy-β-D-glucopyranosyl-(1→4)-O-[6-deoxy-α-L-galactopyranosyl-(1→6)]-2-(acetylamino)-2-deoxy-) in or on all food commodities. The petitioner believes no analytical method is needed because, even in the unlikely event that dietary exposure does occur associated with the requested uses, the demonstrated favorable toxicological profile for LCO MOR116 does not present a potential for hazard to humans or the environment. *Contact:* BPPD

New Tolerances for Non-Inerts

1. PP 7E8616. (EPA–HQ–OPP–2017–0674). Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, is proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the fungicide penthiopyrad, (N-[2-(1,3-dimethylbutyl)-3-thienyl]-1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide) in or on the raw agricultural commodities: Brassica, leafy greens, subgroup 4–16B at 50 parts per million (ppm); Bushberry subgroup 13–07B at 6 ppm; Fruit, stone, group 12–12 at 4.0 ppm; Caneberry subgroup 13–07A at 10 ppm; Celtuce at 30 ppm; Fennel, Florence at 30 ppm; Kohlrabi at 5.0 ppm; Leaf petiole vegetable subgroup 22B at 30 ppm; Leafy greens subgroup 4–16A at 30 ppm; Nut, tree, group 14–12 at 0.06 ppm; Oilseed group 20 at 1.5 ppm; and Vegetable, brassica, head and stem, group 5–16 at 5.0 ppm. An analytical enforcement method, liquid chromatograph (LC) equipped with a reverse phase column and a triple quadruple mass spectrometer (MS/MS) detection is available for determining penthiopyrad residues in plants. The limit of quantification (LOQ) is 0.01 ppm for most matrices except for very dry matrices, *e.g.,* pea hay, for which the LOQ is 0.05 ppm. *Contact:* RD.

2. PP 7E8629. (EPA–HQ–OPP–2017–0671). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180 for residues of mandipropamid: 4-chloro-N-[2-(3-methoxy-4-(2-propynyloxy)phenyl]ethyl]-alpha-(2-propynyloxy)-benzeneacetamide] in or on the raw agricultural commodities Asparagus bean, edible podded at 0.90 ppm; Bean (Phaseolus spp.), edible podded at 0.90 ppm; Bean (Vigna spp.), edible podded at 0.90 ppm; Brassica, leafy greens, subgroup 4–16B at 25 ppm; Catjang bean, edible podded at 0.90 ppm; Celtuce at 20 ppm; Chinese longbean, edible podded at 0.90 ppm; Citrus, dried pulp at 0.14 ppm; Citrus, oil at 2.2 ppm; Cowpea, edible podded at 0.90 ppm; Florence fennel at 20 ppm; French bean, edible podded 0.90 ppm; Fruit, citrus, group 10–10 at 0.5 ppm; Garden bean, edible podded at 0.90 ppm; Goa bean, edible podded at 0.90 ppm; Green bean, edible podded at 0.90 ppm; Guar bean, edible podded at 0.90 ppm; Jackbean, edible podded at 0.90 ppm; Kidney bean, edible podded at 0.90 ppm; Kohlrabi at 3 ppm; Lablab bean, edible podded at 0.90 ppm; Leaf petiole vegetable subgroup 22B at 20 ppm; Leafy greens subgroup 4–16A at 25 ppm; Moth bean, edible podded at 0.90 ppm; Mung bean, edible podded at 0.90 ppm; Navy bean, edible podded at 0.90 ppm; Rice bean, edible podded at 0.90 ppm; Scarlet runner bean, edible podded at 0.90 ppm; Snap bean, edible podded at 0.90 ppm; Sword bean, edible podded at 0.90 ppm; Urd bean, edible podded at 0.90 ppm; Vegetable soybean, edible podded at 0.90 ppm; Vegetable, brassica, head and stem, group 5–16 at 3 ppm; Velvet bean, edible podded at 0.90 ppm; Wax bean, edible podded at 0.90 ppm; Winged pea, edible podded at 0.90 ppm; Yardlong bean, edible podded at 0.90 ppm. Analytical method RAM 415–01 was developed for determination of mandipropamid residues in crops. *Contact:* RD.

3. PP 7F8642. EPA–HQ–OPP–2018–0143. Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, abamectin, in or on edible-podded legume vegetables subgroup 6a at 0.03 parts per million (ppm), succulent shelled pea and bean subgroup 6B at 0.005 ppm, and dried shelled pea and bean (except soybean) subgroup 6C at 0.005 ppm. The high performance liquid chromatography (HPLC) analytical method is used to measure and evaluate the chemical abamectin. *Contact:* RD.

4. PP 7E8644. (EPA–HQ–OPP–2018–0088). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180 for residues of emamectin, including its metabolites and degradates, determined by measuring only the sum of emamectin (a mixture of a minimum of 90% 4′-epi-methylamino-4′-deoxyavermectin B1a and maximum of 10% 4′-epi-methylamino-4′-deoxyavermectin B1b) and its metabolites 8,9-isomer of the B1a and B1b component of the parent (8,9–ZMA), or 4′-deoxy-4′-epi-amino-avermectin B1a and 4′-deoxy-4′-epi-amino-avermectin B1b; 4′-deoxy-4′-epi-amino avermectin B1a (AB1a); 4′-deoxy-4′-epi-(N-formyl-N-methyl)amino-avermectin (MFB1a); and 4′-deoxy-4′-epi-(N-formyl)amino-avermectin B1a (FAB1a), calculated as the stoichiometric equivalent of emamectin in or on the raw agricultural commodities Artichoke, globe at 0.06 parts per million (ppm), Brassica, leafy greens, subgroup 4–16B at 0.050 ppm, Celtuce at 0.100 ppm, Cherry subgroup 12–12A at 0.10 ppm, Fennel, Florence at 0.100 ppm, Fruit, pome, group 11–10 at 0.025 ppm, Herb subgroup 19A at 0.50 ppm, Kohlrabi at 0.050 ppm, Leafy greens subgroup 4–16A at 0.100 ppm, Leaf petiole vegetable subgroup 22B at 0.100 ppm, Nut, tree, group 14–12 at 0.02 ppm, Vegetable, brassica, head and stem, group 5–16 at 0.050 ppm, and Vegetable, fruiting, group 8–10 at 0.020 ppm. Adequate analytical methods (HPLC-fluorescence methods) are available for enforcement purposes. *Contact:* RD.

5. PP 7E8645. (EPA–HQ–OPP–2018–0095). Interregional Research Project No. 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance

in 40 CFR part 180 for residues of the herbicide/soil microbicide nitrapyrin (2-chloro-6-(trichloromethyl) pyridine) and its metabolite, 6-chloropicolinic acid (6–CPA), calculated as the stoichiometric equivalent of nitrapyrin, in or on the raw agricultural commodities: Citrus, dried pulp at 0.094 parts per million (ppm), Citrus, oil at 0.37 ppm, Fruit, citrus, group 10–10 at 0.03 ppm, Leaf petiole vegetable subgroup 22B at 0.4 ppm, Vegetable, brassica, head and stem, group 5–16 at 0.07 ppm, Vegetable, bulb, group 3–07 at 0.3 ppm, and Vegetable, leafy, group 4–16 at 0.3 ppm. Adequate residue analytical methods are available for measuring and enforcing plant tolerances including: Method 205G881A–1 determines residues of nitrapyrin by gas chromatography with electron-impact mass spectrometry detection, and Method 205G881–B1 determines residues of 6-chloropicolinic acid by liquid chromatography with tandem mass spectrometry detection. Both methods have been validated. *Contact:* RD.

6. PP 7F8646. (EPA–HQ–OPP–2018–0053). BASF Corporation, 26 Davis Dr., P.O. Box 13528, Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, broflanilide, including its metabolites and degradates, in or on grain, cereal, except rice, group 15; amaranth grain; quinoa, grain; spelt, grain; canihua, grain; chia, grain; cram-cram, grain; huauzontle, grain; teff, grain; corn, sweet, kernel plus cob with husks removed at 0.01 parts per million (ppm) and commodity vegetables, tuberous and corm, subgroup 1C at 0.04 ppm. Tolerances are also requested for cattle, meat; goat, meat; horse, meat; sheep, meat at 0.01 ppm, and commodity milk, fat; poultry, fat at 0.02 ppm, and commodity cattle, fat; sheep, fat; goat, fat at 0.05 ppm. Additionally, tolerances are requested for grain, cereal, forage, fodder and straw, group 16, except rice; quinoa, hay; teff, hay; corn, sweet, stover; corn, sweet, forage at 0.01 ppm, and commodity corn, field, milled products at 0.015 ppm and potato, wet peel at 0.1 ppm for processed commodities. In addition, BASF is proposing to establish a tolerance of 0.01 ppm for residues of Broflanilide in or on all food items in food handling establishments where food and food products are held, processed, prepared and/or served. The independently validated analytical method is used to measure and evaluate the chemical Broflanilide and its metabolites S(PFP–OH)-8007 and DM–8007. An independently validated analytical method has been submitted for analyzing residues of parent Broflanilide plus metabolites DM–8007 and DC–DM–8007 in animal matrices by Liquid chromatography with tandem mass spectrometry (LC–MS/MS). Food handling matrices samples were analyzed for Broflanilide residues using a combination of the plant and animal methods with minor modifications. *Contact:* RD.

7. PP 7E8648. (EPA–HQ–OPP–2018–0094). Interregional Research Project No.4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide tebuconazole, including its metabolites and degradates. Compliance with the tolerance levels specified is to be determined by measuring only tebuconazole [α-[2-(4-chlorophenyl) ethyl]-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol], in or on the raw agricultural commodities: Brassica, leafy greens, subgroup 4–16B, except watercress at 2.5 parts per million (ppm); Cottonseed subgroup 20C at 2.0 ppm; Fruit, pome, group 11–10 at 1.0 ppm; Fruit, stone, group 12–12, except cherry at 1.0 ppm; Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 6.0 ppm; Nut, tree, group 14–12 at 0.05 ppm; Sunflower subgroup 20B at 0.1 ppm, Tropical and subtropical, small fruit, inedible peel, subgroup 24A at 1.6 ppm; and Watercress at 9.0 ppm. Practical analytical methods for enforcement purposes in detecting and measuring levels of tebuconazole and the triazole metabolites: 1,2,4-triazole (T), traizole alanine (TA) and the traizole acetic acid (TAA) have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. *Contact:* RD.

8. PP 7F8651. (EPA–HQ–OPP–2018–0194). ISK Biosciences Corporation, 7470 Auburn Rd, Suite A, Concord, OH 44077, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide cylaniliprole on citrus fruit (crop group 10–10) at 0.5 ppm; tuberous & corm vegetables (crop group 1C) at 0.01 ppm; and berry & small fruit (crop subgroup 13–07A, 13–07B, 13–07E except grape, and 13–07G) at 1.5 ppm. Liquid chromatography-MS/MS is used to measure and evaluate the chemical cyclaniliprole residues. *Contact:* RD

9. PP 7E8652. (EPA–HQ–OPP–2018–0128). The Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish tolerances in 40 CFR part 180.317 for residues of the herbicide pronamide (propyzamide), 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)benzamide in or on berry, low growing, except strawberry, subgroup 13–07H at 1 parts per million (ppm), bushberry subgroup 13–07B at 0.05 ppm; caneberry subgroup 13–07A at 0.05 ppm; fruit, pome, group 11–10 at 0.1 ppm; fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 0.1 ppm; and fruit, stone, group 12–12 at 0.1 ppm. The GLC/ECD method listed in the Pesticide Analytical Manual (PAM) Volume II is used to measure and evaluate the chemical. *Contact:* RD.

10. PP 7E8654. (EPA–HQ–OPP–2018–0161). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish tolerances for residues of buprofezin, 2-(1,1-dimethylethyl)iminotetrahydro-3(1-methylethyl)-5-phenyl-4H-1,3,5-thiadiazin-4-one in or on the raw agricultural commodities Fig at 0.70 parts per million (ppm), Leafy greens subgroup 4–16A, except head lettuce and radicchio at 35 ppm; Brassica, leafy greens, subgroup 4–16B at 60 parts per million (ppm); Vegetable, brassica, head and stem, group 5–16 at 12.0 ppm; Leaf petiole vegetable subgroup 22B at 35 ppm; Celtuce at 35 ppm; Fennel, Florence at 35 ppm; Kohlrabi at 12.0 ppm; Tropical and subtropical, small fruit, edible peel, subgroup 23A at 5.0 ppm; Tropical and subtropical, small fruit, inedible peel, subgroup 24A at 0.30 ppm; Cottonseed subgroup 20C at 0.35 ppm; Fruit, citrus, group 10–10 at 2.5 ppm; Fruit, stone, group 12–12, except apricot and peach at 2.0 ppm; Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 2.5 ppm and Nut, tree, group 14–12 at 0.05 ppm. The enforcement analytical methods are available in PAM I and PAM II for the enforcement of buprofezin tolerances, which include gas chromatography methods with nitrogen phosphorus detection (GC/NPD), and a gas chromatography/mass spectrometry (GC/MS) method for confirmation of buprofezin residues in plant commodities. *Contact:* RD.

11. PP 8E8658. (EPA–HQ–OPP–2018–0127). Interregional Research Project No. 4, (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540 requests, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180.434 (a) General by establishing a tolerance for residues of propiconazole, including

its metabolites and degradates. Compliance with the tolerance levels specified below is to be determined by measuring only those propiconazole residues convertible to 2,4-dichlorobenzoic acid (2,4-DCBA), expressed as the stoichiometric equivalent of propiconazole, in or on the raw agricultural commodities: Avocado, at 0.2 parts per million (ppm); Brassica, leafy greens, subgroup 4–16B, except watercress at 20 ppm; Celtuce at 5.0 ppm; Florence fennel at 5.0 ppm; Leaf petiole vegetable subgroup 22B at 5.0 ppm; Swiss chard at 5.0 ppm, Tomato subgroup 8–10A at 3.0 ppm and Vegetable, root, except sugar beet, subgroup 1B at 0.30 ppm. Analytical methods AG–626 and AG–454A were developed for the determination of residues of propiconazole and its metabolites containing the DCBA moiety. Analytical method AG–626 has been accepted and published by EPA as the tolerance enforcement method for crops. The limit of quantitation (LOQ) for the method is 0.05 ppm. *Contact:* RD.

12. PP 8E8660. (EPA–HQ–OPP–2018–0275). The Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180. 446 for residues of the insecticide clofentezine, 3,6-bis(2-chlorophenyl)-1,2,4,5-tetrazine in or on guava at 1 part per million (ppm). The analytical method for residues of clofentezine in fruit (Western Red Delicious Apples) by high-performance liquid chromatography (HPLC) and ultra violet (UV) Detection'' is used to measure and evaluate the chemical. *Contact:* RD.

13. PP 8E8664. (EPA–HQ–OPP–2018–0143). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of abamectin, including its metabolites and degradates, in or on the following commodities. Compliance with the tolerance levels is to be determined by measuring only avermectin B1 a mixture of avermectins containing greater than or equal to 80% avermectin B1 a (5-O-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1) and its delta-8,9-isomer in or on the raw agricultural commodities: Arugula at 0.10 parts per million (ppm), Carrot, roots at 0.03 ppm, Celtuce at 0.10 ppm, Fennel, Florence at 0.10 ppm, Garden cress at 0.10 ppm, Leaf petiole vegetable subgroup 22B at 0.10 ppm, Leafy greens subgroup 4–16A at 0.10 ppm, Tropical and subtropical, small fruit, inedible peel, subgroup 24A at 0.01 ppm, and Upland cress at 0.10 ppm. The analytical methods involve homogenization, filtration, partition, and cleanup with analysis by high performance liquid chromatography (HPLC)-fluorescence detection. The methods are sufficiently sensitive to detect residues at or above the tolerances proposed. All methods have undergone independent laboratory validation. *Contact:* RD.

14. PP 8E8666. (EPA–HQ–OPP–2018–0179). Interregional Research Project No. 4 (IR–4), IR–4 Project Headquarters, Rutgers, The State University of NJ, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of sulfoxaflor ((N-methyloxido1-6-(trifluoromethyl)-3-pyridinyl]ethyl]-γ4-sulfanylidene]cyanamide) in or on the raw agricultural commodities: Artichoke, globe at 0.70 parts per million (ppm), Asparagus at 0.015 ppm, Brassica, leafy greens, subgroup 4–16B, except watercress at 2.0 ppm, Bushberry subgroup 13–07B at 2.0 ppm, Caneberry subgroup 13–07A at 1.5 ppm, Celtuce at 2.0 ppm, Florence fennel at 2.0 ppm, Fruit, stone, group 12–12 at 3.0 ppm, Kohlrabi at 2.0 ppm, Leafy greens subgroup 4–16A at 6.0 ppm, Leaf petiole vegetable subgroup 22B at 2.0 ppm, Nut, tree, group 14–12 at 0.015 ppm, Sunflower subgroup 20B at 0.30 ppm, and Vegetable, brassica, head and stem, group 5–16, except cauliflower at 2.0 ppm. Analytical method 091116, ''Enforcement Method for the Determination of Sulfoxaflor (XDE–208) and its Main Metabolites in Agricultural Commodities using Offline Solid-Phase Extraction and Liquid Chromatography with Tandem Mass Spectrometry Detection'' was validated on a variety of plant matrices. *Contact:* RD.

15. PP 8E8667. (EPA–HQ–OPP–2018–0273). Interregional Research Project No.4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide flonicamid, including its metabolites and degradates, determined by measuring only the sum of flonicamid, N-(cyanomethyl)-4-(trifluoromethyl)-3-pyridinecarboxamide, and its metabolites, TFNA (4-trifluoromethylnicotinic acid), TFNA-AM (4-trifluoromethylnicotinamide), and TFNG, N-(4-trifluoromethylnicotinoyl)glycine, calculated as the stoichiometric equivalent of flonicamid, in or on raw agricultural commodities as follows: Sunflower subgroup 20B at 0.70 parts per million (ppm). Analytical methodology to determine above designated residues of flonicamid for the majority of crops includes an initial extraction with acetonitrile (ACN)/deionized (DI) water, followed by a liquid-liquid partition with ethyl acetate. The final sample solution is quantitated using a liquid chromatograph (LC) equipped with a reverse phase column and a triple quadruple mass spectrometer (MS/MS). *Contact:* RD.

16. PP 8E8673. (EPA–HQ–OPP–2018–0286). Interregional Research Project Number 4 (IR–4), Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ 08540, requests to establish a tolerance in 40 CFR part 180. 414 for residues of the insecticide cyromazine, (N-cyclopropyl-1,3,5-triazine-2,4,6-triamine) in or on Brassica, leafy greens, subgroup 4–16B at 10.0 parts per million (ppm); Celtuce at 7.0 ppm; Chickpea, edible podded at 0.4 ppm; Chickpea, succulent shelled at 0.3 ppm; Dwarf pea, edible podded at 0.4 ppm; Edible podded pea, edible podded at 0.4 ppm; English pea, succulent shelled at 0.3 ppm; Florence fennel at 7.0 ppm; Garden pea, succulent shelled at 0.3 ppm; Grass-pea, edible podded at 0.4 ppm; Green pea, edible podded at 0.4 ppm; Green pea, succulent shelled at 0.3 ppm; Kohlrabi at 10.0 ppm; Leaf petiole subgroup 22B at 7.0 ppm; Leafy green subgroup 4–16A at 7.0 ppm; Lentil, edible podded at 0.4 ppm; Lentil, succulent shelled at 0.3 ppm; Onion, bulb, subgroup 3–07A at 0.2 ppm; Onion, green, subgroup 3–07B at 3.0 ppm; Pepper/eggplant 8–10B at 1.0 ppm; Pigeon pea, edible podded at 0.4 ppm; Pigeon pea, succulent shelled at 0.3 ppm; Snap pea, edible podded at 0.4 ppm; Snow pea, edible podded at 0.4 ppm; Sugar snap pea, edible podded at 0.4 ppm; Tomato subgroup 8–10A at 1.0 ppm; Vegetable, brassica, head and stem, group 5–16, except broccoli at 10.0 ppm; and Vegetable, tuberous and corm, subgroup 1C at 0.8 ppm. The analytical methods AG–408 and AG–417 are used to measure and evaluate the chemical cyromazine. *Contact:* RD.

17. PP 8E8678. EPA–HQ–OPP–2018–0300. Dow AgroSciences, 9330 Zionsville Road, Indianapolis, IN 46268, requests to establish import tolerance in 40 CFR part 180 for residues of the fungicide fenbuconazole (alpha-(2-(4-chlorophenyl)ethyl]-alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile) and its metabolites cis and trans-5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-

1,2,4-triazole-1-ylmethyl)-2-3H-furanone) in or on the raw agricultural commodities tea, dried at 10 parts per million (ppm); and tea, instant at 10 ppm. The analytical methodology column chromatography and nitrogen -phosphorus detection (NPD) gas chromatography detection is used to measure and evaluate the chemical fenbuconazole. *Contact:* RD.

18. PP 8F8661. EPA–HQ–OPP–2018–0297. Cheminova A/S, P.O. Box 9, DK–7620, Lemvig, Denmark and on behalf of FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104, requests to establish tolerance in 40 CFR part 180 for residues of the fungicide flutriafol [chemical name (±)-α-(2-fluorophenyl-α-(4-fluorophenyl)-1H-1,2,4-triazole-1-ethanol] in or on the raw agricultural commodities alfalfa, forage at 15 parts per million (ppm); alfalfa, hay at 50 ppm; barley, grain at 1.5 ppm; barley, hay at 7.0 ppm; barley, straw at 8.0 ppm; corn, sweet, forage at 9.0 ppm; corn, sweet, kernels plus cobs with husks removed at 0.03 ppm; corn, sweet, stover at 8 ppm; rice, bran at 0.4 ppm; rice, grain at 0.5 ppm; rice, hulls at 1.5 ppm; and rice, straw at 0.9 ppm. The analytical methodology gas chromatography (GC) employing mass selective (MSD) detection and or HPLC/UPLC employing tandem mass spectrometric (MS/MS) detection is used to measure and evaluate the chemical flutriafol. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: July 10, 2018.

Hamaad Syed,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–15722 Filed 7–23–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket No. 18–28, CC Docket No. 95–155; FCC 18–77]

Text-Enabled Toll Free Numbers; Toll Free Service Access Codes

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission adopts a Notice of Proposed Rulemaking (*NPRM*) seeking comment to determine how a toll free subscriber should make clear its authorization to text-enable a toll free number. To ensure that a toll free subscriber has indeed authorized a toll free number to be text-enabled, the *NPRM* proposes requiring a toll free subscriber to inform its Responsible Organization (RespOrg) of that authorization and for the RespOrg to update the appropriate records in the toll free SMS Database. The *NPRM* also seeks comment on what other information, in addition to an SMS Database record reflecting that toll free number has been text-enabled, if any, needs to be captured and centrally managed to protect the integrity of the toll free numbering system, and whether such information should be captured in the SMS Database or some other toll free registry. The intended effect of this *NPRM* is to clarify and ensure that the toll free SMS Database accurately reflects which toll free numbers are text enabled.

DATES: Comments are due on or before August 23, 2018, and reply comments are due on or before September 7, 2018. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before September 24, 2018.

ADDRESSES: You may submit comments, identified by both WC Docket No. 18–28, and CC Docket No. 95–155 by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.
- *People With Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, Federal Communications Commission, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, E. Alex Espinoza, at (202) 418–0849, or *alex.espinoza@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 18–28, and CC Docket No. 95–155, adopted June 7, 2018, and released June 12, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is available on the Commission's website *https://www.fcc.gov/document/fcc-takes-steps-prevent-fraud-toll-free-texting-0.*

Synopsis

1. *Introduction.* We next turn to how a toll free subscriber should make clear its authorization to text-enable a toll free number. To ensure that a toll free subscriber has indeed authorized a toll free number to be text-enabled, we propose to require a toll free subscriber to inform its RespOrg of that authorization and for the RespOrg to update the appropriate records in the toll free SMS Database. This proposal will ensure that there is a single,

authoritative registry for what toll free numbers have been text-enabled by their subscribers. We also seek comment on what other information, in addition to an SMS Database record reflecting that the toll free number has been text-enabled, if any, needs to be captured and centrally managed to protect the integrity of the toll free numbering system, and whether such information should be captured in the SMS Database or some other toll free registry.

2. *Toll Free Subscriber Responsibility.* Our proposal that a toll free subscriber notify its RespOrg of its authorization to text-enable a toll free number is consistent with our Declaratory Ruling and will protect the integrity of our toll free system, both for traditional voice service and more recent texting services. Moreover, this requirement will ensure that text-enabling information is captured by the RespOrg for inclusion in the SMS Database, enabling the TFNA to protect the integrity of the toll free number system. Whether that information also should be captured in a separate toll free texting registry or registries is discussed below.

3. *RespOrg Responsibilities.* We seek to make recording a subscriber's authorization to text-enable a toll free number as simple and efficient as possible to further our policy goal of promoting the innovative texting feature of these numbers, while also protecting the use of toll free numbers for traditional voice service subscribers. Our current rules already establish the role and obligations of a RespOrg to ''manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber.'' We propose that this duty include the duty to update the SMS Database as to whether a number has been text-enabled, as well as to update the database should the subscriber choose to no longer use its toll free number for texting. Do parties agree with this proposed RespOrg obligation and the accompanying requirement?

4. We believe that requiring RespOrgs to update the SMS Database when a toll free number is text-enabled will help alleviate concerns that unassigned toll free numbers could be text-enabled because the RespOrg, in attempting to update the database, would realize if the toll free number to be text-enabled is reserved by a RespOrg or not. If not, the toll free number may not be text-enabled as clarified in our Declaratory Ruling. Are there other approaches we should consider, such as the approach recommended by CTIA to allow the industry to decide how to implement a toll free subscriber's authorization to text-enable a toll free number? What impact would such an approach have on the existing toll free system? Are there pros and cons to this approach and, if so, what are they? What other issues should we consider with respect to documenting a subscriber's authorization to text-enable a toll free number?

5. *Text-Enabling Information To Be Captured.* We also seek comment on what other information—beyond the subscriber's authorization to text-enable the toll free number—should be captured and centrally managed to avoid confusion about the status of a toll free number and to prevent potential abuse, such as spoofing or fraud. Should we require inclusion of information such as the business name and address of the subscriber? Should we also require inclusion of a point of contact who can make decisions pertaining to the number? Should information be captured about the messaging provider that text-enabled the toll free number, such as its name and contact information? What about routing information? Does that information need to be captured in a centrally-managed database to ensure that sent text messages are properly routed and received? Is there any information that should be captured to manage the voice and texting aspects of a toll free number and to ensure that voice services are not interrupted by the text-enabling of the toll free number and vice versa? What other types of information might be necessary to protect the integrity of the toll free system that should be captured in a centrally managed database?

6. *Where To Include Text-Enabling Information.* Are there reasons the Commission should establish a separate registry solely to enable and manage toll free text messaging, or could all relevant information about a text-enabled number simply be captured in a separate field or fields in the existing SMS Database? What would be the benefits of a separate registry? We note some commenters in the record claim that without a centralized toll free texting registry, ''the toll-free voice industry is itself threatened because all toll-free number owners are now at risk by having their security, branding, and customers compromised by this dangerous situation.'' Are there reasons these concerns could not be adequately addressed by adding a field to the SMS Database to reflect the text-enabling of a toll free number? Are there legal or administrative issues to including this information in the already established SMS Database? Would there be benefits to having all voice and text-enabled numbers registered in the SMS Database?

7. Alternatively, if parties believe a separate registry is needed, who should have access to such a registry? Should it be limited to RespOrgs, or open to messaging providers or others (and, if so, whom)? Also, should we consider multiple registries or would having a single registry be more efficient for the toll free subscriber to address any issues or concerns raised by text-enabling and thereby more effectively prevent abuse or fraud? Would being able to access a single registry rather than multiple registries be less burdensome to RespOrgs and messaging providers? Would multiple registries cause confusion for entities that text-enable toll free numbers as to which registry to use? Would these entities need to know all the registries and be required to make sure a text-enabled toll free number is registered with each one? How would the Commission, state commissions, or law enforcement agencies manage a process that could require accessing multiple registries for information on a particular text-enabled toll free number? Would the sum of the costs of multiple registry administrators be higher than the costs incurred by a single registry administrator?

8. Alternatively, are there benefits to a multi-registry system we should consider? CTIA argues that the Commission, ''should not assume that the approach to selecting a single vendor of toll free registry services in the context of voice telecommunications services should be extended to messaging.'' What are the benefits of a multi-registry system? Do they outweigh the efficiencies of a single registry? We invite interested stakeholders to address these questions.

9. If we determine that a single toll free texting registry is appropriate, should we make, as recommended by some commenters, the TFNA the registrar as part of its overall toll free number administration responsibilities? The TFNA has developed a toll free texting registry—the ''TSS Registry''—which is being used by some industry members. Some commenters support its use as the single registry of text-enabled toll free numbers, and maintain that the TFNA is the proper entity to operate the toll free texting registry; it has already been deemed ''impartial'' by the Commission and is required to make toll free numbers available ''on an equitable basis'' pursuant to section 251(e)(1) of the Act. Would Somos, the current TFNA, be neutral in its role as operator of the toll free texting registry?

10. On the other hand, some commenters oppose designating the current SMS Database or TSS Registry as the single authorized text-enabled toll

free registry. Would such an approach ''lock the wireless industry into a monopoly relationship with Somos''? Would allowing Somos to administer both the SMS Database and a separate toll free texting registry make the system a more likely target for a Denial of Service attack? What other concerns, if any, do commenters have? Are those concerns limited to designating Somos to manage the single text-enabling registry or do they extend to the Commission designating any administrator over a single database?

11. *Administration.* We seek comment on issues that likely would arise should we determine, based on the record, to require a RespOrg to record a subscriber's authorization to text-enable a toll free number in the SMS Database or to otherwise require such authorization to be recorded in any separately managed toll free texting registry. Initially, if adopted, our proposed rule would require any entity that text-enables a toll free number on behalf of a business or non-profit organization to reflect that number in the SMS Database, and we seek comment on whether such information also should be captured in any separate toll free texting registry. To ensure that we capture all text-enabled toll free numbers in any appropriate database or registry, we propose to apply this same requirement to those numbers that have already been text-enabled. We also propose that in order to effectuate this requirement, entities would be required within six months of the effective date of the new rule to enter into the SMS Database or any toll free texting registry all numbers they had text-enabled. We seek comment on these proposals. What registration process should be employed to enter all these numbers? Is six months sufficient time for the registration process to be completed? Would the benefit of having all text-enabled numbers registered outweigh the burden of the registration process?

12. *Commission Role.* We seek comment on what role, if any, the Commission should have in choosing a toll free texting registrar or registrars and in overseeing any toll free texting registries. In addition, section 251(e) of the Communications Act requires that the Commission create or designate one or more impartial entities to administer telecommunications numbering. The neutrality criteria set forth in § 52.12(a)(1) of our rules explains the statutory requirement by adopting a test to establish neutrality. We expect that any entity that administers a toll free texting registry must meet the neutrality requirements of the Act and our implementing rules, just as Somos must meet those requirements in administering the toll free number database. We seek comment on these views.

13. *Maintaining Status Quo.* Finally, we seek comment on the pros and cons of maintaining the status quo and not mandating that information about toll free numbers that have been text-enabled be captured in either the SMS Database or in a separate toll free text-enabling registry or registries. Should we take the view that toll free texting is a nascent offering which is still evolving, such that the Commission should not get involved in the registry issue at this time? If so, what are the advantages and disadvantages to such an approach? Are there any other potential impacts of our proposals on this emerging feature of toll free service?

14. *Legal Authority.* As stated above, section 251(e)(1) of the Act gives us ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States'' and provides that numbers must be made ''available on an equitable basis.'' Under the Commission's rules implementing that section of the Act, a toll free subscriber reserves a number in the toll free database in order for it to receive calls made to that number. Accordingly, we retain ''authority to set policy with respect to all facets of numbering administration in the United States.''

15. In this NPRM, we propose, pursuant to that same authority, that a toll free subscriber must inform its RespOrg of its authorization to text-enable a toll free number and that the RespOrg must update the appropriate records in the SMS Database. We believe these additional steps will help safeguard the toll free number assignment process in general and the toll free text-enabling process in particular by alleviating confusion about the status of a toll free number, and will also prevent any potential abuse, such as spoofing or fraud. For this reason and those previously discussed in this NPRM, the proposals herein further our statutory mandate to set policy on numbering administration in the United States. We also seek comment herein on a number of additional measures to promote these same goals and that, if adopted, would also rely upon our numbering authority under section 251(e)(1) of the Act. We invite comment on the sources of authority discussed above.

I. Initial Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Notice of Proposed Rulemaking* (NPRM). The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided in the **DATES** section of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

17. In this NPRM, we propose that a toll free subscriber must inform its RespOrg of its authorization to text-enable a toll free number and that the RespOrg must update the appropriate records in the SMS Database. We believe this proposal will further safeguard the toll free text-enabling process, and fulfill our statutory mandate that numbers be made available on an equitable basis. We also believe this additional step are necessary to avoid any confusion about the status of a toll free number and to prevent any potential abuse, such as spoofing or fraud. We seek comment by interested stakeholders on this proposed rule.

B. Legal Basis

18. The legal basis for any action that may be taken pursuant to this NPRM is contained in sections 1, 4(i), 201(b), and 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), and 251(e)(1).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

19. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rule revisions, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any

additional criteria established by the SBA.

20. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data published in 2012 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

21. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

22. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

23. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

24. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

25. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

26. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined above. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of IXCs are

small entities that may be affected by our proposed rule.

27. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

28. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

29. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the proposed rules, herein adopted.

30. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

31. *Wireless Telecommunications Carriers (Except Satellite*). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

32. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

33. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

34. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

35. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in

nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

36. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

37. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

38. *All Other Telecommunications.* The ''All Other Telecommunications'' industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus a majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

39. The NPRM proposes and seeks comment on a rule change that will affect toll free text-enablement. In particular, we propose a revised definition for the Service Management System Database § 52.101(d). The NPRM seeks comment on this proposal.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

40. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

41. In this NPRM, we propose that a toll free subscriber must inform its RespOrg of its authorization to text-enable a toll free number and that the RespOrg must update the appropriate records in the SMS Database. We believe this proposal will further safeguard the toll free text-enabling process, and fulfill our statutory mandate that numbers be made available on an equitable basis. The NPRM also seeks comment on administrative issues to implement the proposed registry that would not be overly burdensome on RespOrgs and messaging providers. For example, we seek comment on whether toll free texting information should be included in the SMS Database or if there should be a single toll free texting registry, as opposed to multiple registries, to limit burden on RespOrgs and messaging providers some of which may be small entities.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

42. None.

II. Procedural Matters

A. Comment Filing Procedures

43. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the **DATES** section of this document in Dockets WC 17–192, and CC 95–155. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial

overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- *People With Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

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

B. Initial Regulatory Flexibility Analysis

45. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this Notice of Proposed Rulemaking. The text of the IRFA is set forth above. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comment on the Notice of Proposed Rulemaking. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

C. Paperwork Reduction Act

46. This document may contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Contact Person

47. For further information about this proceeding, please contact E. Alex Espinoza, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C211, 445 12th Street SW, Washington, DC 20554, at (202) 418–0849 or *Alex.Espinoza@fcc.gov.*

III. Ordering Clauses

1. Accordingly, *it is ordered,* pursuant to sections 1, 4(i), 201(b), and 251(e) of the Communication Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), and 251(e)(1) that this Notice of Proposed Rulemaking *is adopted.*

2. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 52

Numbering.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons set forth in the preamble, the Federal Communications Commission proposes to amend part 52 of title 47 of the Code of Federal Regulations as follows:

PART 52—NUMBERING

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

Authority: Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 225–27, 251–52, 271, 332 unless otherwise noted.

Subpart D—Toll Free Numbers

■ 2. Amend § 52.101 by revising paragraph (d) to read as follows:

§ 52.101 General definitions.

* * * * *

(d) *Service Management System Database (''SMS Database'').* The administrative database system for toll free numbers. The Service Management System is a computer system that enables Responsible Organizations to enter and amend the data about toll free numbers within their control, including whether a toll free number has been text-enabled. The Service Management System shares this information with the Service Control Points. The entire system is the SMS Database.

* * * * *

[FR Doc. 2018–15158 Filed 7–23–18; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 83, No. 142
Tuesday, July 24, 2018

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

July 19, 2018.

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

Comments regarding this information collection received by August 23, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Farm Service Agency

Title: Assignments of Payments and Joint Payment Authorizations.

OMB Control Number: 0560–0183.

Summary of Collection: The Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) authorizes producers to assign, in writing, Farm Service Agency (FSA) conservation program payments. The statute requires that any such assignment be signed and witnessed. The Agricultural Act of 1949, as amended, extends that authority to Commodity Credit Corporation (CCC) programs, including rice, feed grains, cotton, and wheat. When the recipient of an FSA, NRCS, or CCC payment chooses to assign a payment to another party or have the payment made jointly with another party, the other party must be identified. All federal nontax payments must be made by EFT, unless a waiver applies which requires certain criteria to be granted. FSA will collect information using forms CCC–36, CCC 37, CCC–251, CCC–252 and CCC–40.

Need and Use of the Information: The information collected on the forms will be used by FSA and NRCS employees in order to record the payment or contract being assigned, the amount of the assignment, the date of the assignment, and the name and address of the assignee and the assignor. This is to enable FSA employee to pay the proper party when payments become due. FSA will also use the information to issue program payments jointly at the request of the producer and also terminate joint payments at the request of both the producer and joint payee.

Description of Respondent: Individuals or households.

Number of Respondents: 126,542.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 21,083.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–15797 Filed 7–23–18; 8:45 am]

BILLING CODE 3410–05–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Montana 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 Montana Advisory Committee (Committee) to the Commission will be held at 3:00 p.m. (Mountain Time) Thursday, July 26, 2018. The purpose of the meeting is for the Committee to discuss the draft of the Bordertown Discrimination Report.

DATES: The meeting will be held on Thursday, July 26, 2018 at 3:00 p.m. MT.

Public Call Information:
Dial: 800–231–9012
Conference ID: 7840110.

FOR FURTHER INFORMATION CONTACT: David Barreras at *dbarreras@usccr.gov* or (312) 353–8311.

SUPPLEMENTARY INFORMATION: This meeting is available to the public through the following toll-free call-in number: 800–231–9012, conference ID number: 7840110. 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 1–800–877–8339 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 Angelica Trevino at *atrevino@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 *https://facadatabase.gov/committee/meetings.aspx?cid=259.*

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 website, *https://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome and Rollcall
II. Discussion
III. Next Steps
IV. Public Comment
V. Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstance of staffing limitations that require immediate action.

Dated: July 18, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–15748 Filed 7–23–18; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units (Building Permits Survey)

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

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

DATES: To ensure consideration, written comments must be submitted on or before September 24, 2018.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed Erica Filipek, U.S. Census Bureau, Economic Indicators Division, CENHQ Room 7K057, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–5161 (or via the internet at *Erica.Mary.Filipek@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a three-year extension of Form C–404, ''Report of Building or Zoning Permits Issued for New Privately-Owned Housing Units'', otherwise known as the Building Permits Survey. The Census Bureau uses this survey to produce statistics to monitor activity in the large and dynamic construction industry. For New Residential Construction (which includes Housing Units Authorized by Building Permits, Housing Starts, and Housing Completions), form C–404 is used to collect the estimate for Housing Units Authorized by Building Permits. For New Residential Construction and Sales, the number of housing units authorized by building permits is a key component utilized in the estimation of housing units started, completed, and sold.

These statistics help state and local governments, the Federal Government, and private industry, analyze the housing and construction industry sector of the economy. Building permits for new private housing units also are a component of The Conference Board's Leading Economic Index.

The Census Bureau uses Form C–404 to collect information on changes to the geographic coverage of permit-issuing places, the number and valuation of new residential housing units authorized by building permits, and additional information on residential permits valued at $1 million or more, including, but not limited to, site address and type of building. The Census Bureau uses these data to estimate the number of housing units started, the number of housing units completed, the number of single-family houses sold, and to select samples for the Census Bureau's demographic surveys. The Building Permits Survey is the only source of statistics on residential construction for states and smaller geographic areas. The Census Bureau uses the detailed geographic data collected from state and local officials on new residential construction authorized by building permits in the development of annual population estimates that are used by government agencies to allocate funding and other resources to local areas. Policymakers, planners, businesses, and others also use the detailed geographic data to monitor growth, plan for local services, and to develop production and marketing plans.

II. Method of Collection

Respondents may submit their data via internet or a mailed or faxed form. Some respondents choose to email proprietary electronic files or mail proprietary printouts of permit information in lieu of returning the form.

The survey universe is comprised of approximately 20,325 local governments that issue building permits. Due to resource availability and the time required to complete the data review and analysis, the Census Bureau collects data from a sample of permit-issuing jurisdictions monthly, and the remainder of the jurisdictions annually. We collect this information monthly for about 7,850 permit-issuing jurisdictions who respond via internet or who mail or fax the provided form. Another 325 jurisdictions have established reporting arrangements that allow them to submit their responses monthly via proprietary electronic files or mailed printouts using their own file format. We collect this information annually for about 11,700 permit-issuing jurisdictions who respond via internet or who mail or fax the provided form. Another 450 jurisdictions have established reporting arrangements that allow them to submit their responses annually via proprietary electronic files or mailed printouts using their own file format.

III. Data

OMB Control Number: 0607–0094.
Form Number(s): C–404.
Type of Review: Regular submission.
Affected Public: State and Local Governments.
Estimated Number of Respondents: 20,325.
Estimated Time per Response: 8 minutes for monthly respondents who report via internet, mail or faxing the form, 23 minutes for annual respondents who report via internet, mail or faxing the form and 3 minutes for monthly and annual respondents

who send electronic files or mail printouts.

Estimated Total Annual Burden Hours: 17,263.

Estimated Total Annual Cost to Public: $0. (This is not the cost of respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

IV. Request for Comments

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

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

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–15761 Filed 7–23–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Manufacturers' Unfilled Orders Survey.

OMB Control Number: 0607–0561.

Form Number(s): MA–3000.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 6,000.

Average Hours per Response: 30 minutes.

Burden Hours: 3,000.

Needs and Uses: The data collected in the Manufacturers' Unfilled Orders (M3UFO) Survey will be used to benchmark the new and unfilled orders information published in the monthly Manufacturers' Shipments, Inventories, and Orders (M3) Survey. The M3 Survey collects monthly data on the value of shipments, inventories, and new and unfilled orders from manufacturing companies. The data are used by the Bureau of Economic Analysis, the Council of Economic Advisers, the Federal Reserve Board, the Conference Board, and members of the business community such as trade associations and the media to analyze business conditions in the manufacturing sector.

The associated monthly M3 Survey estimates are based on a panel of approximately 5,000 reporting units that represent approximately 3,100 companies and provide an indication of month-to-month change for the Manufacturing Sector. These reporting units may be divisions of diversified large companies, large homogenous companies, or single-unit manufacturers. The M3 estimates are periodically benchmarked to comprehensive data on the manufacturing sector from the Annual Survey of Manufactures (ASM), the Economic Census (shipments and inventories) and the M3UFO Survey, which is the subject of this notice. Unfilled orders data are not collected in the ASM or the Economic Census. To obtain more accurate M3 estimates of unfilled orders, which are also used in deriving M3 estimates of new orders, we conduct the M3UFO Survey annually to be used as the source for benchmarking M3 unfilled orders data. Industries that maintain unfilled orders cannot fulfill the order in the same month in which the order is received. This is not true for each industry, and occurs mainly in industries where production takes longer than one month. In order to reduce burden from our respondents, the M3UFO data are used to determine which North American Industry Classification System (NAICS) industries continue to maintain unfilled orders. We then utilize that information to only request unfilled orders on the monthly M3 survey from the NAICS industries that actually have unfilled orders which cannot be completed within the same month that the order was placed.

There are no changes to the MA–3000 form, which is used to conduct the M3UFO survey.

The Census Bureau will use mail out or mail back survey forms to collect the data with online reporting encouraged. Online response for the survey is typically 70 percent. Companies are asked to respond to the survey within 30 days of receipt. The Census Bureau mails letters encouraging participation to companies that have not responded within 30 days and later uses telephone follow-up to seek response from delinquent companies.

Affected Public: Businesses or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131 and 182.

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

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

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–15816 Filed 7–23–18; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 92–14A001]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review to Aerospace Industries Association of America, Inc., Application no. 92–14A001.

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Aerospace Industries Association of America, Inc. (''AIA'') on July 9, 2018.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2014). The U.S. Department of Commerce, International Trade Administration, Office of Trade and Economic Analysis (''OTEA'') is issuing this notice

pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the issuance in the **Federal Register**. Under Section 305(a) of the Export Trading Company Act (15 U.S.C. 4012(b)(1)) and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

AIA's Export Trade Certificate of Review has been amended to:

1. Add the following companies as new Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- ACUTRONIC USA, Inc.; Pittsburgh, PA (controlling entity ACUTRONIC Holding AG; Bubikon, Switzerland)
- ADI American Distributors LLC; Randolph, NJ
- Advanced Logistics for Aerospace (ALA); New York, NY (controlling entity ALA SpA; Naples, Italy)
- Aernnova Aerospace; Ann Arbor, MI (controlling entity Aernnova Aerospace; Miñano, Spain)
- Aero Metals Alliance Inc.; Northbrook, IL (controlling entity Aero Metals Alliance; Surrey, UK)
- AeroVironment, Inc.; Monrovia, CA
- AlixPartners, LLP; New York, NY
- Alta Devices, Inc.; Sunnyvale, CA (controlling entity Hanergy Holding Group Ltd.; Beijing, China)
- Altitude Industries, LLC; Overland Park, KS
- Amazon.com, Inc.; Seattle, WA
- American Metal Bearing Company; Garden Grove, CA (controlling entity Marisco, Ltd.; Kapolei, HI)
- Athena Manufacturing, LP; Austin, TX
- Boom Technology, Inc.; Denver, CO
- BRPH Architects Engineers, Inc.; Melbourne, FL
- Burns & McDonnell Engineering Corporation, Inc.; Kansas City, MO
- BWX Technologies, Inc.; Lynchburg, VA
- Cytec Engineered Materials, Inc.; Tempe, AZ (controlling entity Solvay Group; Brussels, Belgium)
- Delta Flight Products; Atlanta, GA (controlling entity Delta Air Lines, Inc.; Atlanta, GA)
- EPTAM Plastics; Northfield, NH
- Garmin International, Inc.; Olathe, KS (controlling entity Garmin Ltd.; Schaffhausen, Switzerland)
- General Atomics Aeronautical Systems, Inc.; Poway, CA (controlling entity General Atomics; San Diego, CA)
- Google LLC; Mountain View, CA (controlling entity Alphabet Inc.; Mountain View, CA)
- GSE Dynamics, Inc.; Hauppauge, NY
- Information Services Group, Inc.; Stamford, CT
- Integral Aerospace, LLC; Santa Ana, CA
- ITT Inc.; White Plains, NY
- Job Performance Associates, LLC; Jacksonville, FL
- JR Industries, Inc.; Westlake Village, CA
- ManTech International Corporation; Fairfax, VA
- Mercury Systems, Inc.; Andover, MA
- Net-Inspect, LLC; Kirkland, WA
- New England Airfoil Products, Inc.; Farmington, CT
- Nokia US; Murray Hill, NJ (controlling entity Nokia Corporation; Espoo, Finland)
- Norsk Titanium US Inc.; Plattsburgh, NY (controlling entity Norsk Titanium AS; Hønefoss, Norway)
- Omega Aerial Refueling Services, Inc.; Alexandria, VA
- Orbital ATK, Inc.; Dulles, VA
- Pegasus Steel, LLC; Goose Creek, SC
- PrecisionHawk Inc.; Raleigh, NC
- Primus Aerospace; Lakewood, CO
- PTC Inc.; Needham, MA
- Range Generation Next LLC; Sterling, VA (controlling entities Raytheon Company; Waltham, MA and General Dynamics IT; Fairfax, VA)
- Special Aerospace Services, LLC; Boulder, CO
- SupplyOn North America, Inc.; San Diego, CA (controlling entity SupplyOn AG; Hallbergmoos, Germany)
- The Aerospace Corporation, Civil Systems Group; El Segundo, CA (controlling entity The Aerospace Corporation; El Segundo, CA)
- The Lundquist Group LLC; New York, NY
- Tribus Aerospace Corporation; Poway, CA
- TT Electronics; Perry, OH (controlling entity TT Electronics plc; Woking, UK)
- Unitech Aerospace; Hayden, ID

2. Delete the following companies as Members of AIA's Certificate:

- Accurus Aerospace Corporation, LLC
- Aerospace Exports Incorporated
- AirMap
- Ascent Manufacturing, Inc.
- Aurora Flight Sciences Corporation
- Barnes Group Inc.
- C4 Associates, Inc.
- Camcode Division of Horizons, Inc.
- Castle Metals
- CDI Corporation
- Curtiss-Wright Corporation
- Cytec Industries, Inc.
- FLIR Systems, Inc.
- Fluor Corporation, Inc.
- HP Enterprise Services—Aerospace
- J Anthony Group, LLC
- Lavi Systems, Inc.
- LMI Aerospace, Inc.
- Micro-Coax, Inc.
- NYLOK, LLC
- Oxford Performance Materials
- Park-Ohio Holdings Corp
- SCB Training, Inc.
- Seal Science, Inc.
- SIFCO Industries, Inc.
- SITA
- Spacecraft Components Corporation
- Sunflower Systems
- United Parcel Services of America, Inc.
- Verizon Enterprise Solutions, Inc.
- Vogelhood

3. Change in name or address for the following Members:

- Acutec Precision Machining, Inc. of Saegertown, PA is now named Acutec Precision Aerospace, Inc. of Meadville, PA
- Alcoa Defense of Crystal City, VA is now named Arconic Inc. of New York, NY
- Computer Sciences Corporation of Falls Church, VA is now named DXC Technology Company of Tysons Corner, VA

AIA's amendment of its Export Trade Certificate of Review results in the following membership list:

- 3M Company, St. Paul, MN
- AAR Corp., Wood Dale, IL
- Accenture, Chicago, IL
- Acutec Precision Aerospace, Inc., Meadville, PA
- ACUTRONIC USA, Inc., Pittsburgh, PA
- ADI American Distributors LLC, Randolph, NJ
- Advanced Logistics for Aerospace (ALA), New York, NY
- Aerion Corporation, Reno, NV
- Aernnova Aerospace, Ann Arbor, MI
- Aerojet Rocketdyne, Rancho Cordova, CA
- Aero-Mark, LLC, Ontario, CA
- Aero Metals Alliance Inc., Northbrook, IL
- The Aerospace Corporation, Civil Systems Group, El Segundo, CA
- AeroVironment, Inc., Monrovia, CA
- AGC Aerospace & Defense, Oklahoma City, OK
- Aireon LLC, McLean, VA
- AlixPartners, LLP, New York, NY
- Allied Telesis, Inc., Bothell, WA
- Alta Devices, Inc., Sunnyvale, CA
- Altitude Industries, LLC, Overland Park, KS
- Amazon.com, Inc., Seattle, WA
- American Metal Bearing Company, Garden Grove, CA

- American Pacific Corporation, Las Vegas, NV
- Analytical Graphics, Inc., Exton, PA
- Apex International Management Company, Daytona Beach, FL
- Arconic Inc., New York, NY
- Astronautics Corporation of America, Milwaukee, WI
- Astronics Corporation, East Aurora, NY
- Athena Manufacturing, LP, Austin, TX
- AUSCO, Inc., Port Washington, NY
- Avascent, Washington, DC
- B&E Group, LLC, Southwick, MA
- BAE Systems, Inc., Rockville, MD
- Ball Aerospace & Technologies Corp., Boulder, CO
- Belcan Corporation, Cincinnati, OH
- Benchmark Electronics, Inc., Angleton, TX
- The Boeing Company, Chicago, IL
- Bombardier, Montreal, Canada
- Boom Technology, Inc., Denver, CO
- Boston Consulting Group, Boston, MA
- BRPH Architects Engineers, Inc., Melbourne, FL
- Burns & McDonnell Engineering Corporation, Inc., Kansas City, MO
- BWX Technologies, Inc., Lynchburg, VA
- CADENAS PARTsolutions, LLC, Cincinnati, OH
- CAE USA Inc., Tampa, FL
- Capgemini, New York, NY
- Celestica Inc., Toronto, Canada
- Click Bond, Inc., Carson City, NV
- Cobham, Arlington, VA
- CPI Aerostructures, Inc., Edgewood, NY
- Crane Aerospace & Electronics, Lynnwood, WA
- Cubic Corporation, Inc., San Diego, CA
- Cytec Engineered Materials, Inc., Tempe, AZ
- Cyient Ltd., Hyderabad, India
- Deloitte Consulting LLP, New York, NY
- Delta Flight Products, Atlanta, GA
- Denison Industries, Inc., Denison, TX
- Ducommun Incorporated, Carson, CA
- Dupont Company, New Castle, DE
- DXC Technology Company, Tysons Corner, VA
- Eaton Corporation, Cleveland, OH
- Elbit Systems of America, LLC, Fort Worth, TX,
- Embraer Aircraft Holding, Inc., Fort Lauderdale, FL
- EPS Corporation, Tinton Falls, NJ
- EPTAM Plastics, Northfield, NH
- Ernst Young LLP, New York, NY
- Esterline Technologies, Bellevue, WA
- Exostar, LLC, Herndon, VA
- Facebook, Inc., Menlo Park, CA
- Flextronics International USA, Inc., San Jose, CA
- Flight Safety International, Inc., Flushing, NY
- FS Precision Tech, Co. LLC, Compton, CA
- FTG Circuits, Inc., Chatsworth, CA
- Garmin International, Inc., Olathe, KS
- General Atomics Aeronautical Systems, Inc., Poway, CA
- General Dynamics Corporation, Falls Church, VA
- General Electric Aviation, Cincinnati, OH
- GKN Aerospace North America, Irving, TX
- Google LLC, Mountain View, CA
- GSE Dynamics, Inc., Hauppauge, NY
- Harris Corporation, Melbourne, FL
- HCL America Inc., Sunnyvale, CA
- HEICO Corporation, Hollywood, FL
- Hexcel Corporation, Stamford, CT
- Honeywell Aerospace, Phoenix, AZ
- Huntington Ingalls Industries, Inc., Newport News, VA
- IBM Corporation, Armonk, NY
- Information Services Group, Inc., Stamford, CT
- Integral Aerospace, LLC, Santa Ana, CA
- Iron Mountain, Inc., Boston, MA
- ITT Inc., White Plains, NY
- Jabil Defense & Aerospace Services LLC, St. Petersburg, FL
- Job Performance Associates, LLC, Jacksonville, FL
- JR Industries, Inc., Westlake Village, CA
- Kaman Aerospace Corporation, Bloomfield, CT
- KPMG LLP, New York, NY
- Kratos Defense & Security Solutions, Inc., San Diego, CA
- L–3 Communications Corporation, New York, NY
- LAI International, Inc., Scottsdale, AZ
- Leidos, Inc., Reston, VA
- Lockheed Martin Corporation, Bethesda, MD
- Lord Corporation, Cary, NC
- LS Technologies, LLC, Fairfax, VA
- The Lundquist Group LLC, New York, NY
- ManTech International Corporation, Fairfax, VA
- Marotta Controls, Inc., Montville, NJ
- Meggitt-USA, Inc., Simi, CA
- Mercury Systems, Inc., Andover, MA
- Microsemi Corporation, Aliso Viejo, CA
- Momentum Aviation Group, Woodbridge, VA
- MOOG Inc., East Aurora, NY
- MTorres America, Bothell, WA
- National Technical Systems, Inc., Calabasas, CA
- NEO Tech, Chatsworth, CA
- Net-Inspect, LLC, Kirkland, WA
- New England Airfoil Products, Inc., Farmington, CT
- Nokia US, Murray Hill, NJ
- The NORDAM Group, Inc., Tulsa, OK
- Norsk Titanium US Inc., Plattsburgh, NY
- Northrop Grumman Corporation, Los Angeles, CA
- Omega Aerial Refueling Services, Inc., Alexandria, VA
- O'Neil & Associates Inc., Miamisburg, OH
- Orbital ATK, Inc., Dulles, VA
- Pacific Design Technologies, Goleta, CA
- The Padina Group, Inc., Lancaster, PA
- Parker Aerospace, Irvine, CA
- Pegasus Steel, LLC, Goose Creek, SC
- Plexus Corporation, Neenah, WI
- PPG Aerospace-Sierracin Corporation, Sylmar, CA
- PrecisionHawk Inc., Raleigh, NC
- Primus Aerospace, Lakewood, CO
- Primus Technologies Corporation, Williamsport, PA
- PTC Inc., Needham, MA
- PWC Aerospace & Defense Advisory Services, McLean, VA
- Range Generation Next LLC, Sterling, VA
- Raytheon Company, Waltham, MA
- Rhinestahl Corporation, Mason, OH
- Rix Industries, Benicia, CA
- Rockwell Collins, Inc., Cedar Rapids, IA
- Rolls-Royce North America Inc., Reston, VA
- salesforce.com, inc., San Francisco, CA
- SAP America, Inc., Newtown Square, PA
- Securitas Critical Infrastructure Services, Inc., Springfield, VA
- Siemens PLM Software, Plano, TX
- Sierra Nevada Corporation, Littleton, CO
- Sparton Corporation, Schaumburg, IL
- Special Aerospace Services, LLC, Boulder, CO
- Spirit AeroSystems, Inc., Wichita, KS
- SupplyOn North America, Inc., San Diego, CA
- Tech Manufacturing, LLC, Wright City, MO
- Textron Inc., Providence, RI
- Therm, Incorporated, Ithaca, NY
- Tip Technologies, Waukesha, WI
- Tribus Aerospace Corporation, Poway, CA
- TriMas Aerospace, Los Angeles, CA
- Triumph Group Inc., Wayne, PA
- TT Electronics, Perry, OH
- Unitech Aerospace, Hayden, ID
- United Technologies Corporation, Hartford, CT
- Universal Protection Services, Santa Ana, CA
- Verify, Inc., Irvine, CA
- Virgin Galactic, LLC, Las Cruces, NM
- Wesco Aircraft Hardware Corporation, Valencia, CA
- Woodward, Inc., Fort Collins, CO
- Xerox, Norwalk, CT

The effective date of the amendment is April 4, 2018, the date on which

AIA's application to amend was deemed submitted.

Dated: July 19, 2018.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2018–15807 Filed 7–23–18; 8:45 am]

BILLING CODE 3510–DR–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0069, Information Management Requirements for Derivatives Clearing Organizations

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC or Commission'') is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or renewal of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting and recordkeeping requirements relating to information management requirements for derivatives clearing organizations (''DCOs'').

DATES: Comments must be submitted on or before September 24, 2018.

ADDRESSES: You may submit comments, identified by OMB Control No. 3038–0069, by any of the following methods:

- The Agency's website, at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Eileen Chotiner, Division of Clearing and Risk, Commodity Futures Trading Commission, (202) 418–5467; email: *echotiner@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the collection of information listed below.

Title: Information Management Requirements for Derivatives Clearing Organizations (OMB Control No. 3038–0069). This is a request for extension of a currently approved information collection.

Abstract: Part 39 of the Commission's regulations establishes information management requirements for registered DCOs. The Commission will use the information in this collection to assess compliance of DCOs with requirements for DCOs prescribed in the Commodity Exchange Act and Commission regulations.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection requirements will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement

1. COLLECTION 3038–0069—DAILY REPORTING REQUIREMENTS FOR DERIVATIVES CLEARING ORGANIZATIONS

[Regulation 39.19]

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	250	4,000	0.1	[2] 400

[1] 17 CFR 145.9.

[2] 16 respondents × 250 annual responses per respondent = 4,000 total responses, × 0.1 hours per response = 400 total annual burden hours.

[3] 16 respondents × 1 annual response per respondent = 16 total responses, × 2,606 hours per response = 41,696 total annual burden hours.

2. COLLECTION 3038–0069—ANNUAL REPORTING REQUIREMENT FOR DERIVATIVES CLEARING ORGANIZATIONS

[Regulation 39.19]

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	1	16	2,606	[3] 41,696

3. EVENT-SPECIFIC REPORTING REQUIREMENTS FOR DERIVATIVES CLEARING ORGANIZATIONS

[Regulation 39.19]

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	4	64	5.6	[4] 358.4

4. COLLECTION 3038–0069—RECORDKEEPING REQUIREMENTS FOR DERIVATIVES CLEARING ORGANIZATIONS

Estimated number of respondents per year	Reports annually by each	Total annual responses	Estimated average number of hours per response	Estimated total annual burden hours
16	1	16	100	1,600

Respondents/affected entities: Derivatives clearing organizations (DCOs).

Estimated annual number of respondents: 16.[5]

Estimated hours per response: 10 hours.[6]

Annual responses by each respondent: 260.

Grand total annual burden hours: 44,054 hours (400 + 41,696 + 358.4 + 1,600).

Frequency of collection: Daily, annually, and on occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 19, 2018.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2018–15800 Filed 7–23–18; 8:45 am]

BILLING CODE 6351–01–P

[4] 16 respondents × 4 annual responses per respondent = 64 total responses, × 5.6 hours per response = 358.4 total annual burden hours.

[5] Includes 16 currently registered DCOs (an increase of 2 since the last extension).

[6] Since burden hours vary widely within the collection (*see* above tables), this is the average of burden hours per response for *the collection as a whole* (aggregate of 2,661.7 hours per response/ aggregate of 260 responses = 10.24 hours, rounded to 10).

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License of U.S. Government-Owned Patents

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with applicable laws and regulations, announcement is made of the intent to grant an exclusive, non-royalty-bearing, revocable license.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For licensing issues, Mr. Paul G. Michaels, Office of Research & Technology Applications, (301) 619–4145. For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: In accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i), announcement is made of the intent to grant an exclusive, non-royalty-bearing, revocable license to United States Patent Application US 15/723,448, filed October 3, 2017, entitled, ''Aerosol Concentrating Apparatus for Use with Aerosol Aging Drum,'' and Patent Cooperation Treaty Patent Application PCT/US2017/016845, filed February 7, 2017, entitled, ''Oro-Nasal Inhalation Plethysmography Mask Exposure System,'' and Patent Cooperation Treaty Patent Application PCT/US2017/016811, filed February 7, 2017, entitled, ''Head-Only and/or Whole Body Inhalation Exposure Chamber'' to PneumoDose, LLC, having its principal place of business at 112 Lynhaven Drive, Alexandria, VA 22305.

Anyone wishing to object to grant of this license can file written objections along with supporting evidence, if any, within 15 days from the date of this publication. Written objections are to be filed with the Command Judge Advocate (see **ADDRESSES**).

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2018–15787 Filed 7–23–18; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Training and Information for Parents of Children With Disabilities—Technical Assistance for Parent Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting

applications for new awards for fiscal year (FY) 2018 for Training and Information for Parents of Children with Disabilities—Technical Assistance for Parent Centers, Catalog of Federal Domestic Assistance (CFDA) number 84.328R.

DATES:

Applications Available: July 24, 2018.

Deadline for Transmittal of Applications: August 23, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Carmen Sanchez, U.S. Department of Education, 400 Maryland Avenue SW, Room 5175, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6595.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive impartial training and information to help improve outcomes for their children.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 671, 672, 673, and 681(d) of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1471, 1472, 1473, and 1481(d)).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance for Parent Centers.

Background: The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation. The work of the centers we are proposing to fund is generally consistent with the following priorities included in the Secretary's Supplemental Priorities, which were published in the **Federal Register** on March 2, 2018 (83 FR 9096): Priority 1—Empowering Families and Individuals to Choose a High-Quality Education That Meets Their Unique Needs; Priority 5—Meeting the Unique Needs of Students and Children With Disabilities and/or Those With Unique Gifts and Talents; and Priority 9—Promoting Economic Opportunity. The purpose of this priority is to fund five cooperative agreements to establish and operate five technical assistance centers for parent centers across two focus areas. A center for parent information and resources (CPIR) will focus on developing products for parent centers (Focus Area 1). Four regional parent training and technical assistance centers (regional PTACs) will focus on providing capacity-building technical assistance (TA) to the parent centers in their regions (Focus Area 2). Section 673 of IDEA authorizes TA for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers (PTIs) that receive assistance under section 671 of IDEA and community parent resource centers (CPRCs) that receive assistance under section 672 of IDEA (collectively, ''parent centers'').

The 93 parent centers (*www.parentcenterhub.org/find-your-center/*) currently funded by the Department promote the effective education of infants, toddlers, children, and youth with disabilities by ''strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home'' (section 601(c)(5)(B) of IDEA). For the past 30 years, parent centers, consistent with section 671(b) of IDEA, have helped parents navigate systems providing early intervention, special education and related services, general education, and postsecondary options; understand the nature of their children's disabilities; learn about their rights and responsibilities under IDEA; expand their knowledge of practices based on evidence to help their children succeed; strengthen their collaboration with professionals; locate resources for themselves and their children; and advocate for improved child outcomes and student achievement, increased graduation rates, and improved postsecondary outcomes for all children through participation in program and school reform activities. In addition, parent centers have helped youth with disabilities understand their rights and responsibilities and learn self-advocacy skills.

PTACs provide support to parent centers to carry out these statutorily required activities and thereby help parents participate in the education of their children to improve their children's outcomes. In addition, section 673(b) of IDEA lists areas in which parent centers may also need TA from PTACs: (1) Coordinating parent training efforts; (2) disseminating scientifically based research and information; (3) promoting the use of technology, including assistive technology devices and services; (4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities; (5) including children with disabilities in general education programs; (6) facilitating all transitions from early intervention through postsecondary environments; and (7) promoting alternative methods of dispute resolution, including mediation.

PTACs provide needed support to parent centers on other topics as well, including current information on laws and policies; evidence-based (as defined in this notice) practices (EBPs) that impact children with disabilities and their families; how to help parents learn about and access high-quality education options that meet their children's unique needs; and ways to effectively engage in school reform activities, including Federal, State, and local initiatives. Ongoing TA, responsive to the individual needs of parent centers, can increase parent center staff knowledge and expertise on these topics. In addition, since many parent centers are grassroots organizations with small budgets, they often benefit from TA on managing a Federal grant, maximizing efficiencies, meeting complex statutory and regulatory requirements for nonprofits, and providing professional development to staff.

Parent centers also need support to increase their capacity to reach and provide services to youth with disabilities and to all parents of children with disabilities, particularly parents of infants, toddlers, preschool children and transition-age youth; and underserved parents with additional needs or unique circumstances, including low income-parents, parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the

juvenile justice system, foster parents, military-connected parents, and Native American parents.

In order to ensure that parent centers receive the TA they need to increase their knowledge and capacity to provide services to parents and youth effectively and efficiently, the Department plans to fund five technical assistance centers for parent centers. The Department will fund a CPIR that will, in coordination with the regional PTACs, develop and disseminate resources for all parent centers to use when working with parents of children with disabilities and youth with disabilities. CPIR will also develop and disseminate materials that all parent centers can use to train staff to effectively reach and serve all parents and youth. The Department will also fund four regional PTACs that will provide TA to parent centers to effectively manage their centers and reach and serve all parents and youth within their region. The CPIR and regional PTACs will coordinate their efforts in order to maximize resources and avoid duplication. The following website provides more information on the current parent centers, including links to each grantee's website: *www.parentcenterhub.org.*

Priority: Under this priority, we will fund five cooperative agreements to establish and operate one CPIR and four regional PTACs across two focus areas. An applicant may submit separate applications in more than one focus area; however, an applicant is limited to only one application in each focus area.

Focus Area 1: Under Focus Area 1, the Department intends to fund one CPIR to achieve at a minimum, the following expected outcomes:

(a) Increased parent centers' knowledge, through the development and dissemination of high-quality, accurate, and impartial information and products, of:

(1) Early intervention and educational EBPs, and current Federal and State laws and policies, that impact children with disabilities and their families;

(2) The range of educational options that may be available in States to families of children with disabilities;

(3) Effective practices in carrying out parent center activities including outreach, family-centered services, and self-advocacy skill building;

(4) Effective and appropriate practices in outreach and service provision to underserved parents, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; and

(5) Effective nonprofit management practices;

(b) Increased parent centers' use of, high-quality, accurate, and impartial materials and approaches to train:

(1) Staff in reaching all parents and youth, including underserved parents of children with disabilities, which includes parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; and

(2) Multilingual staff in their native languages and assure the accuracy of the information the staff provide in languages other than English.

In addition to these programmatic requirements, to be considered for funding under Focus Area 1 of this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address parent centers' needs both for resources to effectively reach and serve all parents of children with disabilities and youth with disabilities, including underserved parents, which includes parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents, and for materials to train staff to effectively reach and serve all parents and youth. To meet this requirement, the applicant must—

(i) Present applicable information on the needs of parent centers nationally; and

(ii) Demonstrate knowledge of—

(A) Current educational issues and policy initiatives relating to early childhood (ages birth through five), general and special education, secondary transition services, and postsecondary options; and

(B) Best practices in:

(*1*) Outreach; family-centered services; and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents;

(*2*) Staff training, including multilingual staff; and

(*3*) Nonprofit management; and

(2) Increase the knowledge of parent centers on how to reach and provide services to all parents and youth, train staff using high-quality, accurate, and impartial training materials, and manage their projects; and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the informational and TA needs of the parent centers.

Note: The methods and tools to identify needs will be finalized in consultation with the regional PTACs and the OSEP project officer in order to assure coordination and avoid duplication; and

(ii) Ensure that services and products meet the needs of the parent centers;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in this notice) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; staff training, including multilingual staff; and nonprofit management;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify how knowledgeable the parent centers are of: Outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; staff training, including multilingual staff; and nonprofit management;

(ii) Its proposed approach to universal, general TA,[1] which must identify the intended recipients within the parent centers, including the type and number of recipients, that will receive the products and services under this approach, and should, at minimum, include how the project will—

(A) Create, update, and maintain an online, annotated repository of high-quality, accurate, and impartial resources,[2] including translations of materials as needed, produced by the CPIR, the previously funded Military and Native American PTACs, parent centers, OSEP-funded projects, and other federally funded projects for parent centers' use with families, youth, staff members, and members of the boards of directors;

(B) Develop up-to-date, family-centered resources as needed that parent centers can use with parents in a variety of languages, formats, and reading levels; disseminate and modify, as needed, family-centered resources developed by OSEP and other federally funded centers to provide families with strategies to enhance their children's literacy, numeracy, and scientific reasoning at home; and revise materials developed by the previously funded Military PTAC and the Native American PTAC as necessary;

(C) Compile and create materials to train staff, including multilingual staff, to provide effective, appropriate, and impartial outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents;

(D) Compile and create materials on nonprofit management, as necessary, and develop a process for an annual orientation of new parent center directors and other key personnel and members of the boards of directors that provides the new personnel with the information and resources they need to carry out their responsibilities; and

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use existing knowledge and expertise within parent centers to achieve intended project outcomes; and

(v) How the proposed project will use non-project resources to achieve the intended project outcomes; and

(7) Assist parent centers in the collection of annual performance data required under section 671(b)(12) of IDEA, in consultation with the OSEP project officer.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures for evaluating the quality, accuracy, and impartiality of project services and products; measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the TA Center to Improve Program and Project Performance (CIP3),[3] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the

[1] ''Universal, general TA'' means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[2] Resources shall include information on Federal and State laws and policies, including comprehensive and impartial information on the range of education options that may be available in States, including district public schools, charter schools, virtual education, voucher programs, education scholarship account (ESA) programs, tax-credit scholarship programs, tax deductions and credits, course choice programs, and any other relevant education options that impact children with disabilities and their families.

[3] The major tasks of CIP3 are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIP3 are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project's budget. CIP3 does not function as a third-party evaluator.

collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIP3, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIP3 staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, impartial, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families using a variety of education options, youth, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period;

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(3) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Ensure that the budget allocates at least $200,000 annually to carry out the project services described in paragraphs (b)(5)(ii)(A) through (C) of this focus area;

(5) Maintain a high-quality website, with an easy-to-navigate design, including the repository described in paragraph (b)(5)(ii)(A) of this focus area, that meets government or industry-recognized standards for accessibility; and

(6) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to parent centers during the transition to this new award period, as appropriate.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Focus Area 2: Under Focus Area 2, the Department intends to fund four regional PTACs to meet the unique needs of parent centers in their region and to achieve, at a minimum, the following expected outcomes:

(a) Increased parent center capacity to accurately and impartially train parents on, and inform them about:

(1) Early intervention and educational EBPs;

(2) Their rights and responsibilities under Federal, State, and local laws and policies that impact children with disabilities and their families; and

(3) The range of education options that may be available to families of children with disabilities in the area served by the parent center.

(b) Increased parent center capacity to reach more parents and youth; and effectively provide parent center services to help more parents improve outcomes for their children, and youth build their self-advocacy skills;

(c) Increased parent center capacity to provide effective and appropriate outreach and service provision to underserved parents of children with disabilities including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; and

(d) Increased parent center capacity to effectively manage their projects and provide high-quality training to staff, including multilingual staff, to reach and serve all parents and youth in their region.

The geographic regions served by the four regional PTACs are generally aligned with the States served by the Equity Assistance Centers funded under Title IV of the 1964 Civil Rights Act, while also balancing the number of centers each regional PTAC will have in their region. This alignment will help the regional PTACs meet the requirement in section 673(c) of IDEA that the regional PTACs develop collaborative agreements with the geographically appropriate centers. The four regional PTACs will be awarded to represent the following geographic regions:

Region A PTAC: CT, DC, DE, ME, MA, MD, NH, NJ, NY, PA, Puerto Rico, RI, U.S. Virgin Islands, VT.

Region B PTAC: AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, VA.

Region C PTAC: IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, ND, OH, SD, WI, WV, WY.

Region D PTAC: AK, AZ, CA, CO, HI, ID, NM, NV, OR, UT, WA, and the outlying areas of the Pacific Basin, and the Freely Associated States.

In addition to these programmatic requirements, to be considered for funding under Focus Area 2 of this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under ''Significance,'' how the proposed project will—

(1) Address the needs of parent centers in its region for TA to increase their capacity to reach and provide services to parents and youth in their areas, including underserved parents of children with disabilities, which includes parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; build youth's self-advocacy skills; train staff; and effectively manage their centers. To meet this requirement the applicant must—

(i) Present applicable information on the needs of parent centers in the region; and

(ii) Demonstrate knowledge of—

(A) Current early intervention and educational issues and policy initiatives relating to early childhood, general and special education, secondary transition services, and postsecondary options; and

(B) Best practices in:

(*1*) Outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents;

(*2*) Staff training, including multilingual staff; and

(*3*) Nonprofit management; and

(2) Increase the capacity of parent centers to reach and provide services to all parents and youth, train staff, and manage their projects; and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under ''Quality of project services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the parent centers in the proposed region for TA and information.

Note: The methods and tools to identify needs will be finalized in consultation with the CPIR, other regional PTACs, and the OSEP project officer in order to assure coordination and avoid duplication; and

(ii) Ensure that services and products meet the needs of the parent centers;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in this notice) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework*.

(4) Be based on current research and make use of EBPs. To meet this requirement, the applicant must describe—

(i) The current research on: Outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved parents of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; staff training, including multilingual staff; and nonprofit management;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to work with the CPIR to identify the knowledge base for parent centers': Outreach, family-centered services, and self-advocacy skill building, including effective and appropriate outreach and service provision to underserved families of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents;

staff training, including multilingual staff; and nonprofit management;

(ii) Its proposed approach to targeted, specialized TA,[4] which must identify the intended recipients within the parent centers, including the type and number of recipients, that will receive the products and services under this approach, and how the project will—

(A) Conduct at least one in-person, on-site visit to each parent center in the region during the course of the five-year project period;

(B) Increase parent centers' capacity to reach and provide services to all parents with children with disabilities and youth, including underserved parents, which includes parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents;

(C) Increase parent centers' capacity to train staff, including multilingual staff, to provide effective and appropriate outreach and service provision to underserved families of children with disabilities, including parents with limited English proficiency, parents with low literacy levels, parents who themselves experience disability, parents of youth involved in the juvenile justice system, foster parents, military-connected parents, and Native American parents; and

(D) Increase parent centers' capacity to effectively manage nonprofit organizations, including developing the board of directors so that parent centers have the organizational policies, procedures, and a structure in place to manage their grants effectively;

(iii) Its proposed approach to intensive, sustained TA,[5] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of the parent centers to work with the project, including their commitment to the initiative, current infrastructure, and available resources;

(C) Its proposed plan for assisting parent centers to build or enhance their staff training and professional development based on adult learning principles and coaching; and

(D) Its proposed approach to providing intensive TA when requested by OSEP project officers; and

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration;

(iii) How the proposed project will use existing knowledge and expertise within parent centers to achieve intended project outcomes;

(iv) How the proposed project will use the resources housed in and developed by the CPIR—including family-centered resources that provide families with strategies to enhance their children's literacy, numeracy, and scientific reasoning at home—and build on the CPIR's universal TA; and

(v) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project. The evaluation plan must describe: Measures for evaluating the quality, accuracy, and impartiality of project services and products; measures of progress in implementation, including the criteria for determining the extent to which the project's products and services have met the goals for reaching its target population; measures of intended outcomes or results of the project's activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

Note: The evaluations for all the regional PTACs will be developed in consultation with the regional PTACs and OSEP project officers for the regional PTACs.

(d) Demonstrate, in the narrative section of the application under ''Adequacy of resources,'' how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under ''Quality of the management plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, impartial, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families using a variety of education options, youth, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference

[4] ''Targeted, specialized TA'' means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] ''Intensive, sustained TA'' means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. ''TA services'' are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period; and

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(5) Ensure that the budget allocates $75,000 annually to carry out the project services described in paragraphs (b)(5)(ii)(B) and (C) (military connected and native American parents and youth) of this focus area.

(6) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(7) Maintain a presence on a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility.

Competitive Preference Priorities: Within this absolute priority, we give competitive preference to applications that address the following priorities. Under 34 CFR 75.105(c)(2)(i), we will award five additional points to an application for Focus Area 2 that meets each of these priorities, for a total of no more than 10 points, as follows.

These priorities are:

Competitive Preference Priority 1—Applicants that are parent organizations (5 Points).

Section 671(a)(2) of IDEA defines a ''parent organization'' as a private nonprofit organization (other than an institution of higher education) that—

(A) Has a board of directors—

(i) The majority of whom are parents of children with disabilities ages birth through 26;

(ii) That includes—

(I) Individuals working in the fields of special education, related services, and early intervention;

(II) Individuals with disabilities; and

(iii) The parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(B) Has as its mission serving families of children with disabilities who—

(i) Are ages birth through 26; and

(ii) Have the full range of disabilities described in section 602(3) of IDEA.

Competitive Preference Priority 2—Location (5 Points).

Applicants under Focus Area 2 that are located in the region they propose to serve.

Definitions: The following definitions are from 34 CFR 77.1:

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a

relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1471, 1472, 1473, and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $2,800,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2019 from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000–$800,000.

Estimated Average Size of Awards: 4 awards at $500,000 for the regional PTACs; 1 award of $800,000 for the CPIR.

Maximum Award: We will not make an award exceeding $500,000 for each of the regional PTACs or $800,000 for the CPIR for a single budget period of 12 months.

Estimated Number of Awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Nonprofit private organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c), a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application The grantee may award subgrants to entities it has identified in an approved application.

4. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make awards by the end of FY 2018.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages, and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (10 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals;

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses; and

(iii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

(b) *Quality of the project services (35 points).*

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework;

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice;

(iv) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services;

(v) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services; and

(vi) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(c) *Quality of project evaluation (20 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation are appropriate to the context within which the project operates;

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes; and

(iv) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(d) *Adequacy of resources and Quality of Project Personnel (15 points).*

(1) The Secretary considers the adequacy of resources and quality of project personnel for the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In determining the adequacy of resources and quality of project personnel for the proposed project, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator;

(ii) The qualifications, including relevant training and experience, of key project personnel;

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors;

(iv) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(v) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project; and

(vi) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(e) *Quality of the management plan (20 points).*

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks;

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project; and

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management (SAM) at *https://www.sam.gov.* You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on the quality, relevance, and usefulness of the materials, products, and services of the Parent Training and Information Centers program. These measures are:

• *Program Performance Measure #1:* The percentage of materials used by projects that are deemed to be of high quality;

• *Program Performance Measure #2:* The percentage of products and services deemed to be of high relevance to educational and early intervention policy and practice; and

• *Program Performance Measure #3:* The percentage of all products and services deemed to be useful by target audiences to improve educational or early intervention policy or practice.

Grantees will be required to report information on their project's performance in annual reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* Braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW, Room 5113, Potomac Center Plaza, Washington, DC 20202–2500. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 19, 2018.

Johnny W. Collett,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2018–15832 Filed 7–23–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Labor Relations Report collection. The collection requests information from the Department of Energy Management and Operation (M&O) and Facilities Management Contractors for contract administration, management oversight, and cost control. The information collection will assist the Department in evaluating the implementation of the contractors' work force collective bargaining agreements, and apprise the Department of significant labor-management developments at DOE contractor sites. This information is used to ensure that Department contractors maintain good labor relations and retain a workforce in accordance with the terms of their contract and in compliance with statutory and regulatory requirements as identified by contract.

DATES: Comments regarding this collection must be received on or before August 23, 2018. 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, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4650.

ADDRESSES: Written comments should be sent to the: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503.

And to: John M. Sullivan, GC–63, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, Or by fax at (202) 586–0971; or by email to *john.m.sullivan@hq.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: John M. Sullivan, Attorney-Advisor (Labor), GC–63, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or by fax at (202) 586–0971 or by email to *john.m.sullivan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5143; (2) *Information Collection Request Title:* Labor Relations Report; (3) *Type of Request: Renewal;* (4) *Purpose:* The proposed collection will request information from the Department of Energy M&O and Facilities Management Contractors for contract administration, management oversight, and cost control. This information is used to ensure that Department contractors maintain good labor relations and retain a workforce in accordance with the terms of their contract and in compliance with statutory and regulatory requirements as identified by contract. The respondents are Department M&O and Facility Management Contractors; (5) *Annual Estimated Number of Respondents:* 35; (6) *Annual Estimated Number of Total Responses:* 35; (7) *Annual Estimated Number of Burden Hours:* 1.84 per respondent for total of 64.4 per year; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $3,316.60.

Statutory Authority: 42 U.S.C. 7254, 7256.

Issued in Washington, DC, on: July 16, 2018.

Jean S. Stucky,

Assistant General Counsel for Contractor Human Resources, Office of the General Counsel.

[FR Doc. 2018–15803 Filed 7–23–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1442–001.

Applicants: Citizens Sycamore-Penasquitos Transmission.

Description: Tariff Amendment: Response to Deficiency Letter to be effective 12/31/9998.

Filed Date: 7/18/18.

Accession Number: 20180718–5047.

Comments Due: 5 p.m. ET 8/8/18.

Docket Numbers: ER18–1777–001.

Applicants: Meadowlark Wind I LLC.

Description: Tariff Amendment: Amendment to Market-based Rate Filing to be effective 8/12/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5151.

Comments Due: 5 p.m. ET 8/7/18.

Docket Numbers: ER18–2028–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Supplement to revisions to OATT Sch 12—Appx A (Dominion) re: b2373 to be effective 6/14/2018.

Filed Date: 7/18/18.

Accession Number: 20180718–5094.

Comments Due: 5 p.m. ET 8/8/18.

Docket Numbers: ER18–2031–000.

Applicants: HUDSON SHORE ENERGY PARTNERS LLC.

Description: Baseline eTariff Filing: Application For Market Based Rate to be effective 7/18/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5127.

Comments Due: 5 p.m. ET 8/7/18.

Docket Numbers: ER18–2032–000.

Applicants: Wildcat Ranch Wind Project, LLC.

Description: Baseline eTariff Filing: Wildcat Ranch Wind Project, LLC Application for MBR Authority to be effective 10/1/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5128.

Comments Due: 5 p.m. ET 8/7/18.

Docket Numbers: ER18–2033–000.

Applicants: Saavi Energy Solutions, LLC.

Description: § 205(d) Rate Filing: Notice of Succession to Market-Based Rate Tariff to be effective 7/18/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5135.

Comments Due: 5 p.m. ET 8/7/18.

Docket Numbers: ER18–2034–000.

Applicants: California Independent System Operator Corporation.

Description: § 205(d) Rate Filing: 2018–07–17 Congestion Revenue Rights Auction Efficiency Track 1B Amendment to be effective 9/24/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5150.

Comments Due: 5 p.m. ET 8/7/18.

Docket Numbers: ER18–2035–000.

Applicants: Michigan Electric Transmission Company, LLC.

Description: § 205(d) Rate Filing: Filing of Amended and Restated Service Agreement to be effective 9/17/2018.

Filed Date: 7/17/18.

Accession Number: 20180717–5172.

Comments Due: 5 p.m. ET 8/7/18.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF18–1654–000.

Applicants: Sappi Cloquet LLC.

Description: Form 556 of Sappi Cloquet LLC [TG5].

Filed Date: 7/17/18.

Accession Number: 20180717–5169.

Comments Due: Non-Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 18, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–15785 Filed 7–23–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–2032–000]

Wildcat Ranch Wind Project, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildcat Ranch Wind Project, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is August 7, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 18, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–15784 Filed 7–23–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–OW–2018–0270; FRL–9980–54–OW]

Announcement of the Per- and Polyfluoroalkyl Substances (PFAS) Pennsylvania Community Engagement

Correction

In notice document 2018–14738 appearing on pages 31968–31969 in the issue of July 10, 2018, make the following correction:

On page 31968, in the second column, under the **ADDRESSES** heading, in the second and third lines, ''Hatboro-Horsham High School, 899 Horsham Road'' should read ''Keith Valley Middle School, 227 Meetinghouse Road''.

[FR Doc. C1–2018–14738 Filed 7–23–18; 8:45 am]

BILLING CODE 1301–00–D

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0876, OMB 3060–1085]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission 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 August 23, 2018. 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 listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0876.

Title: Sections 54.703, USAC Board of Directors Nomination Process and Sections 54.719 through 54.725, Review of the Administrator's Decision.

Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and Not-for-profit institutions, and State, Local or Tribal Governments.

Number of Respondents and Responses: 557 respondents; 557 responses.

Estimated Time per Response: 20–32 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. 151 through 154, 201 through 205, 218 through 220, 254, 303(r), 403 and 405.

Total Annual Burden: 17,680 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the FCC. However, respondents may request confidential treatment of their information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The information in this collection is used by the Commission to select Universal Service Administrative Company (USAC) Board of Directors and to ensure that requests for review are filed properly to the Commission.

Section 54.703 states that industry and non-industry groups may submit to the Commission for approval nominations for individuals to be appointed to the USAC Board of Directors.

Sections 54.719 through 54.725 describes the procedures for Commission review of USAC decisions including the general filing

requirements pursuant to which parties may file requests for review.

OMB Control Number: 3060–1085.

Title: Section 9.5, Interconnected Voice Over internet Protocol (VoIP) E911 Compliance.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or Households; Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal government.

Number of Respondents and Responses: 12 respondents; 16,927,624 responses.

Estimated Time per Response: 0.09 hours.

Frequency of Response: Recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47. U.S.C. Sections 1, 4(i), and 251 (e)(3) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,543,284 hours.

Total Annual Cost: $253,280,000.

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 is obligated by statute to promote ''safety of life and property'' and to ''encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure'' for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

The Order the Commission adopted on May 19, 2005, sets forth rules requiring providers of VoIP services that interconnect with the nation's existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers.

To ensure E911 functionality for customers of VoIP service providers the Commission requires the following information collections:

A. *Location Registration.* Requires providers to interconnected VoIP services to obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

B. *Provision of Automatic Location Information (ALI).* Interconnected VoIP service providers will place the location information for their customers into, or make that information available through, specialized databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.

C. *Customer Notification.* Requires that all providers of interconnected VoIP are aware of their interconnected VoIP service's actual E911 capabilities. That all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.

D. *Record of Customer Notification.* Requires VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.

E. *User Notification.* In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service, interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the customer premises equipment used in conjunction with the interconnected VoIP service.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–15817 Filed 7–23–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012429–003.

Agreement Name: THE Alliance Agreement.

Parties: Hapag Lloyd AG & Hapag-Lloyd USA, LLC (acting as a single party); Ocean Network Express Pte. Ltd.; and Yang Ming Marine Transport Corporation & Yangming (UK) Ltd. (acting as a single party).

Filing Party: Joshua Stein, Cozen O'Connor.

Synopsis: The Amendment authorizes the Parties to increase the amount contributed by each party to the contingency fund after the transition from five Parties to three, and deletes provisions that are no longer necessary since the transition of membership from the three Japanese lines to Ocean Network Express Pte. Ltd. The Parties have requested Expedited Review.

Proposed Effective Date: 9/1/2018.

Location: http://fmcinet/Fmc.Agreements.Web/Public/AgreementHistory/1912.

Dated: July 19, 2018.

Rachel Dickon,

Secretary.

[FR Doc. 2018–15809 Filed 7–23–18; 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 August 8, 2018.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Heritage Bancshares Group, Inc., Employee Stock Ownership Plan and Trust, Spicer, Minnesota (''ESOP''), and*

Justin Rey, Sioux Falls, South Dakota, individually and as trustee of ESOP; to acquire additional shares of Heritage Bancshares Group, Inc., Spicer, Minnesota, and thereby indirectly acquire shares of Heritage Bank, National Association, Spicer, Minnesota.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *John T. Phillips, Yukon, Oklahoma;* to acquire voting shares of Bank7 Corp. f/k/a Haines Financial Corporation, and thereby indirectly acquire control of Bank 7, both of Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, July 19, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–15789 Filed 7–23–18; 8:45 am]

BILLING CODE 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 August 20, 2018.

A. Federal Reserve Bank of Minneapolis (Mark A. Rauzi, Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *PF Investors, Inc., Whitehall, Wisconsin;* to become a bank holding company by acquiring 100 percent of the voting shares of PFSB Bancorporation, Inc., Whitehall, Wisconsin, and thereby indirectly acquire Pigeon Falls State Bank, Pigeon Falls, Wisconsin.

Board of Governors of the Federal Reserve System, July 19, 2018.

Ann Misback,

Secretary of the Board.

[FR Doc. 2018–15790 Filed 7–23–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project ''Medical Office Survey on Patient Safety Culture Database.''

This proposed information collection was previously published in the **Federal Register** on May 10th, 2018 and allowed 60 days for public comment. AHRQ did not receive substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by August 23, 2018.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Medical Office Survey on Patient Safety Culture Database

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection. In 1999, the Institute of Medicine called for health care organizations to develop a ''culture of safety'' such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; *To Err is Human: Building a Safer Health System*). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Medical Office Survey on Patient Safety Culture with OMB approval (OMB No. 0935–0131; Approved July 5, 2007).

The survey is designed to enable medical offices to assess provider and staff perspectives about patient safety issues, medical error, and error reporting. The survey includes 38 items that measure 10 composites of patient safety culture. In addition to the composite items, 14 items measure staff perceptions of how often medical offices have problems exchanging information with other settings as well as other patient safety and quality issues. AHRQ made the survey publicly available along with a Survey User's Guide and other toolkit materials in December, 2008 on the AHRQ website (located at *https://www.ahrq.gov/sops/quality-patient-safety/patientsafetyculture/medical-office/index.html*).

The AHRQ Medical Office SOPS Database consists of data from the AHRQ Medical Office Survey on Patient Safety Culture and may include reportable, non-required supplemental items. Medical offices in the U.S. can voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Medical Office SOPS Database (OMB No. 0935–0196, last approved on August 25, 2015) was developed by AHRQ in 2011 in response to requests from medical offices interested in tracking their own survey results. Those organizations submitting data receive a feedback report, as well as a report of the aggregated, de-identified findings of the other medical offices submitting data. These reports are used to assist medical office staff in their efforts to improve patient safety culture in their organizations.

Rationale for the information collection. The Medical Office SOPS and the Medical Office SOPS Database support AHRQ's goals of promoting improvements in the quality and safety of health care in medical office settings.

The survey, toolkit materials, and database results are all made publicly available on AHRQ's website. Technical assistance is provided by AHRQ through its contractor at no charge to medical offices, to facilitate the use of these materials for medical office patient safety and quality improvement.

Request for information collection approval. The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) reapprove, under the Paperwork Reduction Act of 1995, AHRQ's collection of information for the AHRQ Medical Office SOPS Database; OMB No. 0935–0196, last approved on August, 25, 2015.

This database will:

(1) Present results from medical offices that voluntarily submit their data,

(2) Provide data to medical offices to facilitate internal assessment and learning in the patient safety improvement process, and

(3) Provide supplemental information to help medical offices identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to: The quality, effectiveness, efficiency, appropriateness and value of health care services; quality measurement and improvement; and database development. 42 U.S.C. 299a(a)(1), (2), and (8).

Method of Collection

To achieve the goal of this project the following activities and data collections will be implemented:

(1) *Eligibility and Registration Form*—The medical office point-of-contact (POC) completes a number of data submission steps and forms, beginning with the completion of an online Eligibility and Registration Form. The purpose of this form is to collect basic demographic information about the medical office and initiate the registration process.

(2) *Data Use Agreement*—The purpose of the data use agreement, completed by the medical office POC, is to state how data submitted by medical offices will be used and provide privacy assurances.

(3) *Medical Office Site Information Form*—The purpose of the site information form, also completed by the medical office POC, is to collect background characteristics of the medical office. This information will be used to analyze data collected with the Medical Office SOPS survey.

(4) *Data Files Submission*—POCs upload their data file(s), using the medical office data file specifications, to ensure that users submit standardized and consistent data in the way variables are named, coded, and formatted. The number of submissions to the database is likely to vary each year because medical offices do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either an office manager or a survey vendor who contracts with a medical office to collect their data. POCs submit data on behalf of 35 medical offices, on average, because many medical offices are part of a health system that includes many medical office sites, or the POC is a vendor that is submitting data for multiple medical offices.

Survey data from the AHRQ Medical Office Survey on Patient Safety Culture are used to produce three types of products:

(1) A Medical Office SOPS Database Report that is made publicly available on the AHRQ website (see Medical Office User Database Report);

(2) Individual Medical Office Survey Feedback Reports that are customized for each medical office that submits data to the database; and

(3) Research data sets of individual-level and medical office-level de-identified data to enable researchers to conduct analyses. All data released in a data set are de-identified at the individual-level and the medical office-level.

Medical offices will be invited to voluntarily submit their Medical Office SOPS survey data to the database. AHRQ's contractor, Westat, then cleans and aggregates the data to produce a PDF-formatted Database Report displaying averages, standard deviations, and percentile scores on the survey's 38 items and 10 patient safety culture composites of patient safety culture, and 14 items measuring how often medical offices have problems exchanging information with other settings and other patient safety and quality issues. The report also displays these results by medical office characteristics (size of office, specialty, geographic region, etc.) and respondent characteristics (staff position).

The Database Report includes a section on data limitations, emphasizing that the report does not reflect a representative sampling of the U.S. medical office population. Because participating medical offices will choose to voluntarily submit their data into the database and therefore are not a random or national sample of medical offices, estimates based on this self-selected group might be biased estimates. We recommend that users review the database results with these caveats in mind.

Each medical office that submits its data receives a customized survey feedback report that presents their results alongside the aggregated results from other participating medical offices.

Medical offices use the Medical Office SOPS, Database Reports, and Individual Medical Office Survey Feedback Reports for a number of purposes, to:

- Raise staff awareness about patient safety;
- Elucidate and assess the current status of patient safety culture in their medical office;
- Identify strengths and areas for patient safety culture improvement;
- Evaluate trends in patient safety culture change over time; and
- Evaluate the cultural impact of patient safety initiatives and interventions.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the database. An estimated 70 POCs, each representing an average of 35 individual medical offices each, will complete the database submission steps and forms. Each POC will submit the following:

- Eligibility and registration form (completion is estimated to take about 3 minutes).
- Data Use Agreement (completion is estimated to take about 3 minutes).
- Medical Office Information Form (completion is estimated to take about 5 minutes).
- Survey data submission will take an average of one hour.

The total burden is estimated to be 283 hours.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $14,880 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility/Registration Form	70	1	3/60	4
Data Use Agreement	70	1	3/60	4
Medical Office Information Form	70	35	5/60	205
Data Files Submission	70	1	1	70
Total	NA	NA	NA	283

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Registration Form	70	4	$52.58	$210
Data Use Agreement	70	4	52.58	210
Medical Office Information Form	70	205	52.58	10,779
Data Files Submission	70	70	52.58	3,680
Total	NA	213	NA	14,880

* Mean hourly wage rate of $52.58 for Medical and Health Services Managers (SOC code 11–9111) was obtained from the May 2016 National Industry-Specific Occupational Employment and Wage Estimates, NAICS 621100—Offices of Physicians located at *https://www.bls.gov/oes/current/oes119111.htm.*

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Francis D. Chesley, Jr.,

Acting Deputy Director.

[FR Doc. 2018–15751 Filed 7–23–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2017–0084; Docket Number NIOSH–298]

Final National Occupational Research Agenda for Construction

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: NIOSH announces the availability of the final *National Occupational Research Agenda for Construction.*

DATES: The final document was published on July 17, 2018.

ADDRESSES: The document may be obtained at the following link: *https://www.cdc.gov/niosh/nora/councils/const/agenda.html.*

FOR FURTHER INFORMATION CONTACT: Emily Novicki, M.A., M.P.H, (*NORACoordinator@cdc.gov*), National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Mailstop E–20, 1600 Clifton Road NE, Atlanta, GA 30329, phone (404) 498–2581 (not a toll free number).

SUPPLEMENTARY INFORMATION: On September 27, 2017, NIOSH published a request for public review in the **Federal Register** [82 FR 45027] of the draft version of the *National Occupational Research Agenda for Construction.* All comments received were reviewed and addressed where appropriate.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2018–15741 Filed 7–23–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, Office of Public Health Preparedness and Response, (BSC, OPHPR). This meeting is open to the public, limited only by 1,500 web conference lines. Public participants should pre-register for the meeting as described below.

The public is welcome to view/listen to the meeting via Adobe Connect. Pre-

registration is required by clicking the links below.

Web ID: https://adobeconnect.cdc.gov/e3pmwd6fhge/event/registration.html.

Dial in number: 888–790–3293 (100 seats).

Participant code: 3762458.

DATES: The meeting will be held on August 30, 2018, 2:00 p.m. to 5:00 p.m., EDT.

ADDRESSES: Web Conference.

FOR FURTHER INFORMATION CONTACT: Dometa Ouisley, Office of Science and Public Health Practice, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop D–44, Atlanta, Georgia 30333, Telephone: (404) 639–7450; Fax: (404) 471–8772; Email: *OPHPR.BSC.Questions@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This Board is charged with providing advice and guidance to the Secretary, Department of Health and Human Services (HHS), the Assistant Secretary for Health (ASH), the Director, Centers for Disease Control and Prevention (CDC), and the Director, Office of Public Health Preparedness and Response (OPHPR), concerning strategies and goals for the programs and research within OPHPR, monitoring the overall strategic direction and focus of the OPHPR Divisions and Offices, and administration and oversight of peer review for OPHPR scientific programs. For additional information about the Board, please visit: *http://www.cdc.gov/phpr/science/counselors.htm.*

Matters to be considered: The agenda will include briefings and BSC deliberation on the following topics: Interval updates from OPHPR Divisions and Offices including responses to issues raised by the Board during the May 2018 in-person BSC meeting; updates from the Biological Agent Containment working group; and proposed agenda items for the October 29–30 2018 in-person BSC meeting. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Sherri A. Berger,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2018–15781 Filed 7–23–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–0001]

Regulatory Perspectives on Otic and Vestibular Toxicity: Challenges in Translating Animal Studies to Human Risk Assessment; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following public workshop entitled ''Regulatory Perspectives on Otic and Vestibular Toxicity: Challenges in Translating Animal Studies to Human Risk Assessment.'' The purpose of the public workshop is to identify the challenges involved in the translation of toxicities from animal studies to clinical trials, to highlight potential endpoints that can be used in both nonclinical and clinical phases of drug development, and to provide a platform for engaging discussions to improve safety assessments for drugs impacting auditory and vestibular functions. This public workshop will bring together regulatory medical and toxicologist reviewers, veterinary and clinical neurologists, and experts in evaluating auditory and vestibular endpoints.

DATES: The public workshop will be held on August 21, 2018, from 9 a.m. until 12 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public workshop participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

FOR FURTHER INFORMATION CONTACT: Deepa B. Rao, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4235, Silver Spring, MD 20993, 240–402–6544, *Deepa.Rao@fda.hhs.gov* or Christopher D. Toscano, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4145, Silver Spring, MD 20993, 301–796–1122, *Christopher.Toscano@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Although multiple drugs are known to cause hearing loss, otic and vestibular toxicities remain a neglected component in routine drug development. In drug safety evaluations, comparative clinical assessments for auditory and vestibular systems between animals and humans remain largely unexplored. The objective of this public workshop is to identify the challenges involved in the translation of toxicities from animal toxicology studies to clinical trials, to highlight potential endpoints that can be used in nonclinical and clinical phases of drug development, and to provide a platform for engaging discussions to improve safety assessments for ototoxic drugs. This public workshop will bring together regulatory medical and toxicologist reviewers, veterinary and clinical neurologists, and experts in evaluating auditory and vestibular endpoints.

II. Topics for Discussion at the Public Workshop

A regulatory perspective of drug development and the occurrence of otic and vestibular toxicity will be presented, with a focus on the current regulatory recommendations on assessment of the auditory and vestibular systems in clinical and nonclinical studies. Relevant endpoints of vestibular and auditory function (clinical evaluation, non-invasive electrophysiological measurements, and histopathology) will be discussed from a clinical and nonclinical perspective. The public workshop will end with an open platform discussion between the audience and panelists regarding the adequacy of the current evaluation and potential future approaches towards improving safety assessments for agents impacting auditory and vestibular functions. We support the principles of the ''3Rs,'' to reduce, refine, and replace animal use in testing when feasible. We encourage sponsors to consult with us if it they wish to use a non-animal testing method they believe is suitable, adequate, validated, and feasible. We will consider if such an alternative method could be assessed for equivalency to an animal test method.

III. Participating in the Public Workshop

Registration: To register for the public workshop, please visit the following website to register: *https://www.eventbrite.com/e/fda-public-workshop-regulatory-perspectives-on-*

otic-vestibular-toxicity-tickets-47223962142. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by August 20, 2018, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization.

For any participant in need of sign language interpretation, please send an email request to *Interpreting.Services@oc.fda.gov.* For all other reasonable accommodations, please contact FDA's Office of Equal Employment Opportunity at 301–796–9400.

Streaming webcast of the public workshop: This public workshop will also be webcast at *https://collaboration.fda.gov/ovtw/.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public workshop is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: July 18, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–15779 Filed 7–23–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2647]

Inborn Errors of Metabolism That Use Dietary Management: Considerations for Optimizing and Standardizing Diet in Clinical Trials for Drug Product Development; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Inborn Errors of Metabolism That Use Dietary Management: Considerations for Optimizing and Standardizing Diet in Clinical Trials for Drug Product Development.'' This draft guidance describes FDA's current recommendations regarding how to optimize and standardize dietary management in clinical trials for the development of drugs treating inborn errors of metabolism (IEM) for which dietary management is a key component of patients' metabolic control. Optimizing dietary management in these patients before entry into and during the clinical trial(s) is essential to providing an accurate evaluation of the efficacy of new drug products.

DATES: Submit either electronic or written comments on the draft guidance by September 24, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2018–D–2647 for ''Inborn Errors of Metabolism That Use Dietary Management: Considerations for Optimizing and Standardizing Diet in Clinical Trials for Drug Product Development; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the

docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Dina Zand, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5239, Silver Spring, MD 20993, 240–402–2538; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Inborn Errors of Metabolism That Use Dietary Management: Considerations for Optimizing and Standardizing Diet in Clinical Trials for Drug Product Development.'' This draft guidance describes FDA's current recommendations regarding how to optimize and standardize dietary management in clinical trials for the development of drugs treating IEM for which dietary management is a key component of patients' metabolic control. Optimizing dietary management in these patients before entry into and during the clinical trial(s) is essential to providing an accurate evaluation of the efficacy of new drug products.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on how sponsors can optimize and standardize dietary management for clinical trials in the development of drugs for inborn errors of metabolism that use dietary management. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov*.

Dated: July 17, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–15777 Filed 7–23–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2733]

Pharmacy Compounding Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pharmacy Compounding Advisory Committee (PCAC). The general function of the committee is to provide advice on scientific, technical, and medical issues concerning drug compounding under the Federal Food, Drug, and Cosmetic Act (FD&C Act), and, as required, any other product for which FDA has regulatory responsibility, and to make appropriate recommendations to the Agency. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on September 12, 2018, from 8 a.m. to 4:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–2733. The docket will close on September 11, 2018. Submit either electronic or written comments on this public meeting by September 11, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 11, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of September 11, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before August 28, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact

information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–2733 for ''Pharmacy Compounding Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Jay Fajiculay, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, *PCAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Background: Section 503A of the FD&C Act (21 U.S.C. 353a) describes the conditions that must be satisfied for human drug products compounded by a licensed pharmacist in a State licensed pharmacy or a Federal facility, or a licensed physician, to be exempt from the following three sections of the FD&C Act: (1) Section 501(a)(2)(B) (21 U.S.C. 351(a)(2)(B)) (concerning current good manufacturing practice); (2) section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning the labeling of drugs with adequate directions for use); and (3) section 505 (21 U.S.C. 355) (concerning the approval of human drug products under new drug applications or abbreviated new drug applications).

One of the conditions that must be satisfied to qualify for the exemptions under section 503A of the FD&C Act is that a bulk drug substance (active pharmaceutical ingredient) used in a compounded drug product must meet one of the following criteria: (1) Complies with the standards of an applicable United States Pharmacopoeia (USP) or National Formulary monograph, if a monograph exists, and the USP chapter on pharmacy compounding; (2) if an applicable monograph does not exist, is a component of a drug approved by the Secretary of Health and Human Services (the Secretary); or (3) if such a monograph does not exist and the drug substance is not a component of a drug approved by the Secretary, appears on a list developed by the Secretary through regulations issued by the Secretary (the ''503A Bulks List'') (see section 503A(b)(1)(A)(i) of the FD&C Act).

Agenda: The committee will receive information on the following two issues to follow up on discussions from previous PCAC meetings: Balancing the criteria for the 503A bulk drug substance evaluation and compounding as it relates to dietary supplements. In addition, the committee will discuss six bulk drug substances nominated for inclusion on the 503A Bulks List. FDA will discuss the following nominated bulk drug substances: Alpha lipoic acid, coenzyme Q10, creatine monohydrate, pyridoxal 5 phosphate, choline chloride, and quercetin. The chart below identifies the use(s) FDA reviewed for each of the six bulk drug substances being discussed at this advisory committee meeting. The nominators of these substances will be invited to make a short presentation supporting the nomination.

Drug	Uses reviewed
Alpha lipoic acid	Diabetic neuropathy and associated pain, acute liver toxicity from *Amanita* spp. mushroom poisoning and other toxins, hepatitis C, cancer, cirrhosis, fibromyalgia, and muscle pain.
Coenzyme Q10	Mitochondrial disorders.
Creatine monohydrate	Mitochondrial disorders.
Pyridoxal 5 phosphate	Epilepsy and seizure disorders.
Choline chloride	Hepatic steatosis, non-alcoholic fatty liver disease, fetal alcohol spectrum disorder, and atherosclerosis.

Drug	Uses reviewed
Quercetin	Asthma, allergy, cancer prevention and treatment, and hypertension.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before August 28, 2018, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 9:40 a.m., 10:45 a.m. and 10:55 a.m., 11:50 a.m. and 12 noon, 1:50 p.m. and 2 p.m., 3:05 p.m. and 3:15 p.m., and 4:10 p.m. and 4:20 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 20, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 21, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Jay Fajiculay (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 19, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–15782 Filed 7–23–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–2354]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Studies To Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies To Establish Product Withdrawal Periods in Aquatic Species; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #257 entitled ''Studies to Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies to Establish Product Withdrawal Periods in Aquatic Species'' (VICH GL57). This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This VICH draft guidance document is intended to provide study design recommendations that will facilitate the universal acceptance of the generated residue depletion data to fulfill the national/regional requirements. This draft guidance document provides recommendations on what should be included in a marker residue depletion study design for aquatic food-producing species.

DATES: Submit either electronic or written comments on the draft guidance by September 24, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

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

Written/Paper Submissions

Submit written/paper submissions as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2018–D–2354 for ''Studies to Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies to Establish Product Withdrawal Periods in Aquatic Species.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Julia Oriani, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0788, *Julia.oriani@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft GFI #257 entitled ''Studies to Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies to Establish Product Withdrawal Periods in Aquatic Species'' (VICH GL57). In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based, harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency, International Federation for Animal Health—Europe; FDA; the U.S. Department of Agriculture; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry, and Fisheries; and the Japanese Veterinary Products Association. Six observers are eligible to participate in the VICH Steering Committee: One representative from the government of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, one representative from the industry in Canada, one representative from the government of South Africa, and one representative from the industry in South Africa. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health.

II. Draft Guidance for Industry on Studies To Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies To Establish Product Withdrawal Periods in Aquatic Species

The VICH Steering Committee held a meeting in November 2017 and agreed that the draft guidance document entitled ''Studies to Evaluate the Metabolism and Residue Kinetics of Veterinary Drugs in Food-Producing Species: Marker Residue Depletion Studies to Establish Product Withdrawal Periods in Aquatic Species'' (VICH GL 57) should be made available for public comment. This draft guidance document is intended to provide study design recommendations that will facilitate the universal acceptance of the generated residue depletion data to fulfill the national/regional requirements. This draft guidance document provides recommendations on what should be included in a marker residue depletion study design for aquatic food-producing species.

FDA and the VICH Expert Working Group will consider comments about the draft guidance document.

III. Significance of Guidance

This level 1 draft guidance, developed under the VICH process, is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated ''guidance'' rather than ''guideline.'' In addition, guidance documents do not include mandatory language such as ''shall,'' ''must,'' ''require,'' or ''requirement,'' unless FDA is using these words to describe a statutory or regulatory requirement.

The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

V. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *https://www.regulations.gov.*

Dated: July 17, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–15778 Filed 7–23–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, Clerk of Court, United States Court of Federal Claims, 717 Madison Place NW, Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 08N146B, Rockville, MD 20857; (301) 443–6593, or visit our website at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of HHS, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on June 1, 2018, through June 30, 2018. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, 08N146B, Rockville, MD 20857. The Court's caption (*Petitioner's Name v. Secretary of Health and Human Services*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: July 18, 2018.

George Sigounas,

Administrator.

List of Petitions Filed

1. Ronald Discher, Gales Ferry, Connecticut, Court of Federal Claims No: 18–0777V
2. Thomas Becktold, Soddy Daisy, Tennessee, Court of Federal Claims No: 18–0782V
3. Fay Bleier, Salamanca, New York, Court of Federal Claims No: 18–0783V
4. Adriane Davis and Sylvester Davis on behalf of E.D., Springfield, Missouri, Court of Federal Claims No: 18–0784V
5. Marie Brow. Stanley, North Carolina, Court of Federal Claims No: 18–0786V
6. Karen Knepp, Pittsburgh, Pennsylvania, Court of Federal Claims No: 18–0790V
7. Andrew Trujillo, Las Cruces, New Mexico, Court of Federal Claims No: 18–0791V
8. Jennifer Jackson, Columbia, South Carolina, Court of Federal Claims No: 18–0793V
9. Lynann Raymer on behalf of J.R., Phoenix, Arizona, Court of Federal Claims No: 18–0794V
10. Molly Anderson, Washington, District of

Columbia, Court of Federal Claims No: 18–0797V
11. Lisa Taylor, Elyria, Ohio, Court of Federal Claims No: 18–0798V
12. Scott Germaine on behalf of C.G., Richmond, Texas, Court of Federal Claims No: 18–0800V
13. Crystal Jensen, Tacoma, Washington, Court of Federal Claims No: 18–0802V
14. Christian M. Hayes, Helena, Montana, Court of Federal Claims No: 18–0804V
15. Matthew Hussong, Davenport, Iowa, Court of Federal Claims No: 18–0805V
16. Gordon Ernst, Washington, District of Columbia, Court of Federal Claims No: 18–0806V
17. Susan V. Torrey, Nampa, Idaho, Court of Federal Claims No: 18–0807V
18. George Segal, Austintown, Ohio, Court of Federal Claims No: 18–0809V
19. Balbina Ibe, Fountain Valley, California, Court of Federal Claims No: 18–0810V
20. James Clark, Marietta, Georgia, Court of Federal Claims No: 18–0813V
21. Jiaqian Wu, Houston, Texas, Court of Federal Claims No: 18–0814V
22. Michelle Marie Cobenias, Red Lake, Minnesota, Court of Federal Claims No: 18–0815V
23. Ali Fadhil, M.D., Chicago, Illinois, Court of Federal Claims No: 18–0816V
24. Calvin Johnson, Washington, District of Columbia, Court of Federal Claims No: 18–0817V
25. Willis H. Gibbs, Murfreesboro, Tennessee, Court of Federal Claims No: 18–0818V
26. Edward A. Clendon, Greensboro, North Carolina, Court of Federal Claims No: 18–0819V
27. Daniel Hedlund, Minneapolis, Minnesota, Court of Federal Claims No: 18–0820V
28. Ashley T. Hunsucker, Stanfield, North Carolina, Court of Federal Claims No: 18–0821V
29. Esther Mutema, Poughkeepsie, New York, Court of Federal Claims No: 18–0822V
30. Mary Ligouri, Phoenix, Arizona, Court of Federal Claims No: 18–0824V
31. Jerome Debeltz, Ely, Minnesota, Court of Federal Claims No: 18–0825V
32. Brandi Blessike and Barry Blessike on behalf of B.B., Alpharetta, Georgia, Court of Federal Claims No: 18–0827V
33. Erica Turner, Macon, Georgia, Court of Federal Claims No: 18–0828V
34. Kimberly A. Purtill, Charlotte, North Carolina, Court of Federal Claims No: 18–0832V
35. Susan Wigley, Aurora, Colorado, Court of Federal Claims No: 18–0834V
36. Donald Sipes, Camp Hill, Pennsylvania, Court of Federal Claims No: 18–0835V
37. Ana Marie Provencio, Phoenix, Arizona, Court of Federal Claims No: 18–0836V
38. Angela Overall, Vancouver, Washington, Court of Federal Claims No: 18–0838V
39. Mary Miceli, Staten Island, New York, Court of Federal Claims No: 18–0839V
40. Ronald Schneider, Union Grove, Wisconsin, Court of Federal Claims No: 18–0843V
41. Michelle Daniels, Marysville, Washington, Court of Federal Claims No: 18–0850V
42. Dennis Long, Springfield, Illinois, Court of Federal Claims No: 18–0857V
43. Bruce A. Ling, J.R., Quincy, Florida, Court of Federal Claims No: 18–0858V
44. Marianne Simeneta, Augusta, Georgia, Court of Federal Claims No: 18–0859V
45. Donna Skwiat, Jackson, New Jersey, Court of Federal Claims No: 18–0865V
46. Elizabeth McCann, Huntington Valley, Pennsylvania, Court of Federal Claims No: 18–0866V
47. Rhett Malpass, Troy, Michigan, Court of Federal Claims No: 18–0867V
48. Kellee Matlock, Washington, District of Columbia, Court of Federal Claims No: 18–0868V
49. Morgan Tirone, Englewood, New Jersey, Court of Federal Claims No: 18–0869V
50. Tonya DeCoursey, Washington, District of Columbia, Court of Federal Claims No: 18–0870V
51. Jim B. Bynum, Panama City Beach, Florida, Court of Federal Claims No: 18–0874V
52. Timothy J. Loken on behalf of G.L., Charlotte, North Carolina, Court of Federal Claims No: 18–0876V
53. Tiffany Wilson, Phoenix, Arizona, Court of Federal Claims No: 18–0877V
54. Christy L. Harrup, Greensboro, North Carolina, Court of Federal Claims No: 18–0880V
55. Mindy Lawson, Washington, District of Columbia, Court of Federal Claims No: 18–0882V
56. Kelsey Reed, London, Kentucky, Court of Federal Claims No: 18–0884V
57. Patricia L. Guzowski, Notre Dame, Indiana, Court of Federal Claims No: 18–0885V
58. Janardhana Donga, Sacramento, California, Court of Federal Claims No: 18–0886V
59. Lisa Sargent, Washington, District of Columbia, Court of Federal Claims No: 18–0888V
60. Daniel E. Bragg, Portland, Maine, Court of Federal Claims No: 18–0890V
61. Margaret Mitchell, Woodbury, Massachusetts, Court of Federal Claims No: 18–0892V
62. Candace M. Berlin, Winter Haven, Florida, Court of Federal Claims No: 18–0893V
63. Jeffrey Foster on behalf of B.N.F., Chattanooga, Tennessee, Court of Federal Claims No: 18–0904V
64. Catherine M. Raby, Nampa, Idaho, Court of Federal Claims No: 18–0906V
65. Audrey Henning, Ocean City, New Jersey, Court of Federal Claims No: 18–0907V
66. Carla Pavao, Hudson, Massachusetts, Court of Federal Claims No: 18–0908V
67. Rachelle Meyers, Summit, New Jersey, Court of Federal Claims No: 18–0909V
68. Charles W. Morrill, West Covina, California, Court of Federal Claims No: 18–0910V
69. Michael Volle, Burgettstown, Pennsylvania, Court of Federal Claims No: 18–0911V
70. Nicole Webb, Chicago, Illinois, Court of Federal Claims No: 18–0912V
71. Anderson Roy Dunn, III, North Bend, Washington, Court of Federal Claims No: 18–0913V
72. Adam Salky, Los Angeles, California, Court of Federal Claims No: 18–0914V
73. Brandon Keck and Jessica Cook on behalf of A.K., Fort Riley, Kansas, Court of Federal Claims No: 18–0915V
74. Jessica Sobczyk on behalf of I.S., San Antonio, Texas, Court of Federal Claims No: 18–0917V
75. Mary Freehling, Vienna, Virginia, Court of Federal Claims No: 18–0918V
76. Maria Jill Vandergriff and Jon-Michael Vandergriff on behalf of Roark Vandergriff, Deceased, Vienna, Virginia, Court of Federal Claims No: 18–0919V
77. Kevin Delapaz, Vienna, Virginia, Court of Federal Claims No: 18–0922V
78. Jacqueline Robinson, Vienna, Virginia, Court of Federal Claims No: 18–0924V
79. Jose Gamboa-Avila, Denver, Colorado, Court of Federal Claims No: 18–0925V
80. David Colucci, Henderson, Nevada, Court of Federal Claims No: 18–0926V
81. Ligia Gairdo, Cranberry Township, Pennsylvania, Court of Federal Claims No: 18–0929V
82. Donna Carmichael, Mankato, Minnesota, Court of Federal Claims No: 18–0930V
83. Susanna J Howard, Greensboro, North Carolina, Court of Federal Claims No: 18–0931V
84.Vanessa Nelson, Dresher, Pennsylvania, Court of Federal Claims No: 18–0932V
85. Terry Catching, White Plains, New York, Court of Federal Claims No: 18–0933V
86. Renee Smith, Beverly Hills, California, Court of Federal Claims No: 18–0936V
87. Michael Patton, Beverly Hills, California, Court of Federal Claims No: 18–0937V
88. James Owens, Beverly Hills, California, Court of Federal Claims No: 18–0938V
89. Theresa Ukpo, Beverly Hills, California, Court of Federal Claims No: 18–0939V
90. Kailey Kinslow, Beverly Hills, California, Court of Federal Claims No: 18–0940V
91. Barbara Goldman, Beverly Hills, California, Court of Federal Claims No: 18–0941V
92. Barbara A. Brown, White Plains, New York, Court of Federal Claims No: 18–0943V
93. Tracey Harris on behalf of C.H., Boston, Massachusetts, Court of Federal Claims No: 18–0944V
94. Sandra Williams, Dresher, Pennsylvania, Court of Federal Claims No: 18–0947V

[FR Doc. 2018–15739 Filed 7–23–18; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Draft Indian Health Service Strategic Plan Fiscal Year 2018–2022

AGENCY: Indian Health Service, IHS.

ACTION: Request for comments; notice of Tribal Consultation and Urban Indian Confer.

SUMMARY: The Indian Health Service (IHS) is developing an Agency-wide Strategic Plan to guide the work and strengthen partnerships with Tribes and Urban Indian Organizations. The IHS is

seeking public comment on its Draft IHS Strategic Plan fiscal year (FY) 2018–2022 (Draft IHS Strategic Plan FY 2018–2022). Additionally, notice is given that the IHS will conduct a Tribal Consultation and Urban Indian Confer regarding the Draft IHS Strategic Plan FY 2018–2022. In addition to the virtual town hall sessions, the IHS will seek other opportunities to solicit input from Tribal and Urban Indian programs on the Draft IHS Strategic Plan FY 2018–2022 during the comment period. For IHS Strategic Plan events during the comment period, please check the IHS Event Calendar at: *https://www.ihs.gov/ihscalendar/.*

DATES: Comments due by August 23, 2018.

The IHS virtual town hall sessions:

1. Urban Indian Confer on August 3 2018, from 2:00 p.m.–3:30 p.m. (Eastern Time).

2. Tribal Consultation on August 6, 2018, from 2:00 p.m.–3:30 p.m. (Eastern Time).

ADDRESSES: Written comments on the Draft IHS Strategic Plan FY 2018–2022 may be provided by email, or by United States (U.S.) postal mail.

E-mail addresses are as follows:

For Tribes: consultation@ihs.gov.

For Urban Indian Organizations: urbanconfer@ihs.gov.

For IHS Employees and the General Public: IHSStrategicPlan@ihs.gov.

Please use ''DRAFT IHS STRATEGIC PLAN FY 2018–2022'' as the subject line.

U.S. Postal Mail: RADM Michael D. Weahkee, MBA, MHSA, Acting Director, ATTN: Draft IHS Strategic Plan FY 2018–2022, Indian Health Service, 5600 Fishers Lane, Mailstop: 08E86, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: CAPT Francis Frazier, Director, Office of Public Health Support, IHS, 5600 Fishers Lane, Mail Stop: 09E10D, Rockville, Maryland 20857. Telephone (301) 443–0222 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The IHS participated in a strategic planning process informed by feedback received from Tribes, Urban Indian Organizations, and staff, as described in more detail below, to develop the Draft IHS Strategic Plan FY 2018–2022 for consideration. The IHS is committed to improving health care delivery services and enhancing critical public health services to strengthen the health status of American Indian and Alaska Native people throughout the health system.

The Draft IHS Strategic Plan FY 2018–2022 includes a revised IHS Mission statement, a new IHS Vision statement, and articulates how the IHS will achieve its mission through three strategic goals. The three strategic goals are: (1) To ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to American Indian and Alaska Native people; (2) To promote excellence and quality through innovation of the Indian health system into an optimally performing organization; and (3) To strengthen IHS program management and operations. Each goal is supported by objectives and strategies. To review the current IHS Mission statement and priorities, please visit: *https://www.ihs.gov/aboutihs/overview/.*

The strategic planning Consultation and Confer process is an opportunity for the IHS to further refine and strengthen the Draft IHS Strategic Plan FY 2018–2022. The IHS appreciates the invaluable feedback received to date on the Draft IHS Strategic Plan FY 2018–2022 and seeks to ensure all Agency stakeholders have the opportunity to comment. As we build on the current Draft IHS Strategic Plan FY 2018–2022, we look forward to receiving your comments by August 23, 2018.

The Urban Indian Confer on August 3, 2018, and the Tribal Consultation on August 6, 2018, will be held telephonically and by webinar. A letter will be sent to Urban Indian Organization Leaders and Tribal Leaders to notify them about details associated with conference call and webinar schedules and call-in information.

To develop the Draft IHS Strategic Plan FY 2018–2022, the IHS used a process similar to the U.S. Department of Health and Human Services (HHS) Strategic Plan FY 2018–2022, including use of goals; objectives and strategies; environmental scans; Strengths, Weaknesses, Opportunities, and Threats (SWOT) analysis; and workgroup participation. The environmental scan reviewed several IHS Areas, Headquarters Offices, and other available documents, and the SWOT exercise was conducted with IHS staff. Informed by these documents and analysis, the IHS developed an initial framework for review and comment by Tribes, Urban Indian Organizations, and IHS staff. The IHS first initiated Tribal Consultation and Urban Indian Confer on the IHS Strategic Plan initial framework on September 15, 2017, and formed an IHS Federal-Tribal Strategic Planning Workgroup (workgroup) to review all comments and recommend a list of final goals and objectives for IHS leadership review and approval.

During the initial framework comment period (September 15, 2017–October 31, 2017), the IHS held listening sessions, presented at Tribal meetings, and held conference calls with Tribal and Urban Indian Organization leaders. The workgroup membership included IHS staff at the Area, Service Unit, and Headquarters levels (including a representative from the IHS Office of Urban Indian Health Programs); Tribal leaders or their designees. The workgroup reviewed the comments received from 150 Tribes, Tribal Organizations, Urban Indian Organizations and IHS staff on the initial framework and suggested strategies during six meetings over a 3-month period, resulting in final recommendations on the IHS Mission, Vision, Goals, Objectives, and Strategies. These recommendations are the basis of the Draft IHS Strategic Plan FY 2018–2022.

Since initiating Tribal Consultation and Urban Indian Confer on the IHS Strategic Plan initial framework, the IHS has issued four letters to Tribal Leaders and Urban Indian Organization Leaders to update Tribes and Urban Indian Organizations on progress. Additionally, the IHS issued several communications stating that comments on the Draft IHS Strategic Plan FY 2018–2022 will be accepted throughout the strategic planning process. The IHS strategic planning Web site includes more information about the IHS strategic plan timeline, as well as links to the Tribal Leader letters, Urban Indian Organization Leader letters, and workgroup activities.

The IHS values all feedback and input regarding the Draft IHS Strategic Plan FY 2018–2022 and invites Tribes, Tribal Leaders, and/or their designees to Consult and Urban Indian Organization Leaders to Confer on the Draft IHS Strategic Plan FY 2018–2022. Tribal Consultation will be conducted with elected or appointed leaders of Tribal Governments and their designated representatives. Those wishing to participate in the Tribal Consultation as a designee must have a copy of a letter signed by an elected or appointed Tribal official or their designee that authorizes them to serve as the representative of the Tribe. Urban Indian Confer will be conducted with recognized representatives from Urban Indian Organizations, as defined by 25 U.S.C. 1603(29). Representatives from other Tribal Organizations and Native non-profit organizations are welcome as observers. Those wishing to be recognized representatives from Urban Indian Organizations should provide documentation that their organization meets the definition at 25 U.S.C. 1603(29) and that the selected participant has the official capacity to

represent the organization. This documentation should be submitted by e-mail no later than 3 days in advance of the Tribal Consultation and Urban Indian Confer session to the address that follows: *IHSStrategicPlan@ihs.gov.*

The text of the Draft IHS Strategic Plan FY 2018–2022 is available at the IHS Web site at: *https://www.ihs.gov/strategicplan/and below.*

Indian Health Service (IHS)

Draft IHS Strategic Plan Fiscal Year 2018–2022

The Indian Health Service (IHS) provides a wide range of clinical, public health, community and facilities infrastructure services to approximately 2.2 million American Indians and Alaska Natives (AI/AN) from 573 federally recognized Tribes in 37 States. Comprehensive primary health care and disease prevention services are provided through a network of hospitals, clinics, and health stations on or near Indian reservations. These facilities are predominately located in rural and primary care settings and are managed by IHS, Tribes, and Tribal Organizations. In addition, IHS contracts with Urban Indian Organizations for health care services provided in urban centers. The Draft IHS Strategic Plan FY 2018–2022 includes the Mission statement, a new Vision statement and articulates how the IHS will achieve its mission through three strategic goals. Each goal is supported by objectives and strategies.

Mission: To raise the physical, mental, social, and spiritual health of American Indians and Alaska Natives to the highest level.

Vision: Healthy communities and quality health care systems through strong partnerships and culturally relevant practices.

Goal 1: To ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to American Indian and Alaska Native people.

Goal Explanation: The Indian Health Service (IHS) provides comprehensive primary health care and public health services, which are critical to improving the health of AI/AN people. The Indian health system delivers care through health care services provided in IHS, Tribal, and Urban (I/T/U) health facilities (e.g., hospitals, clinics) and by supporting the purchase of essential health care services not available in IHS and Tribal health care facilities, known as the Purchased/Referred Care (PRC) program. Additional services include environmental health improvements as well as traditional healing to complement the medical, dental, pharmacy, laboratory, behavioral health and other primary care medical programs. Expanding access to these services in AI/AN communities is essential to improving the health status of the AI/AN population. This goal includes securing the needed workforce, strengthening collaboration with a range of public and private, Tribal, and Urban Indian providers and expanding access to quality health care services to promote the health needs of AI/AN communities.

Objective 1.1: Recruit, develop, and retain a dedicated, competent, and caring workforce.

Objective Explanation: Consistent, skilled, and well-trained leadership is essential to recruiting and retaining well-qualified health care professionals and administrative professionals. Attracting, developing, and retaining the needed staff will require streamlining hiring practices and other resources that optimize health care outcomes. Within the Indian health system, staff development through orientation, job experience, mentoring, and short and long-term training and education opportunities are essential for maintaining and expanding quality services and maintaining accreditation of facilities. Also, continuing education and training opportunities are necessary to increase employees' skill sets and knowledge to keep pace in rapidly evolving areas of medical science, prevention science, improvement science, and information technology, as well as to increase opportunities for employee career advancement and/or to maintain necessary professional credentialing and accreditation.

Strategies—The following strategies support this objective:

Health Care Recruitment and Retention:

1. Improve and innovate a process that increases recruitment and retention of talented, motivated, desirable, and competent workers, including through partnerships with Tribal communities and others.

2. Continue and expand the utilization of the IHS and Health Resources and Services Administration's National Health Service Corps scholarship and loan repayment programs, as authorized by the law, to increase health care providers at I/T/U facilities.

3. Support IHS sponsorship of fellowship slots in certain specialized leadership programs for recruitment of future physician leaders.

4. Evaluate new organizational structure options and reporting relationships to improve oversight of the Indian Health Professions program.

5. Expand the use of paraprofessionals and mid-level practitioners to increase the workforce and provide needed services.

6. Develop training programs in partnership with health professional schools and training hospitals and expand opportunities to educate and mentor Native youth interested in obtaining health science degrees.

7. Enhance and streamline IHS Human Resources infrastructure to hire well-qualified personnel.

Staff Capacity Building:

8. Strengthen the workforce to improve access to, and quality of, services.

9. Improve leadership skills, adopt a consistent leadership model, and develop mentoring programs.

10. Improve continuity processes and knowledge sharing of critical employee, administrative, and operational functions through written communications and documentation within IHS.

11. Improve workplace organizational climate with staff development addressing teamwork, communication, and equity.

12. Strengthen employee performance and responsiveness to the Agency, Tribes, and patients by improving employee orientation and opportunities for training and education, including, customer service skills.

Objective 1.2: Build, strengthen, and sustain collaborative relationships.

Objective Explanation: Collaboration fostered through an environment that values partnership is vital to expanding the types of services to improve population health outcomes that can be achieved within the health care delivery system. These relationships include those between Tribes, Urban Indian programs, communities, other government agencies, not-for-profits, universities/schools, foundations, private industry, as well as internal cooperation within the Agency and collaborative project management.

Strategies—The following strategies support this objective:

Enhancing Collaboration:

1. Collaborate with Tribes in the development of community-based health programs, including health promotion and disease prevention programs and interventions that will increase access to quality health programs.

2. Develop a community feedback system/program where community members can provide suggestions regarding services required and received.

3. Support cross collaboration and partnerships among I/T/U stakeholders.

Service Expansion:

4. Promote collaborations between IHS, other Federal agencies, Tribes, and Tribal Organizations to expand services, streamline functions and funding, and advance health care goals and initiatives.

5. Work with community partners to develop new programs responsive to local needs.

Objective 1.3: Increase access to quality health care services.

Objective Explanation: Expanded access to health care services, including individual and community health services, requires using many approaches and is critical to improving the health of AI/AN people and reducing the leading causes of death risk factors. Among the needs identified are increased prevention, specialty care, innovative use of health care providers, traditional medicine, long-term and aftercare services (which may require advancing holistic and culturally centered population health models), and expanded facilities and locations. To assess the success of these efforts, measures are needed to evaluate provider productivity, patient satisfaction, and align improvements in support operations (e.g., human resources, contracting, technology) to optimize access to quality health care services.

Strategies—The following strategies support this objective:

Health Care Service Access Expansion:

1. Develop and support a system to increase access to preventive care services and quality health care in Indian Country.

2. Develop and expand programs in locations where AI/AN people have no access to quality health care services.

3. Overcome or mitigate challenges and enhance partnerships across programs and

agencies by identifying, prioritizing, and reducing access limitations to health care for local AI/AN stakeholders.

4. Increase access to quality community, direct/specialty, long-term care and support services, and referred health care services and identify barriers to care for Tribal communities.

5. Leverage technologies such as telemedicine and asynchronous electronic consultation systems to include a more diverse array of specialties and to expand, standardize, and increase access to health care through telemedicine.

6. Improve team effectiveness in the care setting to optimize patient flow and efficiency of care delivery.

7. Reduce health disparities in the AI/AN population.

8. Provide evidence-based specialty and preventive care that reduces the incidence of the leading causes of death for the AI/AN population.

9. Incorporate Traditional cultural practices in existing health and wellness programs, as appropriate.

10. Improve the ability to account for complexity of care for each patient to gauge provider productivity more accurately.

11. Hold staff and management accountable to outcomes and customer service through satisfaction surveys.

Facilities and Locations:

12. In consultation with Tribes, modernize health care facilities to expand access to quality health care services.

13. In consultation with Tribes, review and incorporate a resource allocation structure to ensure equity among Tribes.

14. Develop and execute a coordinated plan (including health care, environmental engineering, environmental health, and health facilities engineering services) to effectively and efficiently execute response, recovery, and mitigation to disasters and public health emergencies.

Goal 2: To promote excellence and quality through innovation of the Indian health system into an optimally performing organization.

Goal Explanation: In pursuit of high reliability health care services [1] and care that is free from harm, the IHS has implemented several innovations in health care delivery to advance the population health needs of AI/AN communities. In many cases, innovations are developed to meet health care needs at the local level and subsequently adopted across the Indian health system, as appropriate. IHS will continue to promote excellence and quality through innovation by building upon existing quality initiatives and integrating appropriate clinical and public health best practices. Recent IHS efforts have been aimed at strengthening the underlying quality foundation of federally operated facilities, standardizing processes, and sharing health care best practices with other Federal, State, Tribal, and Urban Indian programs.

Objective 2.1: Create quality improvement capability at all levels of the organization.

Objective Explanation: Ensure quality improvement is operational in all direct care, public health, administrative, and management services throughout the system. Quality improvement will be achieved at all levels of the organization including Headquarters, Area Offices, and Service Units and will be made available to Tribes, Tribal Organizations, and Urban Indian Organizations, as requested. Creating quality improvement capability at all levels will require training, resources, commitment, and consistency to assure that every employee shares a role in continuous quality improvement in all IHS operations and services. This objective will build upon current efforts of the 2016–2017 IHS Quality Framework [2] to strengthen quality improvement related to data, training, and standards of care.

Strategies—The following strategies support this objective:

Quality Data:

1. Improve the quality of data collected regarding health care services and program outcomes.

2. Develop and integrate quality standards and metrics into governance, management, and operations.

3. Standardize quality metrics across the IHS and use results to share information on best practices, performance trends, and identification of emerging needs.

Continuous Quality Improvement:

4. Provide training, coaching, and mentoring to ensure continuous quality improvement and accountability of staff at all levels of the organization.

5. Evaluate training efforts and staff implementation of improvements, as appropriate.

Standards of Care:

6. Develop and provide standards of care to improve quality and efficiency of health services across IHS.

7. Adopt the Model of Improvement in all clinical, public health, and administrative activities in the Indian health system.

8. Adopt patient-centered models of care, including patient centered medical home recognition and care integration.

Objective 2.2: Provide care to better meet the health care needs of Indian communities.

Objective Explanation: Key to improving health outcomes and sustaining population health is culturally responsive health care that is patient-centered and community supported. IHS will implement culturally appropriate and effective clinical and public health tools, as appropriate, to improve and better meet the health care needs of AI/AN communities. This objective reinforces current efforts addressing culturally appropriate care and support dissemination of best practices.

Strategies—The following strategies support this objective:

Culturally Appropriate Care:

1. Strengthen culturally competent organizational efforts and reinforce implementation of culturally appropriate and effective care models and programs.

2. Promote and evaluate excellence and quality of care through innovative, culturally appropriate programs.

3. Promote the total health integration within a continuum of care that integrates acute, primary, behavioral, and preventive health care.

4. Explore environmental and social determinants of health and trauma-informed care in health care delivery. Expand best practices across the IHS.

5. Continue to develop and implement trauma-informed care models and programs.

Sharing Best Practices:

6. Work collaboratively within IHS, and among other Federal, State, Tribal programs, and Urban Indian programs to improve health care by sharing best practices.

Goal 3: To Strengthen IHS program management and operations.

Goal Explanation: This goal addresses issues of management, accountability, communication, and modernized information systems. IHS is committed to the principles of improved internal and external communication, and sound management. Assuring the availability and ongoing development of a comprehensive information technology (IT) system is essential to improving access to integrated clinical, administrative, and financial data to support individual patient care, and decision-making.

Objective 3.1: Improve communication within the organization with Tribes and other stakeholders, and with the general public.

Objective Explanation: This objective addresses the critical need to improve communication throughout the IHS, with employees and patients, with Tribes, with Urban Indian Organizations, with the many organizations working with IHS and with the general public. Most important is to assist Tribes, Urban programs, and IHS in better understanding Tribal and Urban Indian needs and IHS program needs, to encourage full participation in information exchange, and to engage Tribes and Urban programs in partnership and coalition building. This includes defining and characterizing community needs and health program needs, modifying health programs as needed, and monitoring the effectiveness of programs and program modifications.

Strategies—The following strategies support this objective:

Communication Improvements:

1. Improve communication and transparency among all employees, managers, and senior leadership.

2. Develop and define proactive communications plans for internal and external stakeholders.

3. Enhance health-related outreach and education activities to patients and families.

4. Design social media platforms that will ensure wide dissemination of information to interested and affected individuals and organizations.

Strengthened Partnership:

5. Assure quality reporting relationships between service units, Area offices, and

[1] High reliability health care means consistent excellence in quality and safety for every patient, every time. High reliability in health care improves: organizational effectiveness, efficiency, culture, customer satisfaction, compliance, and documentation. For more information about High Reliability Organizations, please see: *https://psnet.ahrq.gov/primers/primer/31/high-reliability.*

[2] The IHS Quality Framework 2016–2017 is available at: *https://www.ihs.gov/newsroom/includes/themes/newihstheme/display_objects/documents/IHS_2016-2017_QualityFramework.PDF.*

headquarters are clearly defined and implemented.

6. Effectively collaborate with other IHS offices (e.g., the Loan Repayment Program) and HHS Staff and Operating Divisions where missions, goals, and authorities overlap.

Objective 3.2: Secure and effectively manage the assets and resources.

Objective Explanation: This objective supports the delivery of health care through improved management of all types of assets and non-workforce resources. To elevate the health status of the AI/AN population and increase access to medical care, IHS must continue to help ensure patients understand their health care options and improve business process and efficiencies to the health care system. IHS will also increase the effectiveness of operations and reporting, while providing more assistance and infrastructure support to Areas and facilities.

Strategies—The following strategies support this objective:

Infrastructure, Capacity, and Sustainability:

1. Enhance transparency of the IHS management and accountability infrastructure to properly manage and secure assets.

2. Ensure that Federal, State, Tribal, territorial, and local Tribal health programs have the necessary infrastructure to effectively provide essential public health services.

3. Provide technical assistance to strengthen the capacity of service units and Area Offices to enhance effective management and oversight.

4. Apply economic principles and methods to assure ongoing security and sustainability of Federal, Tribal and Urban Indian facilities.

Improved Business Process:

5. Routinely review management operations to effectively improve key business management practices.

6. Optimize business functions to ensure IHS is engaged in discussions on value-based purchasing.

7. Develop policies, use tools, and apply models that ensure efficient use of assets and resources.

8. Strengthen management and operations through effective oversight.

9. Develop standardized management strategies for grants, contracts, and other funding opportunities to promote innovation and excellence in operations and outcomes.

Patient Education and Resources:

10. Strengthen patients' awareness of their health care options, including Medicaid and Medicare enrollment, which may increase access to health care and optimize third party reimbursements.

Objective 3.3: Modernize information technology and information systems to support data driven decisions.

Objective Explanation: This objective is to assure the availability and ongoing improvement of a comprehensive information technology (IT) system that meets the needs of providers, patients, and I/T/Us, including using technology to provide improved, timely access to care and to reduce the need for transit. This objective recognizes that qualified and capable IT staff and leadership are fundamental in achieving the strategies listed below and further reinforces the workforce objectives outlined elsewhere in the plan. An improved Indian health IT network increases access to integrated clinical, administrative, and financial data to support individual patient care, decision-making, and advocacy. The need for data will require the development of a system integrated with Tribal and Urban Indian programs that will address the current and projected clinical, administrative, and fiscal data needs. Timely fiscal data dissemination to all Federal partners when developing budgets is necessary to accurately address health care needs of Indian communities. Data quality (i.e., accuracy, reliability, and validity) and quality patient care will continue to play a highly visible role both within and outside the IHS. Data quality is only partially dependent upon technology. Improved data quality also reflects other sustained initiatives, such as accuracy of data entry, legibility of handwriting, appropriate and timely data exports, and accuracy of coding.

Strategies—The following strategies support this objective:

Health Information Technology (HIT):

1. Evaluate electronic health record needs of the IHS and the ability for the health information systems to meet those needs, create seamless data linkages, and meet data access needs for Tribes and Tribal program health information systems.

2. Develop a consistent, robust, stable, secure, state-of-the-art HIT system to support clinicians workflow, improve data collection, and provide regular and ongoing data analysis.

3. Modernize the HIT system for IHS Resource and Patient Management System (RPMS) or commercial off-the-shelf packages.

4. Align with universal patient record systems to link off-reservation care systems that serve AI/AN.

5. Enhance and expand technology such as the IHS telecom to provide access for consultative care, stabilization of care, decreased transportation, and timeliness of care at any IHS-funded health program.

Data Process:

6. Provide available data to inform decision making for internal and external stakeholders.

7. Act upon performance data and standardize data and reporting requirements.

8. Assure system of data sharing to solidify partnerships with Tribal Epidemiology Centers and other Tribal programs.

9. Establish capability for data federation [3] so that data analytics/business intelligence may be applied to disparate data stored in a single, general-purpose database that can hold many types of data and distribute that data to users anywhere on the network.

Note: This draft plan is developed for public consideration, it is intended to improve the management and administration of the IHS and strategic direction of the Agency over the next 5 years, and it is not intended to create any right, benefit, or legal responsibility, substantive or procedural, enforceable at law by a party against the United States, its agencies, or any person.

[3] Data federation provides an organization with the ability to aggregate data from disparate sources in a virtual database so it can be used for business intelligence or other analysis.

The IHS will publish an additional **Federal Register** Notice with the final IHS Strategic Plan FY 2018–2022 after all comments are received and considered.

Dated: July 16, 2018.

Michael D. Weahkee,

RADM, Assistant Surgeon General, U.S. Public Health Service, Acting Director, Indian Health Service.

[FR Doc. 2018–15740 Filed 7–23–18; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Program Project I (P01).

Date: September 17–18, 2018.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Mukesh Kumar, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W618, Bethesda, MD 20892–9750, 240–276–6611, *mukesh.kumar3@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE I (P50) Review.

Date: September 25, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Caron A. Lyman, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W126, Bethesda, MD 20892–9750, 240–276–6348, *lymanc@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI SPORE II.

Date: September 26–27, 2018.

Time: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washington Boulevard, Gaithersburg, MD 20878.

Contact Person: Klaus B. Piontek, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W116, Bethesda, MD 20892–9750, 240–276–7849, *klaus.piontek@nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; SEP–3: NCI Clinical and Translational Exploratory/Developmental Studies.

Date: October 10–11, 2018.

Time: 4:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ombretta Salvucci, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W264, Bethesda, MD 20892–9750, 240–276–7286, *salvucco@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 17, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15607 Filed 7–23–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; AGI Prevention.

Date: August 21, 2018.

Time: 11:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Lynn Rust, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G42A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5069, *lrust@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 18, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15749 Filed 7–23–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; DERT Extramural Grantee Data Collection (NIEHS)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Kristianna Pettibone, Evaluator, Program Analysis Branch, NIEHS, NIH, 530 Davis Dr., Room 3064, Morrisville, NC 20560, or call non-toll-free number 984–287–3303 or Email your request, including your address to: *pettibonekg@niehs.nih.gov*.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on May 1, 2018, Volume 83, Number 50, page 19073–19074 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: DERT Extramural Grantee Data Collection, 0925–0657, Expiration Date 06/30/2015—Revision, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: In order to make informed management decisions about its research programs and to demonstrate the outputs, outcomes and impacts of its research programs NIEHS will collect, analyze and report on data from extramural grantees who are currently receiving funding or who have received funding in the past on topics such as: (1) Key scientific outcomes achieved through the research and the impact on the field of environmental health science; (2) Contribution of research findings to program goals and objectives; (3) Satisfaction with the program support received; (4)

Challenges and benefits of the funding mechanism used to support the science; and (5) Emerging research areas and gaps in the research.

Information gained from this primary data collection will be used in conjunction with data from grantee progress reports and presentations at grantee meetings to inform internal programs and new funding initiatives. Outcome information to be collected includes measures of agency-funded research resulting in dissemination of findings, investigator career development, grant-funded knowledge and products, commercial products and drugs, laws, regulations and standards, guidelines and recommendations, information on patents and new drug applications and community outreach and public awareness relevant to extramural research funding and emerging areas of research. Satisfaction information to be collected includes measures of satisfaction with the type of funding or program management mechanism used, challenges and benefits with the program support received, and gaps in the research. *Frequency of Response:* Once per grantee, per research portfolio. *Affected Public:* Current or past grantees from:

- *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD);
- National Institute on Deafness and Other Communication Disorders (NIDCD);
- National Institute of Mental Health (NIMH);
- National Institute of Neurological Disorders and Stroke (NINDS);
- National Institute of Environmental Health Sciences (NIEHS);
- National Cancer Institute (NCI); and
- Environmental Protection Agency (EPA).

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 800.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
NICHD Grantee	200	1	30/60	100
NIDCD Grantee	200	1	30/60	100
NIMH Grantee	200	1	30/60	100
NINDS Grantee	200	1	30/60	100
NCI Grantee	400	1	30/60	200
NIEHS Grantee	200	1	30/60	100
EPA Grantees	200	1	30/60	100
Total	1,600	1,600	.....	800

Dated: July 11, 2018.

Jane M. Lambert,

Project Clearance Liaison, NIEHS, NIH.

[FR Doc. 2018–15802 Filed 7–23–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Career Development Programs in Diabetes Research for Endocrinologists.

Date: July 25, 2018.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 18, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–15747 Filed 7–23–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0024]

Agency Information Collection Activities: Entry/Immediate Delivery Application and ACE Cargo Release

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The

information collection is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted (no later than August 23, 2018) to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number (202) 325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (83 FR 16895) on April 17, 2018, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Entry/Immediate Delivery Application and ACE Cargo Release.

OMB Number: 1651–0024.

Form Number: 3461 and 3461 ALT.

Current Actions: This submission is being made to extend the expiration date with no change in the data collected. There is an increase to the annual burden hours based on updated agency estimates. CBP previously submitted a 60 day **Federal Register** Notice with a change for this OMB control number. That change was an error and has been corrected. There is no change in the data collected under this submission.

Type of Review: Extension (without change).

Abstract: All items imported into the United States are subject to examination before entering the commerce of the United States. There are two procedures available to effect the release of imported merchandise, including ''entry'' pursuant to 19 U.S.C. 1484, and ''immediate delivery'' pursuant to 19 U.S.C. 1448(b). Under both procedures, CBP Forms 3461, Entry/Immediate Delivery, and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR 141 and 142. These forms and instructions for Form 3461 are accessible at: *https://www.cbp.gov/newsroom/publications/forms?title=3461&=Apply.*

ACE Cargo Release is a program for ACE entry summary filers in which importers or brokers may file Simplified Entry data in lieu of filing the CBP Form 3461. This data consists of 12 required elements: Importer of record; buyer name and address; buyer employer identification number (consignee number), seller name and address; manufacturer/supplier name and address; Harmonized Tariff Schedule 10-digit number; country of origin; bill of lading; house air waybill number; bill of lading issuer code; entry number; entry type; and estimated shipment value. Three optional data elements are the container stuffing location; consolidator name and address, and ship to party name and address. The data collected under the ACE Cargo Release program is intended to reduce transaction costs, expedite cargo release, and enhance cargo security. ACE Cargo Release filing minimizes the redundancy of data submitted by the filer to CBP through receiving carrier data from the carrier. This design allows the participants to file earlier in the transportation flow. Guidance on using ACE Cargo Release may be found at *http://www.cbp.gov/trade/ace/features.*

Affected Public: Businesses.

CBP Form 3461 paper form only:

Estimated Number of Respondents: 12,307.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 12,307.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 3,077.

ACE Cargo Release to include electronic submission for 3461/3461ALT:

Estimated Number of Respondents: 9,810.

Estimated Number of Responses per Respondent: 2,994.

Estimated Total Annual Responses: 29,371,140.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,875,609.

Dated: July 19, 2018.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2018–15815 Filed 7–23–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18DK20GUV0300; OMB Control Number 1028–0114]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; National Ground-Water Monitoring Network Cooperative Funding Application

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 23, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to USGS, Information Collections Clearance Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0114 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Daryll Pope by email at *dpope@usgs.gov* or by telephone at (609) 771–3933. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: We, the USGS, in accordance with the Paperwork Reduction Act of 1995, provide the general public and other Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on March 5th, 2018 at 83 FR 9336. No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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.

Abstract: The USGS is working with the Federal Advisory Committee on Water Information (ACWI) and its Subcommittee on Ground Water (SOGW) to develop and administer a National Ground-Water Monitoring Network (NGWMN). This network is required as part of Public Law 111–11, Subtitle F—Secure Water: Section 9507, 42 U.S.C. 10367, ''Water Data Enhancement by United States Geological Survey.'' The NGWMN will consist of an aggregation of wells from existing Federal, State, Tribal, and local groundwater monitoring networks. To support data providers for the NGWMN, the USGS will be providing funding through cooperative agreements to water-resource agencies that collect groundwater data. The USGS will be soliciting applications for funding that will request information from the Agency collecting the data. Elements will include contact information (phone number and email address), and a proposal describing their proposed work in support of the NGWMN. The proposal will describe the groundwater networks to be included in the NGWMN, the purpose of the networks, and the Principal aquifers that are monitored. Proposals may include work to become a new data provider to the NGWMN, support for maintaining connections to agency databases, and work to enhance NGWMN sites (updating metadata, performing well maintenance, and well drilling). The proposal would also require estimates of costs to complete the above tasks and a timeline for planned completion. The proposal will be reviewed by the USGS and the NGWMN Program Board who will make funding recommendations.

Title of Collection: National Ground-Water Monitoring Network Cooperative Funding Application.

OMB Control Number: 1028–0114.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Multi-state, state, or local water-resources agencies who operate groundwater monitoring networks.

Total Estimated Number of Annual Respondents: 30 applicants, 25 awardees.

Total Estimated Number of Annual Responses: 55.

Estimated Completion Time per Response: 40 hours for applicants, 80 hours for final report.

Total Estimated Number of Annual Burden Hours: 3,200 hours.

Respondent's Obligation: Mandatory to be considered for funding.

Frequency of Collection: Annually.

Total Estimated Annual Non-hour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

Janice Fulford,

Directory Observing Systems Division.

[FR Doc. 2018–15746 Filed 7–23–18; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/A0A501010.999900 253G]; OMB Control Number 1076–NEW]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Indian Highway Safety Grants

AGENCY: Bureau of Indian Affairs (BIA), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the BIA Indian Highway Safety Program (IHSP) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before August 23, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to Indian Highway Safety Program Coordinator, Ms. Kimberly Belone, 1001 Indian School Road NW, Albuquerque NM 87104; or by email to *Kimberly.belone@bia.gov.* Please reference OMB Control Number 1046–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Indian Highway Program Director L.G. Robertson, 1001 Indian School Road NW, Albuquerque NM, 87104 by email at *Lawrence.robertson@bia.gov,* or by telephone at 505–563–3780.You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Registe**r notice with a 60-day public comment period soliciting comments on this collection of information was published on March 21, 2018 (83 FR 12404). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA IHSP; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA IHSP enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA IHSP minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Information collected from tribal entities concerning, population, land base, highway miles and statistical data concerning vehicle fatalities, crashes, traffic enforcement actions and proposed financial data. This data collected is a requirement for the BIA IHSP to fulfil the data obligations of 23 CFR 1300.11 and will be used for review and consideration by the IHSP Selection Committee for consideration of grant awards.

Title of Collection: Indian Highway Safety Grants.

OMB Control Number: 1076–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Tribal governments.

Total Estimated Number of Annual Respondents: 483 per year, on average.

Total Estimated Number of Annual Responses: 2,254 per year, on average.

Estimated Completion Time per Response: For applications, 4 hours, on average; for monthly reports, 3–11 hours, on average; and for annual reports, 5–9 hours, on average.

Total Estimated Number of Annual Burden Hours: 15,312 hours.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Annually if elect to apply for the grant(s).

Total Estimated Annual Nonhour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2018–15758 Filed 7–23–18; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–25584; PPWOCRAD00, PUC00RP14.R50000]

Request for Nominations for the Cold War Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior is requesting nominations for qualified persons to serve as members on the Committee.

DATES: Nominations should be received by August 23, 2018.

ADDRESSES: Nominations should be sent to Robie Lange, U.S. Department of the Interior, National Park Service, National Historic Landmarks Program, 1849 C Street NW, MS 2280, Washington, DC 20240–0001, or email *robie_lange@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Robie Lange, U.S. Department of the Interior, National Park Service, National Historic Landmarks Program, 1849 C Street NW, MS 2280, Washington, DC 20240–0001, or via email at *robie_lange@nps.gov,* or via telephone (202) 354–2257.

SUPPLEMENTARY INFORMATION: The Cold War Advisory Committee was established by Title VII, Subtitle C, Section 7210(c) of Public Law 111–11, the Omnibus Public Land Management Act of 2009, March 30, 2009 (16 U.S.C. 1a–5 note). The purpose of the Committee is to assist the Secretary of the Interior in the preparation of a national historic landmark theme study to identify sites and resources significant to the Cold War.

The Committee will be composed of nine members, to be appointed by the Secretary, of whom: (1) Three shall have expertise in Cold War history; (2) two shall have expertise in historic preservation; (3) one shall have expertise in the history of the United States; and (4) three shall represent the general public.

We are currently seeking members to represent all categories.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department to contact a potential member. All documentation, including letters of recommendation,

must be compiled and submitted in one complete package.

Members of the Committee may serve as special Government employees and be required on an annual basis to complete ethics training and file a Confidential Financial Disclosure Report. Members of the Committee serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Committee as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

Public Disclosure of Information: Before including your address, phone number, email address, or other personal identifying information with your nomination, you should be aware that your entire nomination—including your personal identifying information—may be made publicly available at any time. While you can ask us in your nomination to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 16 U.S.C. 1a–5 note.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2018–15736 Filed 7–23–18; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–034]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: July 31, 2018 at 9:30 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 on Inv. Nos. 701–TA–489 and 731–TA–1201 (Review) (Drawn Stainless Steel Sinks from China). The Commission is currently scheduled to complete and file its determinations and views of the Commission by August 13, 2018.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: July 20, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–15922 Filed 7–20–18; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0043]

TUV SUD America, Inc.: Application for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of TUV SUD America, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant the application.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before August 8, 2018.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular or express mail, hand delivery, or messenger (courier) service: Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2007–0043, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2007–0043). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before August 8, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, telephone: (202) 693–1999 or email: *meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, telephone: (202) 693–2110 or email: *robinson.kevin@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that TUV SUD America, Inc. (TUVAM), is applying for expansion of its current recognition as a NRTL. TUVAM requests the addition of two test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A of 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including TUVAM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

TUVAM currently has six facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: TUV SUD America, Inc., 10 Technology Drive, Peabody, MA 01960. A complete list of TUVAM's scope of recognition (including sites) recognized by OSHA is available at *https://www.osha.gov/dts/otpca/nrtl/tuvam.html.*

II. General Background on the Application

TUVAM submitted an application, dated June 12, 2017 (OSHA–2007–0043–0023), to expand its recognition to include two additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standards found in TUVAM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN TUVAM'S NRTL

[Scope of Recognition]

Test standard	Test standard title
UL 924	Standard for Emergency Lighting and Power Equipment.
UL 2108	Standard for Low Voltage Lighting Systems.

III. Preliminary Findings on the Application

TUVAM submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicates that TUVAM can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these two test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of TUVAM's application.

OSHA welcomes public comment as to whether TUVAM meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0043.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant TUVAM's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register.**

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on July 18, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–15772 Filed 7–23–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Proposed Modification to the List of Appropriate NRTL Program Test Standards and the Scopes of Recognition of Several NRTLs

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA proposes to delete three test standards from the NRTL Program's list of appropriate test standards; and update the scopes of recognition of several NRTLs.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before August 23, 2018. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at: *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer

than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0012, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2013–0012) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this ***Federal Register*** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. You may also contact Kevin Robinson at the below address to obtain a copy of the ICR.

Extension of comment period: Submit requests for an extension of the comment period on or before August 23, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor by phone (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor by phone (202) 693–2110; email: *robinson.kevin@dol.gov.* OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov*).

Copies of this ***Federal Register*** *notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as other relevant information, is also available on OSHA's web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRTL Program recognizes organizations that provide product safety testing and certification services to manufacturers. These organizations perform testing and certification, for purposes of the Program, to U.S. consensus-based product safety test standards. The products covered by the NRTL Program consist of those items for which OSHA safety standards require ''certification'' by a NRTL. The requirements affect electrical products and 38 other types of products. OSHA does not develop or issue these test standards, but generally relies on standards development organizations (SDOs) which develop and maintain the standards using a method that provides input and consideration of views of industry groups, experts, users, consumers, governmental authorities and others having broad experience in the safety field involved.

Removal of Test Standards From the NRTL List of Appropriate Test Standards

OSHA may propose to remove a test standard from the NRTL list of appropriate test standards based on an internal review in which NRTL Program staff review the NRTL list of appropriate test standards to determine if the test standard conforms to the definition of appropriate test standard defined in NRTL Program regulations and policy. There are several reasons for removing a test standard based on the internal review by NRTL Program staff. First, a document that provides the methodology for a single test is a test method rather than an appropriate test standard. A test standard must specify the safety requirements for a specific type of product(s) (29 CFR 1910.7(c)). A test method, however, is a ''specified technical procedure for performing a test'' (CPL 1–0.3, App. B). As such, a test method is not an appropriate test standard. While a NRTL may use a test method to determine if certain safety requirements are met, a test method is not itself a safety requirement for a specific product category.

Second, a document that focuses primarily on usage, installation, or maintenance requirements would also not be considered an appropriate test standard (CPL 1–0.3, App. D.IV.B). In some cases, however, a document may also provide safety test specifications in addition to usage, installation, and maintenance requirements. In such cases, the document would be retained as an appropriate test standard based on the safety test specifications.

Finally, a document may not be considered an appropriate test standard if the document covers products for which OSHA does not require testing and certification (CPL 1–0.3, App. D.IV.A).

Similarly, a document that covers electrical product components would not be considered an appropriate test standard. These documents apply to types of components that have limitation(s) or condition(s) on their use, in that they are not appropriate for use as end-use products. These documents also specify that these types of components are for use only as part of an end-use product. NRTLs, however, evaluate such components only in the context of evaluating whether end-use products requiring NRTL approval are safe for use in the workplace. Testing such components alone would not indicate that the end-use products containing the components are safe for use. Accordingly, as a matter of policy, OSHA considers that documents covering such components are not appropriate test standards under the NRTL Program. OSHA notes, however, that it is not proposing to delete from NRTLs' scopes of recognition any test standards covering end-use products that contain such components.

OSHA may additionally propose to remove a test standard from the NRTL list of appropriate test standards if it has been withdrawn by a SDO. However, OSHA will recognize a NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability for implementing the replacement test standard, and the replacement standard does not require an additional or different technical capability than an existing test standard. OSHA can add the replacement test standard to affected NRTLs' scopes of recognition.

II. Proposal To Delete Test Standards From the NRTL Program's List of Appropriate Test Standards

In this notice, OSHA proposes to delete three test standards from the

NRTL Program's list of appropriate test standards.

Table 1 lists the test standards that OSHA proposes to delete from the NRTL Program's list of appropriate test standards, as well as an abbreviated rationale for OSHA's proposed actions. For a full discussion of the rationale, see, above, Section I of this notice.

TABLE 1—TEST STANDARDS OSHA PROPOSES TO DELETE FROM NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Proposed deleted test standard	Reason for proposed deletion	Proposed replacement test standard(s) (if applicable)
ISA 60079–2	Standard Withdrawn by Standards Organization	None.
ISA 60079–5	Standard Withdrawn by Standards Organization	None.
ISA 60079–18	Standard Withdrawn by Standards Organization	None.

III. Proposed Modifications to Affected NRTLs' Scopes of Recognition

In this notice, OSHA proposes to update the scopes of recognition of several NRTLs. The tables in this section (Table 2 thru Table 5) list, for each affected NRTL, the test standard(s) that OSHA proposes to delete from the scope of recognition of the NRTL and the proposed appropriate replacement test standard. OSHA's analysis shows that the proposed replacement standards do not require additional or different technical capability than the proposed deleted standards so that the proposed replacement standards are comparable to the proposed deleted standards. These proposed replacement standards are already on the NRTL List of Appropriate Test Standards.

OSHA seeks comment on whether its proposed deletions are appropriate, and whether individual tables omit any appropriate replacement test standard that is comparable to a withdrawn test standard. If OSHA determines any appropriate replacement test standard that is comparable to a withdrawn test standard was omitted, then the final determination will incorporate that replacement test standard into the scope of recognition of each affected NRTL.

Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request, by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified.

TABLE 2—TEST STANDARDS OSHA PROPOSES TO DELETE FROM THE SCOPE OF RECOGNITION OF THE UNDERWRITERS LABORATORY, INC. AND THE PROPOSED REPLACEMENT TEST STANDARDS

Proposed deleted test standard	Reason for proposed deletion	Proposed replacement test standard(s) (if applicable)
ISA 60079–2	Standard Withdrawn by Standards Organization	UL 60079–2.
ISA 60079–5	Standard Withdrawn by Standards Organization	UL 60079–5.
ISA 60079–18	Standard Withdrawn by Standards Organization	UL 60079–18.

TABLE 3—TEST STANDARDS OSHA PROPOSES TO DELETE FROM THE SCOPE OF RECOGNITION OF CSA GROUP TESTING AND CERTIFICATION INC. AND THE PROPOSED REPLACEMENT TEST STANDARDS

Proposed deleted test standard	Reason for proposed deletion	Proposed replacement test standard(s) (if applicable)
ISA 60079–2	Standard Withdrawn by Standards Organization	UL 60079–2.
ISA 60079–5	Standard Withdrawn by Standards Organization	UL 60079–5.
ISA 60079–18	Standard Withdrawn by Standards Organization	UL 60079–18.

TABLE 4—TEST STANDARDS OSHA PROPOSES TO DELETE FROM THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES, NA, INC. AND THE PROPOSED REPLACEMENT TEST STANDARDS

Proposed deleted test standard	Reason for proposed deletion	Proposed replacement test standard(s) (if applicable)
ISA 60079–2	Standard Withdrawn by Standards Organization	UL 60079–2.*
ISA 60079–5	Standard Withdrawn by Standards Organization	UL 60079–5.*
ISA 60079–18	Standard Withdrawn by Standards Organization	UL 60079–18.*

* This NRTL already has the proposed replacement test standard(s) in its NRTL Scope of Recognition.

TABLE 5—TEST STANDARDS OSHA PROPOSES TO DELETE FROM THE SCOPE OF RECOGNITION OF SGS NORTH AMERICA, INC. AND THE PROPOSED REPLACEMENT TEST STANDARDS

Proposed deleted test standard	Reason for proposed deletion	Proposed replacement test standard(s) (if applicable)
ISA 60079–2	Standard Withdrawn by Standards Organization	UL 60079–2.
ISA 60079–5	Standard Withdrawn by Standards Organization	UL 60079–5.
ISA 60079–18	Standard Withdrawn by Standards Organization	UL 60079–18.

To obtain or review copies of comments submitted to the docket, contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials will also be available online at *http://www.regulations.gov* under Docket No. OSHA–2013–0012.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health regarding the removal of three test standards from the NRTL Program's List of Appropriate Test Standards and to update the scopes of recognition of several NRTLs. The Assistant Secretary will make the final decision. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on July 18, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–15774 Filed 7–23–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of MET Laboratories, Inc., for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application. Additionally, OSHA proposes to add one new test standard to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before August 8, 2018.

ADDRESSES: Submit comments by any of the following methods:

Electronically: Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular or express mail, hand delivery, or messenger (courier) service: Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0028, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–3:00 p.m., ET.

Instructions: All submissions must include the agency name and the OSHA docket number (OSHA–2006–0028). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Extension of comment period: Submit requests for an extension of the comment period on or before August 8, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger Director, OSHA Office of Communications, phone: (202) 693–

1999 or email: *meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, phone: (202) 693–2110 or email: *robinson.kevin@dol.gov*.

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that MET Laboratories, Inc. (MET), is applying for expansion of its current recognition as a NRTL. MET requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides a preliminary finding. In the second notice, the Agency provides a final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including MET, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

MET currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: MET Laboratories, Inc., 914 West Patapsco Avenue, Baltimore, Maryland 21230. A complete list of MET's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/met.html*.

II. General Background on the Application

MET submitted an application, dated January 29, 2016 (OSHA–2006–0028–0046), to expand its recognition to include one additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1, below, lists the appropriate test standard found in MET's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED APPROPRIATE TEST STANDARD FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1598C*	Standard for Light Emitting Diode (LED) Retrofit Luminaire Conversion Kits.

*Represents the standard that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) Monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standards in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add one new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA preliminarily determined that this test standard is an appropriate test standard and proposes to include it in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARD OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 1598C*	Standard for Light Emitting Diode (LED) Retrofit Luminaire Conversion Kits.

III. Preliminary Findings on the Application

MET submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that MET can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed in Table 2. This preliminary finding does not constitute an interim or temporary approval of MET's application.

OSHA welcomes public comment as to whether MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0028.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues

raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health whether to grant MET's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on July 18, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–15773 Filed 7–23–18; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–057)]

National Space-Based Positioning, Navigation, and Timing Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, and the President's 2004 U.S. Space-Based Positioning, Navigation, and Timing (PNT) Policy, the National Aeronautics and Space Administration (NASA) announces an intersession meeting of the National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board. The meeting will be held via teleconference and WebEx.

DATES: Monday, August 6, 2018, 12:00 p.m. to 4:00 p.m., Eastern Time.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Miller, Designated Federal Officer, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4417, fax (202) 358–4297, or *jj.miller@nasa.gov*.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public telephonically and by WebEx. Any interested person may call the USA toll free conference call number at 1–844–467–4685 or the USA local toll number at 1–720–259–7012 passcode: 106724 to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* meeting number is 995 034 805, password is uuU7bDX* (case sensitive). This meeting was agreed to at the 21st session of the National Space-Based PNT Advisory Board, held May 16–17, 2018, in Baltimore, Maryland. The public may follow the discussions by dial-in and/or the web link provided. The agenda includes the following topics:

- Finalize and Approve the National Space-Based PNT Advisory Board Topics Paper
- Finalize and Approve the National Space-Based PNT Advisory Board Memorandum on Spectrum Issues to the National Space-Based PNT Executive Committee

Carol J. Hamilton,

Acting Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2018–15753 Filed 7–23–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comment.

SUMMARY: The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on the following extensions of a currently approved information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before September 24, 2018 to be assured consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collection, including suggestions for reducing the burden to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314; Fax No. 703–519–8572; or Email at *PRAComments@NCUA.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the address above or telephone 703–548–2279.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0117.

Type of Review: Revision of a currently approved collection.

Title: Designation of Low Income Status, 12 CFR 701.34(a).

Abstract: The Federal Credit Union Act (12 U.S.C. 1752(5)) authorizes the NCUA Board to define low-income members so that credit unions with a membership serving predominantly low-income members can benefit from certain statutory relief and receive assistance from the Community Development Revolving Loan Fund. To utilize this authority a credit union must receive a low-income designation from NCUA as defined in NCUA's regulations at 12 CFR 701.34. NCUA uses the information from credit unions to determine whether they meet the criteria for the low-income designation.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 252.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Reponses: 252.

Estimated Burden Hours per Response: 1.20.

Estimated Total Annual Burden Hours: 303.

Reason for Change: The burden associated with the appeals process has been consolidate under 12 CFR 746–B and has been removed from this information collection.

OMB Number: 3133–0121.

Type of Review: Extension of a currently approved collection.

Title: Notice of Change of Officials and Senior Executive Officers.

Forms: NCUA Form 4063 and 4063a.

Abstract: In order to comply with statutory requirements, the agency must obtain sufficient information from new officials or senior executive officers of troubled or newly chartered credit unions to determine their fitness for the position. This is established by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (Pub. L. 101–73). The forms provide a standardize format to collect the information needed.

Affected Public: Private Sector: Not-for-profit institutions; Individual or Household.

Estimated Number of Respondents: 219.

Estimated Number of Responses per Respondent: Individual 1; Credit Union 1.21.

Estimated Total Annual Reponses: 483.

Estimated Burden Hours per Response: 1.83.

Estimated Total Annual Burden Hours: 884.

OMB Number: 3133–0154.

Type of Review: Extension of a currently approved collection.

Title: Prompt Corrective Action, 12 CFR 702 (Subparts A–D).

Abstract: Section 216 of the Federal Credit Union Act (12 U.S.C. 1790d) mandates prompt corrective action (PCA) requirements for federally insured credit unions (FICUs) that become less than well capitalized. Section 216 requires the NCUA Board to (1) adopt, by regulation, a system of prompt corrective action to restore the net worth of inadequately capitalized FICUs; and (2) develop an alternative system of prompt corrective action for new credit unions that carries out the purpose of PCA while allowing an FICU reasonable time to build its net worth to an adequately capitalized level. Part 702 implements the statutory requirements. The purpose of PCA is to resolve the problems of FICUs at the least possible long-term loss to the National Credit Union Share Insurance Fund (NCUSIF).

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 642.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Reponses: 642.

Estimated Burden Hours per Response: 5.99.

Estimated Total Annual Burden Hours: 3,847.

OMB Number: 3133–0192.

Type of Review: Extension of a currently approved collection.

Title: Involuntary Liquidation Proof of Claim Form.

Form: NCUA Form 7250.

Abstract: In accordance with 12 CFR part 709, the NCUA is appointed liquidating agent of a credit union when the credit union is placed into involuntary liquidation. Section 709.6 instructs creditors to present a written claim to the liquidating agent by the date specified in the notice to creditors. Those creditors making a claim must document their claim in writing and submit a form to the liquidating agent. In addition, the liquidating agent may require a claimant to submit supplemental evidence to support its claim. This collection of information is necessary to protect the National Credit Union Share Insurance Fund in determining valid claims.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 1.10.

Estimated Total Annual Responses: 220.

Estimated Burden Hours per Response: 1.

Estimated Total Annual Burden Hours: 220.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on July 19, 2018.

Dated: July 19, 2018.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2018–15796 Filed 7–23–18; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–025 and 52–026; NRC–2008–0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4; Consistency and Clarification Changes to Annex Building, Auxiliary Building, and Basemat ITAAC

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 128 and 127 to Combined License (COL) Nos. NPF–91 and NPF–92, respectively. The COLs were issued to Southern Nuclear Operating Company, Inc., and Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (the licensee); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on June 27, 2018.

ADDRESSES: Please refer to Docket ID NRC–2008–0252 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0252. Address questions about NRC dockets to Jennifer Borges, telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated December 15, 2017 (ADAMS Accession No. ML17349A924), as supplemented by letter dated April 6, 2018 (ADAMS Accession No. ML18096A718).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One

White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chandu Patel, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3025; email: *Chandu.Patel@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from paragraph B of section III, ''Scope and Contents,'' of appendix D, ''Design Certification Rule for the AP1000,'' to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 128 and 127 to COL Nos. NPF–91 and NPF–92, respectively, to the licensee. The exemption is required by paragraph A.4 of section VIII, ''Processes for Changes and Departures,'' appendix D, to 10 CFR part 52 to allow the licensee to depart from Tier 1 information. With the requested amendment, the licensee sought proposed changes to plant-specific DCD Tier 2 and Tier 2* information and related changes to plant-specific Tier 1 information, with corresponding changes to Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) in COL Appendix C. Specifically, the proposed changes clarify the thickness of the Nuclear Island Basemat, revise wall thicknesses and descriptions in the Auxiliary Building, and clarify floor thicknesses in the Annex Building.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in sections 50.12, 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML18138A252.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VEGP Units 3 and 4 (COL Nos. NPF–91 and NPF–92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML18138A246 and ML18138A247, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COL Nos. NPF–91 and NPF–92 are available in ADAMS under Accession Nos. ML18138A248 and ML18138A250, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated December 15, 2017, as supplemented by letter dated April 6, 2018, the Southern Nuclear Operating Company (SNC) requested from the Commission an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in 10 CFR part 52, Appendix D, as part of license amendment request 17–040, ''Consistency and Clarification Changes to Annex Building, Auxiliary Building and Basemat ITAAC.''

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found in ADAMS under Accession No. ML18138A252, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined License, as described in the licensee's request dated December 15, 2017, as supplemented by letter dated April 6, 2018. This exemption is related to, and necessary for the granting of License Amendment No. 128 (Unit 3) and No. 127 (Unit 4), which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession No. ML18138A252), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated December 15, 2017 (ADAMS Accession No. ML17349A924), as supplemented by letter dated April 6, 2018 (ADAMS Accession No. ML18096A718), the licensee requested that the NRC amend the COLs for VEGP, Units 3 and 4, COL Nos. NPF–91 and NPF–92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on March 6, 2018 (83 FR 9555). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemptions and issued the amendments that the licensee requested on December 15, 2017, as supplemented by letter dated April 6, 2018.

The exemptions and amendments were issued on June 27, 2018, as part of a combined package to the licensee (ADAMS Accession No. ML18138A244).

Dated at Rockville, Maryland, this 19th day of July 2018.

For the Nuclear Regulatory Commission.

Paul B. Kallan,

Acting Chief, Licensing Branch 4, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2018–15783 Filed 7–23–18; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collections for OMB Review; Comment Request; Reportable Events; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of collections of information under PBGC's regulation on Reportable Events and Certain Other Notification Requirements (OMB control numbers 1212–0013 and 1212–0041, expiring November 30, 2018) with modifications. This notice solicits public comment.

DATES: Comments must be submitted by September 24, 2018 to be assured of consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the website instructions for submitting comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the OMB control number(s) they relate to. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided.

Copies of the collections of information and comments may be obtained without charge by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; faxing a request to 202–326–4042; or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The reportable events regulation, forms, and instructions are available at *http://www.pbgc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs (*cibinic.stephanie@pbgc.gov;* 202–326–4400 ext. 3839), or Deborah C. Murphy, Assistant General Counsel (*murphy.deborah@pbgc.gov;* 202–326–4400 ext. 3451 (leave voice message)), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400 and either of the above extensions.)

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and employer events to PBGC. The reporting requirements give PBGC notice of events that indicate plan or employer financial problems. PBGC uses the information provided in determining what, if any, action it needs to take. For example, PBGC might need to institute proceedings to terminate a plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in PBGC's losses.

The provisions of section 4043 of ERISA have been implemented in PBGC's regulation on Reportable Events and Certain Other Notification Requirements (29 CFR part 4043). Subparts B and C of the regulation deal with reportable events.

PBGC has issued Forms 10 and 10-Advance and related instructions under subparts B and C (approved under OMB control number 1212–0013). OMB approval of this collection of information expires November 30, 2018. PBGC intends to request that OMB extend its approval for three years, with modifications. 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.

PBGC estimates that it will receive 590 reportable event notices per year under subparts B and C of the reportable events regulation using Forms 10 and 10-Advance and that the average annual burden of this collection of information is 1,770 hours and $439,500.

Section 303(k) of the Employee Retirement Income Security Act of 1974 (ERISA) and section 430(k) of the Internal Revenue Code of 1986 (Code) impose a lien in favor of an underfunded single-employer plan that is covered by PBGC's termination insurance program if (1) any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds $1 million. (For this purpose, a plan is underfunded if its funding target attainment percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons that are liable for required contributions (*i.e.,* a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. ERISA and the Code require persons that fail to make payments to notify PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds $1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related instructions implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR 4043.81 (Subpart D of PBGC's regulation on Reportable Events and Other Notification Requirements, 29 CFR part 4043).

OMB has approved this collection of information under OMB control number 1212–0041, which expires November 30, 2018. PBGC intends to request that OMB extend its approval for three years, with modifications. 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.

PBGC estimates that it will receive 100 Form 200 filings per year and that the average annual burden of this collection of information is 100 hours and $72,500.

PBGC is soliciting public comments to—

- evaluate whether the proposed collections of information are 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 collections of information, including the validity of the methodologies and assumptions used;

• enhance the quality, utility, and clarity of the information to be collected; and

• minimize the burden of the collections 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.

Stephanie Cibinic,

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

[FR Doc. 2018–15806 Filed 7–23–18; 8:45 am]

BILLING CODE 7709–02–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

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

1. *Title and purpose of information collection:* Employee's Certification; OMB 3220–0140.

Section 2 of the Railroad Retirement Act (RRA), provides for the payment of an annuity to the spouse or divorced spouse of a retired railroad employee. For the spouse or divorced spouse to qualify for an annuity, the RRB must determine if any of the employee's current marriage to the applicant is valid.

The requirements for obtaining documentary evidence to determine valid marital relationships are prescribed in 20 CFR 219.30 through 219.35. Section 2(e) of the RRA requires that an employee must relinquish all rights to any railroad employer service before a spouse annuity can be paid.

The RRB uses Form G–346, Employee's Certification, to obtain the information needed to determine whether the employee's current marriage is valid. Form G–346 is completed by the retired employee who is the husband or wife of the applicant for a spouse annuity. Completion is required to obtain a benefit. One response is requested of each respondent. The RRB proposes no changes to Form G–346.

Form G–346sum, Employee Certification Summary, which mirrors the information collected on Form G–346, is used when an employee, after being interviewed by an RRB field office representative, ''signs'' the form using an alternative signature method known as ''attestation.'' Attestation refers to the action taken by the RRB field office representative to confirm and annotate the RRB's records of the applicant's affirmation under penalty of perjury that the information provided is correct and the applicant's agreement to sign the form by proxy. The RRB proposes no changes to Form G–346sum.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (min)	Burden (hrs)
G–346	4,220	5	352
G–346sum	2,100	5	175
Total	6,320	.....	527

2. *Title and purpose of information collection:* Railroad Separation Allowance or Severance Pay Report; OMB 3220–0173.

Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivors equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The lump-sum is not payable until retirement benefits begin to accrue or the employee dies. Also, Section 4(a–1) (iii) of the Railroad Unemployment Insurance Act provides that a railroad employee who is paid a separation allowance is disqualified for unemployment and sickness benefits for the period of time the employee would have to work to earn the amount of the allowance. The reporting requirements are specified in 20 CFR 209.14.

In order to calculate and provide payments, the Railroad Retirement Board (RRB) must collect and maintain records of separation allowances and severance payments which were subject to Tier II taxation from railroad employers. The RRB uses Form BA–9, Report of Separation Allowance or Severance Pay, to obtain information from railroad employers concerning the separation allowances and severance payments made to railroad employees and/or the survivors of railroad employees. Employers currently have the option of submitting their reports on paper Form BA–9, (or in like format) on a CD–ROM, or by File Transfer Protocol (FTP), or Secure Email. Completion is mandatory. One response is requested of each respondent. The RRB proposes no changes to Form BA–9.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–9 (Paper)	100	76	127
BA–9 (CD–ROM)	40	76	51
BA–9 (Secure Email)	60	76	76

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–9 (FTP)	160	76	203
Total	360		457

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, and 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian Foster,

Clearance Officer.

[FR Doc. 2018–15755 Filed 7–23–18; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83662; File No. SR–ICC–2018–008]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to ICC's Risk Management Model Description Document and ICC's Risk Management Framework

July 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) and Rule 19b–4, 17 CFR 240.19b–4, notice is hereby given that on July 5, 2018, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the proposed rule change is to make revisions to the ICC Risk Management Model Description Document and the ICC Risk Management Framework related to the transition from a stress-based approach to a Monte Carlo-based methodology for the spread response and recovery rate (''RR'') sensitivity response components of the Initial Margin model. These revisions do not require any changes to the ICC Clearing Rules.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

(a) Purpose

ICC proposes revising its Risk Management Model Description Document and its Risk Management Framework. ICC believes such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. The proposed revisions are described in detail as follows.

The purpose of the proposed changes is to transition from a stress-based approach to a Monte Carlo-based methodology for the spread response and recovery rate (''RR'') sensitivity response components of the Initial Margin model. ICC notes certain limitations of its stress-based approach, namely, that it generates a limited number of stress scenarios that may not capture the risk of portfolios with more complex non-linear instruments and that it does not provide for a consistent estimation of the portfolio level spread response based on a defined risk measure (*e.g.,* Value-at-Risk (''VaR'')) and quantile (*e.g.,* 99%). The transition to a Monte Carlo-based methodology rectifies these limitations, as it considers a large set of scenarios to more appropriately capture portfolio risk, including the risk of more complex non-linear instruments, and produces consistent quantile-based portfolio risk measure estimates.

To derive the spread response component, the current stress-based approach considers a set of hypothetical ''tightening'' and ''widening'' credit spread scenarios, from which it computes instrument Profit/Loss (''P/L'') responses for every Risk Factor (''RF'') scenario. All instrument P/L responses for a scenario are aggregated to obtain the portfolio P/L response for that scenario. Since the set of scenarios does not reflect the joint distribution of the considered RFs, offsets between P/Ls are applied to provide some portfolio benefits. To derive the RR sensitivity response component, all instruments belonging to a RF or Risk Sub-Factor (''RSF'') are subjected to RR stress scenarios to obtain the resulting P/L responses, and the worst scenario response is chosen for the estimation of the RF/RSF RR sensitivity response component.

Under the proposed Monte Carlo-based methodology, the ''integrated spread response'' component replaces the spread response and RR sensitivity response components. This component will be computed by creating P/L distributions from a set of jointly-simulated hypothetical (forward looking) spread and RR scenarios. The proposed Monte Carlo-based methodology utilizes standard tools in modeling dependence, which can be seen as a means for constructing multivariate distributions with different univariate distributions and with desired dependence structures, to generate the spread and RR scenarios. The proposed Monte Carlo-based methodology provides flexibility in modeling tail dependence, an important concept in risk management as it provides information about how frequently extreme values are expected to occur, and thus ICC considers them particularly suitable for implementing its Monte Carlo framework.

The univariate RF distribution assumptions do not change under the proposed Monte Carlo-based

methodology. ICC will utilize the simulated scenarios to derive hypothetical spread and RR levels, at which each instrument is repriced in order to generate a scenario instrument P/L based on post-index-decomposition positions. ICC will create P/L distributions from the set of jointly-simulated hypothetical (forward looking) credit spread and RR scenarios to compute the integrated spread response component. The P/L distributions for each instrument allow ICC to decompose portfolio level P/L at the RF level and to estimate RF-level risk measures. The proposed model will utilize the 5-day 99.5% VaR measure and allow ICC to be compliant with the European Market Infrastructure Regulation (''EMIR'') as applied to Over-The-Counter instruments.

Risk Management Model Description Document

ICC proposes revisions to the 'Initial Margin Methodology' section of the Risk Management Model Description Document to reflect the described transition from a stress-based approach to a Monte Carlo-based methodology for the spread response and RR sensitivity response components. ICC proposes to clarify its risk management approach to note that it features stress loss considerations and a P/L distribution analysis at selected quantile levels that are 99% or higher. The proposed changes also include a description of each of the Initial Margin model components, which are separated into statistically calibrated components and stress-based add-on components. The statistically calibrated components (*i.e.,* spread and RR dynamics, interest rate dynamics, and index/single-name (''SN'') basis dynamics) reflect fluctuations in market observed or implied quantities, and their direct P/L impacts. The stress-based add-on components (*i.e.,* idiosyncratic loss given default (''LGD''), wrong-way-risk (''WWR'') LGD, bid/offer width risk, and concentration risk) reflect the risk associated with low probability events with limited information sets.

ICC proposes to reorganize the 'Initial Margin Methodology' section to begin with the 'LGD Risk Analysis' section. The proposed changes to the 'LGD Risk Analysis' section include minor updates to terminology. The proposed revisions clarify that the LGD calculation considers RSF-specific RR level scenarios and that the Jump-To-Default (''JTD'') RR stress levels are updated if needed. ICC proposes to update the Profit/Loss-Given-Default (''P/LGD'') calculation at the RSF level to indicate the association between JTD and the RR level scenarios. ICC proposes to remove a reference to the stress levels noted in the current 'RR Sensitivity Risk Analysis' section. ICC proposes to move the RF level P/LGD calculation ahead of the Risk Factor Group (''RFG'') LGD calculations to avoid disrupting the grouping of RFG LGD calculations.

ICC proposes amendments to the 'JTD Risk Analysis' section. The proposed revisions to the Uncollateralized LGD (''ULGD'') calculation incorporate the integrated spread response component described above and remove reference to the current RR sensitivity response component. ICC also proposes, for clarity, to shorten a description in the WWR JTD calculation and to move details regarding the Kendall tau rank-order correlation to follow the WWR JTD calculation since such details are associated with the WWR JTD calculation. The details regarding the Kendall tau rank-order correlation remain unchanged, except for the addition of clarifying language referencing regulatory guidance with respect to RFs deemed highly correlated. ICC proposes to include this information, which is currently located in a source in a footnote, within the text to provide further description of the source in the footnote. ICC also proposes minor structural updates to its description of specific WWR (''SWWR'') to enhance readability.

ICC proposes to add clarifying language to the 'Interest Rate Sensitivity Risk Analysis' section to note that the interest rate sensitivity component is a statistically calibrated Initial Margin component. ICC also proposes to correct a notation to reflect an inverse distribution function.

ICC proposes amendments to the 'Basis Risk Analysis' section, which consist of combining into this section the current index decomposition process, followed by SN position offsets, and then generating basis risk requirements. Currently, the index decomposition process and SN position offsets are discussed under the 'Spread Risk Analysis' section. However, given the proposed changes to the 'Spread Risk Analysis' section along with the interrelation of these concepts, ICC proposes to combine these concepts by discussing each of them as a different subsection under the 'Basis Risk Analysis' section. Since the index decomposition process, followed by SN position offsets, generates basis risk requirements, these concepts are particularly well suited for discussion within the same section. Specifically, ICC proposes moving the description under the current 'Long-Short Benefits among RFs with Common Basis' subsection to the proposed 'Index Decomposition and Long-Short Offsets' subsection. ICC proposes minor changes to such description, including removing references to the spread response component that ICC proposes to replace.

Similarly, ICC proposes moving the description under the current 'Portfolio Benefits Hierarchy Summary' subsection to the proposed 'Long/Short Offset Hierarchy' subsection. The description includes the hierarchy to be followed in the allocation of each SN position to the index derived opposite positions and remains largely the same. ICC proposes minor changes to remove references to the current spread response component and to update the index series in an example.

ICC proposes moving the analysis under the current 'Basis Risk Analysis' section to the proposed 'Index-Basis Risk Estimation' subsection. The analysis discusses the calculation of the basis risk component and remains largely the same. The proposed edits state that the basis risk component is statistically calibrated to provide additional clarity, update a description to specify that index instruments may react to changing market conditions differently than SN instruments to more accurately reflect trading characteristics, and remove an example considered to be unnecessary and overly specific given its applicability to one index.

ICC proposes to combine the current 'Spread Risk Analysis' and 'RR Sensitivity Risk Analysis' sections into the proposed 'Spread and RR Risk Analysis' section to reflect ICC's transition from a stress-based approach to a Monte Carlo-based methodology for the spread response and RR sensitivity response components. As discussed above, ICC currently utilizes different methodologies to separately derive the spread response and the RR sensitivity response components, which are discussed in the 'Spread Risk Analysis' and 'RR Sensitivity Risk Analysis' sections, respectively. Under the proposed approach, ICC will utilize credit spreads and RR distributions to jointly simulate scenarios to estimate portfolio risk measures. Accordingly, ICC proposes to combine the 'Spread Risk Analysis' and 'RR Sensitivity Risk Analysis' sections into the 'Spread and RR Risk Analysis' section given their interrelation under the proposed approach, in which the integrated spread response will be computed by creating P/L distributions from a set of jointly-simulated hypothetical (forward looking) spread and RR scenarios.

ICC proposes to remove details regarding the current stress-based approach from the 'Initial Margin

Methodology' section and to describe how ICC generates credit spread scenarios using Monte Carlo techniques in the amended 'Spread Risk Analysis' section. As described above, the spread response component is derived in terms of a set of hypothetical ''tightening'' and ''widening'' credit spread scenarios under the current stress-based approach. The analysis of the univariate characteristics of credit spread log-returns to arrive at credit spread scenarios does not change under the Monte Carlo-based methodology.

The univariate RF distribution assumptions do not change under the Monte Carlo-based methodology and thus the 'Distribution of the Credit Spreads' subsection remains largely the same with some clarifying changes to language included.

ICC proposes to describe the implementation of the Monte Carlo-based methodology in the new 'Multivariate Statistical Approach via Copulas' subsection. ICC proposes to include a discussion on the construction and application of the standard tools in modeling dependence, including the review of their theoretical background, in the new 'Copulas' subsection.

ICC proposes the 'Tail Dependence' subsection to provide a description of the concept of tail dependence, given its relevancy as it indicates the probability of extreme values occurring jointly. The proposed subsection provides additional support behind ICC's conclusion that the tools for modeling dependence are particularly suitable for connecting the various univariate distributions in a multivariate setting as they provide flexibility in modeling tail dependence.

Under the proposed 'Copula Simulation' subsection, ICC describes its Monte Carlo-based simulation approach. The proposed approach is based on first generating for all SN RF/RSF and On The Run indices Most Actively Traded Tenor (''MATT'') scenarios using the stochastic representation of the selected multivariate distribution under consideration. The conditional simulation approach is then utilized to generate individual RF/tenor-specific scenarios. ICC also proposes to describe the block simulation approach that it utilizes in generating scenarios, which departs from an approach where all tenors for all SNs are simulated together. Instead, specific blocks of the correlation matrix are considered through the stepwise block simulation approach.

Under the proposed 'Copula Parameter Estimation' subsection, ICC discusses the estimation of a new parameter. The proposed subsection includes a description of two methods that can be used for parameter estimation, namely the ''quasi Maximum Likelihood'' approach and the ''Canonical Maximum Likelihood'' method. ICC proposes to include the value at which this parameter is set conservatively and to explain that such a value reflects strong tail dependence within the simulation framework, which is important because ICC estimates that tail dependence will increase in stressed market conditions.

Next, ICC proposes to remove details regarding the current stress-based approach for the RR sensitivity response component and to describe how ICC jointly simulates credit spread and RR scenarios using Monte Carlo techniques in the amended 'RR Risk Analysis' section. As discussed above, under the current stress-based approach, the RR sensitivity response component is computed in terms of RR stress scenarios and incorporates potential losses associated with changes in the market implied RR. The proposed Monte Carlo-based methodology considers the risk arising from fluctuations in the market implied RRs of each SN RF and/or RSF jointly with the fluctuations in the curves of credit spreads.

The univariate RR distribution assumptions do not change under the Monte Carlo-based methodology and thus the proposed 'Distribution of RRs' subsection contains much of the relevant analysis under the current 'RR Sensitivity Risk Analysis' section with some additional clarifying language to further specify that the RR stress-based sensitivity requirement transitioned to a Monte Carlo simulation-based methodology. ICC proposes to note the assumption regarding the analysis of each SN RF/RSF that includes the description located under the current 'Beta Distribution' subsection since the integrated spread response also assumes a Beta distribution describing the behavior of the RRs.

The amended 'Parameter Estimation' subsection discusses the parameter calibration necessary to simulate RR scenarios and is largely the same. The proposed revisions remove or replace terminology associated with the stress-based approach with terminology associated with the Monte Carlo-based approach.

The proposed 'Spread-Recovery-Rate Bivariate Model' subsection describes the use of credit spread and RR distributions to jointly simulate scenarios to estimate portfolio risk measures under the Monte Carlo-based methodology. Namely, ICC proposes to discuss the use of the conditional simulation approach to jointly simulate SN RF/RSF-specific RR scenarios with SN RF/RSF MATT spread log-return scenarios. ICC proposes to note several assumptions under this model, along with an explanation of how it generates the individual SN RF/RSF-specific RR scenarios and the tenor-specific spread scenarios using copulas.

ICC proposes moving the 'Arbitrage-Free Modeling' subsection, which is currently located under the 'Spread Risk Analysis' section, under the 'Spread and RR Risk Analysis' section. The analysis remains largely the same with some language clarifications, including references to simulated spread levels in conjunction with simulated RR levels within the text and within formulas to ensure consistency with the proposed 'Spread and RR Risk Analysis' section. ICC proposes further revisions to terminology, such as removing terminology associated with the stress-based approach and incorporating the Monte Carlo simulation based methodology described above to ensure consistency with the proposed 'Spread and RR Risk Analysis' section. ICC also proposes replacing specific references to the current most actively traded tenor with references to the more general concept of ''most actively traded tenor'' to account for a situation in which the referenced most actively traded tenor is different.

Under the proposed 'Risk Estimations' subsection, ICC describes the computation of the integrated spread response component. Once the Monte Carlo scenarios are simulated, all instruments will be repriced, and the respective instrument P/L responses will be computed. Upon consideration of the instrument positions in each portfolio along with the instrument P/L responses, portfolio risk estimations will be performed and the integrated spread response component will be established.

ICC proposes to discuss its calculation of P/Ls for instruments, RFs, common currency sub-portfolios, and multi-currency sub-portfolios under the new 'RF and Sub-Portfolio Level Integrated Spread Response' subsection. ICC proposes to retain the use of sub-portfolios as is currently done today. However, the portfolio benefits across sub-portfolios will be limited. This enhancement allows ICC to decompose portfolio level P/L at the sub-portfolio level and to estimate sub-portfolio level risk measures.

Under the proposed 'Instrument P/L Estimations' subsection, ICC describes the calculation of instrument P/Ls. Namely, ICC will reprice all instruments

at the hypothetical spread and RR levels, which are derived from the simulated spread and RR scenarios, and take the difference between the prices of the instruments at the simulated scenarios and the current end-of-day (''EOD'') prices. ICC will utilize the instrument-related P/L distribution to estimate the instrument-specific integrated spread response as the 99.5% VaR measure in the currency of the instrument.

Under the proposed 'RF P/L Estimations' subsection, ICC describes the calculation of RF P/Ls. ICC will utilize the simulated P/L scenarios, combined with the post-index-decomposition positions related to a given RF, to generate a currency-specific RF P/L distribution. ICC will utilize this RF-related P/L distribution to estimate the RF-specific integrated spread response as the 99.5% VaR measure in the currency of the considered RF.

Under the proposed 'Common Currency Sub-Portfolio P/L Estimations' subsection, ICC describes the calculation of common currency sub-portfolio P/Ls. For a currency specific sub-portfolio, ICC extracts the relevant risk measures from sub-portfolio level P/L distributions, which are obtained from the aggregation of common currency RF P/L distributions.

Under the proposed 'Multi-Currency Sub-Portfolio P/L Estimations' subsection, ICC adds clarifying language describing the calculation of multi-currency sub-portfolio P/Ls. ICC proposes to extend multi-currency portfolio benefits to RFs with similar market characteristics, where the RFs and their respective instruments are denominated in different currencies. Under the proposed approach, long-short integrated spread response benefits are provided between Corporate RFs that are denominated in different currencies. ICC proposes to retain the multi-currency risk aggregation approach, which involves obtaining U.S. Dollar (''USD'') and Euro (''EUR'') denominated sub-portfolio P/L distributions, to RFs within the North American Corporate and European Corporate sub-portfolios denominated in USD and EUR currencies, respectively.

ICC proposes to include its calculation for the portfolio level integrated spread response component in the 'Portfolio level Integrated Spread Response' subsection. The calculation will include the sub-portfolio-specific integrated spread response after any potential multicurrency benefits and the RF-specific integrated spread response. ICC proposes the new 'RF Attributed Integrated Spread Response Requirements' subsection to describe the calculation of the RF attributed integrated spread response component for each RF in the considered portfolio.

ICC proposes minor revisions to the 'Anti-Procyclicality Measures' subsection to replace terminology associated with the stress-based approach with terminology associated with the Monte Carlo-based approach. ICC also proposes to update calculation descriptions relating to portfolio responses to note that certain amounts are converted to or represented in USD using the EOD established foreign exchange (''FX'') rate.

ICC proposes updates to the 'Multi-Currency Portfolio Treatment' section to incorporate the proposed integrated spread response component. ICC proposes to clarify that it implements a multi-currency portfolio treatment methodology for portfolios with instruments that are denominated in different currencies. The proposed changes also remove references to the current spread response component.

ICC propose minor edits to the 'Portfolio Loss Boundary Condition' section to remove or replace references to the current spread response and RR sensitivity response components with references to the proposed integrated spread response component within the text and within formulas to ensure consistency with the proposed 'Spread and RR Risk Analysis' section, specifically the 'Portfolio Level Integrated SR' subsection. Moreover, ICC proposes to reference, for clarity, the total number of RFs within the considered sub-portfolio in its calculations of the maximum portfolio loss and the maximum portfolio integrated spread response to ensure consistency with the proposed 'Spread and RR Risk Analysis' section, specifically the 'Portfolio Level Integrated SR' subsection.

ICC proposes minor changes to the 'Guaranty Fund (''GF'') Methodology' section. The proposed changes move the descriptions associated with the credit spread curve shape scenarios (*i.e.,* Uniform Scaling, Pivoting, and Tenor Specific) from the current 'Spread Risk Analysis' section to the 'Unconditional Uncollateralized Exposures' subsection. Although the credit spread curve shape scenarios are currently considered as part of the spread response component, ICC proposes to only use them for GF purposes. The descriptions and calculations associated with the credit spread curve shape scenarios remain largely the same with some clarifying changes, including the substitution of a variable for the simulation quantile in the calculations to reflect consistency with the GF risk measure, and structural changes to the descriptions to enhance readability. Additionally, the proposed changes include reference to the integrated spread response in place of the spread response in the calculations describing the GF stress spread response.

ICC proposes other non-material changes to the Risk Management Model Description Document, including minor grammatical, typographical, and structural changes to enhance readability and minor updates to calculations to update symbol notations.

Risk Management Framework

ICC proposes conforming revisions to its Risk Management Framework to reflect the transition from a stress-based approach to a Monte Carlo-based methodology for the spread response and RR sensitivity response components of the Initial Margin model. The proposed revisions are described in detail as follows.

ICC proposes changes to the 'Waterfall Level 2: Initial Margin' section to combine the spread response and the RR sensitivity components into the proposed integrated spread response component. The proposed revisions introduce the integrated spread response component under the amended 'Integrated Spread Response Requirements' section and replace all references to the spread response with references to the integrated spread response. ICC proposes conforming changes throughout the framework. Currently, the spread response component is obtained by estimating scenario P/L for a set of hypothetical ''tightening'' and ''widening'' credit spread scenarios and by considering the largest loss. Under the proposed revisions, the integrated spread response will be computed by creating P/L distributions from a set of jointly-simulated hypothetical (forward looking) credit spread and RR scenarios. The proposed changes provide an updated calculation of the instrument scenario P/L, note the mappings between spread and RR levels and prices are performed by means of the International Swap and Derivatives Association (''ISDA'') standard conversion convention, and specify that the hypothetical prices are forward looking. ICC also proposes to state that the integrated spread response approach assumes a distribution that describes the behavior of the RRs.

ICC proposes the new 'Index Decomposition Approach' subsection, which contains the analysis under the current 'Index Decomposition Benefits between Index RFs and SN RSFs'

subsection without any material changes. ICC also proposes the new 'Portfolio Approach' subsection to describe the Monte Carlo simulation framework, which replaces the current stress-based approach noted above. ICC proposes to utilize Monte Carlo techniques to generate spread and RR scenarios. ICC will utilize the simulated scenarios to derive hypothetical spread and RR levels, at which each instrument is repriced in order to generate a scenario instrument P/L based on post-index-decomposition positions. For each scenario, instrument P/Ls are aggregated to obtain RF and sub-portfolio P/Ls, which represent the RF and sub-portfolio P/L distributions that are used to estimate the RF and sub-portfolio 99.5% VaR measures at a risk horizon that is at least 5 days. The portfolio level integrated spread response is estimated as a weighted sum of RF and sub-portfolio 99.5% VaR measures. ICC also proposes to move its analysis related to achieving anti pro-cyclicality to the amended 'Integrated Spread Response Requirements' section without any material changes.

(b) Statutory Basis

Section 17A(b)(3)(F) of the Act [1] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; and to comply with the provisions of the Act and the rules and regulations thereunder. ICC believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular, to Section 17(A)(b)(3)(F),[2] because ICC believes that the proposed rule changes will promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions, and contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible. The transition to a Monte Carlo-based methodology rectifies certain limitations associated with the current stress-based approach, since Monte Carlo techniques allow ICC to consider a large set of scenarios to more appropriately capture portfolio risk, including the risk of more complex non-linear instruments, and produce consistent quantile-based portfolio risk measures. Moreover, the proposed transition to a Monte Carlo-based methodology enhances ICC's Initial Margin model since it provides a robust and flexible solution to assessing the risk of complex portfolios. As a result, ICC believes that it will be better able to capture portfolio risk and generate sound and efficient Initial Margin requirements, which would enhance the financial resources available to ICC and thus decrease the possibility that a default adversely impacts ICC's operations, thereby facilitating ICC's ability to promptly and accurately clear and settle its cleared CDS contracts and enhancing ICC's ability to assure the safeguarding of securities and funds which are in the custody or control of ICC or for which it is responsible. As such, the proposed rule changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, derivatives agreements, contracts, and transactions and to contribute to the safeguarding of securities and funds associated with security-based swap transactions in ICC's custody or control, or for which ICC is responsible within the meaning of Section 17A(b)(3)(F) [3] of the Act.

The proposed rule change will also satisfy the requirements of Rule 17Ad–22.[4] Rule 17Ad–22(b)(2) [5] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions. ICC believes that the transition from a stress-based to a Monte Carlo-based methodology provides for a consistent and capital-efficient portfolio approach, which will improve ICC's ability to calculate margin requirements. An enhanced margin calculation will allow ICC to establish margin requirements that are better able to capture the risk of portfolios, including portfolios with more complex non-linear instruments, to ensure that ICC establishes margin requirements that are commensurate with the risks and characteristics of each portfolio, thereby improving ICC's ability to limit its credit exposures to participants under normal market conditions, consistent with the requirements of Rule 17Ad–22(b)(2).[6]

Rule 17Ad–22(b)(3) [7] requires ICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the two Clearing Participant (''CP'') families to which it has the largest exposures in extreme but plausible market conditions. The utilization of Monte Carlo techniques will enhance the financial resources available to ICC by enhancing ICC's Initial Margin model such that ICC is better able to capture portfolio risk and generate stable and efficient Initial Margin requirements. As a result, the likelihood that a default adversely impacts ICC's operations lessens, allowing ICC to continue to ensure that it maintains sufficient financial resources to withstand, at a minimum, a default by the two CP families to which it has the largest exposures in extreme but plausible market conditions, consistent with the requirements of Rule 17Ad–22(b)(3).[8]

Rule 17Ad–22(d)(8) [9] requires ICC to have governance arrangements that are clear and transparent to fulfill the public interest requirements in Section 17A of the Act.[10] ICC's Risk Management Framework and Risk Management Model Description Document clearly assign and document responsibility and accountability for risk decisions and require consultation with or approval from the ICC Board, committees, or management. ICC determined to transition to a Monte Carlo-based methodology in accordance with its governance process, which included review of the changes to the Risk Management Framework and the Risk Management Model Description Document and related risk management considerations by the ICC Risk Committee and approval by the Board. These governance arrangements continue to be clear and transparent, such that information relating to the assignment of responsibilities for risk decisions and the requisite involvement of the ICC Board, committees, and management is clearly documented, consistent with the requirements of Rule 17Ad–22(d)(8).[11]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule changes would have any impact, or impose any burden, on competition. The proposed changes to ICC's Risk Management Model Description Document and ICC's Risk Management Framework will apply uniformly across

[1] 15 U.S.C. 78q–1(b)(3)(F).

[2] *Id.*

[3] *Id.*

[4] 17 CFR 240.17Ad–22.

[5] 17 CFR 240.17Ad–22(b)(2).

[6] *Id.*

[7] 17 CFR 240.17Ad–22(b)(3).

[8] *Id.*

[9] 17 CFR 240.17Ad–22(d)(8).

[10] 15 U.S.C. 78q–1.

[11] 17 CFR 240.17Ad–22(d)(8).

all market participants. Therefore, ICC does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission, or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2018–008 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–ICC–2018–008. 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 website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission, or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission, or advance notice 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 website 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 the filing also will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.* All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2018–008 and should be submitted on or before August 14, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15771 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83660; File No. SR–ISE–2018–63]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Schedule of Fees To Waive Fees and Rebates for Trades in NQX Options

July 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 6, 2018, Nasdaq ISE, LLC (''ISE'' or ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Schedule of Fees, as further described below.

The text of the proposed rule change is available on the Exchange's website at *http://ise.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently received approval to list index options on the Nasdaq 100 Reduced Value Index (''NQX'') on a pilot basis.[3] The NQX options contract will be the same in all respects as the current Nasdaq-100 Index (''NDX'') options contract listed on the Exchange, except that it will be based on ⅕ of the value of the Nasdaq 100 Index, and will be P.M. settled with an exercise settlement value based on the closing index value of the Nasdaq 100 on the day of expiration.[4] The

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82911 (March 20, 2018), 83 FR 12966 (March 26, 2018) (SR–ISE–2017–106).

[4] *Id.* The Exchange notes that similar features are available with other index options contracts listed on the Exchange and other options exchanges, including P.M. settled options on the full value of the Nasdaq-100 Index (''NDXP'').

Exchange will begin to list NQX on June 26, 2018.[5]

The Exchange now proposes to amend its Schedule of Fees to provide that there will be no fees or rebates for trades in NQX options executed from June 26–29, 2018. Volume executed in NQX options during this period will continue to be counted toward a member's tier for June activity. As such, NQX executions from June 26–29, 2018 will be included in the applicable volume tier calculations for a member's June activity, including those volume calculations specific to Non-Select Symbols (*i.e.,* options overlying all symbols that are not in the Penny Pilot Program).[6] The Exchange plans to adopt pricing for NQX as of July 2, 2018, and will do so through the SEC rulemaking process. The proposed changes would simplify the Exchange's billing by allowing the Exchange to bill for NQX activity traded as of July 2nd, and is an inducement for members to trade NQX options during the first week of listing as there would be no transaction fees for doing so.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that it is reasonable and equitable to assess no fees or rebates for executions in NQX from June 26–29, 2018 because it will simplify the Exchange's billing and promote members to trade in NQX during the first week of listing, as further discussed above. For the same foregoing reasons, the Exchange also believes that it is reasonable and equitable to provide that volume executed in NQX during this time period will continue to be counted toward a member's tier for June activity. The Exchange also believes that it is reasonable to include NQX volume in this manner because it would be more burdensome to make changes to the Exchange's billing system in the middle of the month rather than the start to exclude a new symbol from the applicable volume tier calculations, as described above. The Exchange further believes that its proposal is not unfairly discriminatory as it will apply to trades in NQX that are executed by all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed change to not assess any fees or rebates for executions of NQX orders from June 26–29, 2018 is merely intended to simplify the Exchange's billing, and promote members to trade in NQX during the first week of listing. Furthermore, the proposal will apply uniformly to all similarly situated market participants, as discussed above. For the foregoing reasons, the Exchange does not believe that its proposal will impose an undue burden on competition.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[9] and Rule 19b–4(f)(2)[10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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*. Please include File Number SR–ISE–2018–63 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–ISE–2018–63. 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 website (*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 website viewing and printing in the Commission's Public

[5] The Exchange initially filed the proposed pricing changes on June 26, 2018 (SR–ISE–2018–58). On July 6, 2018, the Exchange withdrew that filing and submitted this filing.

[6] For example, the Exchange provides Market Makers discounted fees for regular orders in Non-Select Symbols if the Market Maker executes a monthly volume of 250,000 contracts or more. *See* Schedule of Fees, Section IV.D. As proposed, the Market Maker's executions in NQX between June 26–29, 2018 would not be entitled to any discounted fees given that no fees or rebates would be provided during the proposed period, but such executions would still be counted toward the monthly volume calculation (*i.e.,* to reach the 250,000 contract threshold). NQX is a Non-Select Symbol.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2018–63 and should be submitted on or before August 14, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15767 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83668; File No. SR–NYSEAMER–2018–22]

Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Exchange Rule 7.35E Relating to the Auction Reference Price for a Trading Halt Auction Following a Regulatory Halt

July 18, 2018.

On May 15, 2018, NYSE American LLC (''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 7.35E relating to the Auction Reference Price for a Trading Halt Auction following a regulatory halt. The proposed rule change was published for comment in the **Federal Register** on June 5, 2018.[3] The Commission has received one comment letter in response to the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates September 3, 2018, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEAMER–2018–22).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15765 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83661; File No. SR–NYSEArca–2018–02]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change Relating to Listing and Trading of the Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares and Direxion Daily Bitcoin 2X Bear Shares Under NYSE Arca Rule 8.200–E

July 18, 2018.

On January 4, 2018, NYSE Arca, Inc. (''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the following exchange-traded products under NYSE Arca Rule 8.200–E, Commentary .02: Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares. The proposed rule change was published for comment in the **Federal Register** on January 24, 2018.[3] On March 1, 2018, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On April 23, 2018, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[6] to determine whether to approve or disapprove the proposed rule change.[7] The Commission has received two comments on the proposed rule change.[8]

Section 19(b)(2) of the Act[9] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on January 24, 2018. July 23, 2018, is 180

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 83341 (May 30, 2018), 83 FR 2612 (June 5, 2018).

[4] *See* Letter from Duane Fiedler, to Secretary, Securities and Exchange Commission (June 23, 2018).

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82532 (Jan. 18, 2018), 83 FR 3380 (Jan. 24, 2018).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 82795 (Mar. 1, 2018), 83 FR 9768 (Mar. 7, 2018).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 83094 (Apr. 23, 2018), 83 FR 18603 (Apr. 27, 2018). Specifically, the Commission instituted proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' *See id.* at 18604 (citing 15 U.S.C. 78f(b)(5)).

[8] *See* Letters from Steven Williams (May 17, 2018) and Sharon Brown-Hruska, Managing Director, and Trevor Wagener, Consultant, NERA Economic Consulting (May 18, 2018). All comments on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2018-02/nysearca201802.htm.*

[9] 15 U.S.C. 78s(b)(2).

days from that date, and September 21, 2018, is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider this proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[10] designates September 21, 2018, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NYSEArca–2018–02).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15768 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, July 26, 2018.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Jackson, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: July 19, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–15858 Filed 7–20–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83666; File No. SR–NSCC–2018–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Terminate the Commission Billing Service and the Commission Billing Limited Membership

July 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2018, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Rules and Procedures of NSCC (''Rules'') in order to in order to terminate the Commission Billing service and the Commission Billing type of limited membership, as described in greater detail below.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to revise its Rules in order to discontinue its Commission Billing service and the Commission Billing type of limited membership, for the reasons described below.

Overview of the Commission Billing Service

As currently described in Rule 16, NSCC provides a service through which it facilitates the payment of commissions on monthly basis between its Members and Commission Billing Members.[4] Brokers that use this service to charge and collect commissions are Commission Billing Members, which is a type of limited membership that allows these firms to participate in NSCC solely for the collection of commissions.

Currently, Commission Billing Members are floor broker firms that are members of the New York Stock Exchange (''NYSE'') and NYSE American (formerly the American Stock Exchange), although historically the service was available to floor broker firms on any U.S. exchange. As provided for in Rule 2 of the Rules, Commission Billing Members participate solely in the collection and payment of commissions as provided for under Rule 16 of the Rules.[5]

Floor broker firms execute trades on behalf of their clients for a commission. In order to process commission charges applied to clients who are Members, floor broker firms that are Commission Billing Members may submit these charges to NSCC. Commission charges are submitted to NSCC in one of two ways. In most cases, where the Commission Billing Member is a member of NYSE, NYSE may act as a payment-data aggregator and creates and submits payment files to NSCC. Alternatively, Commission Billing Members may submit payments directly to NSCC through a web-based system. NSCC tabulates all payment records received on a monthly basis, and either sends amounts to The Depository Trust Company (''DTC'') for payment (for billed Members that are also Participants of DTC) or processes

[10] *Id.*

[11] 17 CFR 200.30–3(a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *Available at http://www.dtcc.com/legal/rules-and-procedures.* Capitalized terms used herein and not otherwise defined shall have the meaning assigned to such terms in the Rules.

[4] *Id.*

[5] *Id.*

payments through Automated Clearing House, or ''ACH,'' payments.

For many years, the Commission Billing service provided these brokers and Members with an efficient way to submit and receive commission payments when few alternative payment options existed in the industry that would handle the large volume of transactions.

Rationale for Terminating the Commission Billing Service and Commission Billing Limited Membership

NSCC is proposing to terminate the Commission Billing service for a number of reasons, as described below. Because the Commission Billing type of limited membership exists only for the purposes of the use of this service, NSCC would terminate the existing Commission Billing memberships simultaneously with the termination of the service.

Over the years, the volumes of trades handled by floor brokers firms have decreased, leading to a significant decrease in commission bill transactions and the use of this service. Between January 2017 and June 2018, the Commission Billing service processed an average of approximately 87 commission payments per month (averaging a total of approximately $370,000 each month), compared to an average of approximately 10,000 commission payments per month in the early 2000's. The number of Commission Billing Members has also declined, with only seven new firms joining over the last eight years. Commission Billing Members have alternative methods to process commission payments. For example, firms may process the charges and payments through their own accounts payable systems, charging and collecting payments from their clients directly. Due to the lower volumes of commission payments, this is a more reasonable alternative to the Commission Billing Service than it may have been when volumes of payments were higher. Therefore, the industry's reliance on this service, which was built to provide an efficient way to process large volumes of payments, has been diminishing.

Since the introduction of the service, NSCC has provided the Commission Billing service as a utility service to the industry and its Members; the service provided its Members and the industry with value, but it was not designed to generate profit for NSCC. Over time, the reduced volumes of transactions has caused this service to be provided at a financial loss to NSCC. Costs of providing the service include engaging an ACH settling bank and ongoing system operating costs.

Additionally, due to the use of legacy systems that lack automation and support features, the service continues to rely on manual processes and requires personnel involvement. While errors in the operation of the service are infrequent, the reliance on manual processes creates a risk of such errors. Remediation of such errors, if they occur, could distract support resources from higher priority tasks. NSCC would be required to invest in enhancements to the systems that support the Commission Billing service if it continued to offer the service.

Therefore, due to the reduced reliance on this service by the industry, the cost of providing this service, and the availability of other methods for Members and brokers to process these payments, NSCC is proposing to terminate the Commission Billing service.

In order to terminate the Commission Billing service, NSCC would amend the Rules to remove Rule 16 (Settlement of Commissions) and to remove references to the Commission Billing type of limited membership from Rule 1 (Definitions and Descriptions), Rule 2 (Members and Limited Members), Rule 2A (Initial Membership Requirements), Rule 2B (Ongoing Membership Requirements and Monitoring), Rule 18 (Procedures for When the Corporation Declines or Ceases to Act), Rule 22 (Suspension of Rules), Rule 24 (Charges for Services Rendered), Rule 26 (Bills Rendered), Rule 34 (Insurance), Rule 37 (Hearing Procedures), Rule 46 (Restrictions on Access to Services), Rule 58 (Limitations on Liability), Rule 64 (DTCC Shareholders Agreement), Addendum A (Fee Structure), Addendum B (Qualifications and Standards of Financial Responsibility, Operational Capability and Business History), Addendum D (Statement of Policy Envelope Settlement Service, Mutual Fund Services, Insurance and Retirement Processing Services, and Other Services Offered by the Corporation), and Addendum P (Fine Schedule). NSCC would also make necessary conforming changes to Addendum B (Qualifications and Standards of Financial Responsibility, Operational Capability and Business History) and Rule 1 (Definitions and Descriptions). Finally, NSCC would add a legend to each of the above listed Rules and Addenda that identifies the implementation date of the proposed changes.

Implementation Timeframe

Given that all current Commission Billing Members are floor broker members of NYSE and NYSE American, NSCC will work closely with these exchanges to provide these firms with notice of the proposed termination of this service and their related limited memberships with NSCC. NSCC also would provide these firms with time to transition to alternative methods for the submission of charges and receipt of commission payments. Subject to the approval of this proposed rule change filing, NSCC would implement this proposed rule change and terminate the Commission Billing service by no later than November 30, 2018.

2. Statutory Basis

NSCC believes that the proposed changes are consistent with the Section 17A(b)(3)(F) of the Act, which requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, for the reasons described below.[6] The proposed rule change would terminate a service that takes up various resources (through its reliance on manual operations and by operating at a financial loss) and is no longer relied on by Members and the industry. Because NSCC would no longer need to divert resources to an underutilized service, the proposed rule change would afford NSCC the ability to employ those resources in a manner that could better support and promote the prompt and accurate clearance and settlement of securities transactions. In that way, NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[7]

Rule 17Ad–22(e)(21)(iv) under the Act requires, in part, that NSCC be efficient and effective in meeting the requirements of its participants and the markets it serves, and have the covered clearing agency's management regularly review the efficiency and effectiveness of its use of technology and communication procedures.[8] As described above, to continue providing the Commission Billing service, NSCC would need to enhance the systems and technology used to operate the system in order to implement more automation and support features. However, given that the service currently operates at a financial loss and does not provide the industry with the same value that it has in the past, NSCC has determined that it would be more efficient and effective

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Id.*

[8] 17 CFR 240.17Ad–22(e)(21)(iv).

in meeting the requirements of its Members to eliminate the service and instead use its resources for higher priority services. Therefore, NSCC believes the proposed rule change is consistent with Rule 17Ad–22(e)(21)(iv).[9]

(B) Clearing Agency's Statement on Burden on Competition

The proposed rule change could have an impact on competition because Commission Billing Members that currently use the service to process their commission bills, and firms that may apply to use the service in the future, would no longer be able to do so. However, NSCC does not believe that the impact of this proposed rule change on competition would be significant. First, the proposal is unlikely to have a significant impact because the use of the service has diminished over time, as described above. NSCC has not onboarded a new Commission Billing Member in over two years, and the number of active Commission Billing Members has declined over time. Therefore, elimination of the service is unlikely to impact many firms that may wish to join as Commission Billing Members in the future. Second, while current Commission Billing Members would need to use other methods to process commission payments, alternatives currently exist, including using their own accounts payable system. Given that volumes of commission bills have trended lower over the past few years, these firms should not incur a significant cost in processing commission bills and collecting commission payments through their own internal billing systems. Therefore, NSCC does not believe that the proposed rule change would have a significant impact on competition.

NSCC also believes that any impact the proposed rule change may have on competition would be both necessary and appropriate in furtherance of the purposes of the Act.

The proposed rule change would afford NSCC the option to utilize its resources for matters that better support and promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[10] The proposed rule change would also allow NSCC to be more efficient and effective in meeting the requirements of its Members by using its resources for higher priority services, consistent with Rule 17Ad–22(e)(21)(iv) under the Act.[11] Therefore, by advancing NSCC's ability to meet the requirements of both Section 17A(b)(3)(F) of the Act[12] and Rule 17Ad–22(e)(21)(iv) under the Act,[13] NSCC believes any impact the proposed rule change may have on competition would be necessary in furtherance of the purposes of the Act.

Additionally, NSCC believes that the proposed rule change is a reasonable method of advancing NSCC's ability to meet these requirements. As noted above, Members' use of this service has reduced over time, and the cost to NSCC of providing the service has outweighed the benefit it provides to the industry. NSCC would provide Members and Commission Billing Members with notice and time to transition to other viable methods for processing these payments. Therefore, NSCC believes the proposed rule change is a reasonable method of advancing NSCC's ability to meet the requirements of both Section 17A(b)(3)(F) of the Act[14] and Rule 17Ad–22(e)(21)(iv) under the Act.[15]

Therefore, NSCC does not believe that the proposed rule change would have a significant impact on competition, and further believes that any such impact would be both necessary and appropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not solicited or received any written comments relating to this proposal. NSCC will notify the Commission of any written comments that it receives.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2018–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2018–004. 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 website (*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 website 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 NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2018–004 and should be submitted on or before August 14, 2018.

[9] *Id.*

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 240.17Ad–22(e)(21)(iv).

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 240.17Ad–22(e)(21)(iv).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 17 CFR 240.17Ad–22(e)(21)(iv).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15766 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83667; File No. SR–DTC–2018–006]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Amend Rule 35 To Provide for Designated Accounts for Use With Designated Collateral Management Service Providers

July 18, 2018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 9, 2018, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of DTC would amend Rule 35[3] to permit a Participant or Pledgee to designate one or more collateral management service providers,[4] acting on behalf of the Participant or Pledgee, to receive reports and information from, and provide certain instructions to, DTC with respect to specified Accounts of the Participant or Pledgee. In addition, the proposed rule change would make ministerial changes to Rule 35, as discussed below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change of DTC would amend Rule 35 to permit a Participant or Pledgee to designate one or more collateral management service providers, acting on behalf of the Participant or Pledgee, to receive reports and information from, and provide certain instructions to, DTC with respect to specified Accounts of the Participant or Pledgee. In addition, the proposed rule change would make ministerial changes to Rule 35, as discussed below.

A. Background

i. Rule 35

On May 4, 2017, the Commission approved a DTC rule change that added Rule 35.[5] DTC introduced Rule 35 at the request of DTCC Euroclear Global Collateral Ltd. (''DEGCL'')[6] in accordance with DEGCL specifications. The purpose of Rule 35 was to permit a Participant to authorize DEGCL to receive certain reports and information with respect to Securities held by the Participant at DTC in one or more sub-accounts (each, a ''CMS Sub-Account'') so that DEGCL might provide collateral management services with respect to such Securities.[7]

As DEGCL sought to expand its activities under Rule 35, which would have required one or more amendments to the rule, DTC considered whether a more comprehensive approach to Rule 35 might better serve the collateral management needs of its Participants and Pledgees.

ii. Proposed Rule Changes

The proposed rule change to amend Rule 35 would apply to any collateral management service provider that satisfies the requirements of the rule, and to any Account designated by a Participant or Pledgee. The amended rule would authorize DTC to provide information to the collateral management service provider (as it does for DEGCL currently) but, further, to act on instructions of the collateral management service provider.

More specifically, the proposed rule change would:

(1) Introduce the concept of a ''CMSP,'' a collateral management service provider designated to DTC by a Participant or Pledgee to act on behalf of the Participant or Pledgee under the proposed rule. The concept of a CMSP would replace the singular designation of DEGCL to act under this rule;[8]

(2) Introduce the concept of a ''CMSP Account,'' an Account of a Participant or Pledgee that the Participant or Pledgee, respectively, has designated as subject to the proposed rule. The scope of a CMSP Account would replace the narrower concept of the existing CMS Sub-Account;[9]

(3) Add the concept of a ''CMSP Instruction,'' an instruction of a CMSP to DTC for the Delivery, Pledge, or Release of Securities to or from a CMSP Account for which the CMSP is designated under the proposed rule; and

(4) Introduce the defined terms ''CMSP Position Report'' and ''CMSP Information'' (collectively, ''CMSP

---

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[4] Collateral management generally involves calculating collateral requirements and facilitating the transfer of collateral between counterparties. *See* Securities Exchange Act Release No. 64796 (July 1, 2011), 76 FR 39963, 39964 (July 7, 2011) (S7–28–11).

[5] *See* Securities Exchange Act Release No. 80598 (May 4, 2017), 82 FR 21837 (May 10, 2017) (SR–DTC–2017–001).

[6] DEGCL is a joint venture of The Depository Trust & Clearing Corporation, the corporate parent of DTC, and Euroclear S.A./N.V. and was formed for the purpose of offering global information, record keeping, and processing services for derivatives collateral transactions and other types of financing transactions. DEGCL offers service options for the selection of collateral to satisfy the collateral obligations of its users (''DEGCL CMS''). One option relates exclusively to Securities held at DTC, and is dependent on Rule 35. For more information on DEGCL and DEGCL CMS, *see* Securities Exchange Act Release No. 80280 (March 20, 2017), 82 FR 15081 (March 24, 2017) (SR–DTC–2017–001).

[7] Rule 35 provides that by establishing a CMS Sub-Account, a Participant authorizes DEGCL to receive from DTC (x) a ''CMS Report,'' which provides information regarding Securities credited to the CMS Sub-Account of such Participant at the time of the report, and (y) ''CMS Delivery Information,'' which provides real-time information regarding any Delivery or Pledge from, or Delivery or Release to, the CMS Sub-Account of such Participant.

[8] DTC understands that DEGCL expects to be a CMSP under proposed Rule 35 and expects to offer collateral management services under the amended rule.

[9] Rule 35 currently requires that a designated Account must be a sub-Account, and can only be designated by a Participant, which were DEGCL specifications. By expanding the rule to Accounts more generally, which could be designated by any Participant or Pledgee, the proposed rule would provide a Participant or a Pledgee flexibility to choose among CMSPs with different models for collateral management services and to structure its Accounts in a manner that aligns most efficiently with its collateral management needs and the specifications of its designated CMSP(s).

Reports''). These reports are analogous to the CMS Report and CMS Delivery Information, respectively, provided to DEGCL under Rule 35.

B. Proposed Rule

i. CMSP

Proposed Section 2 of Rule 35 would set forth the requirements to be a CMSP.[10] Proposed Section 2 would provide that a partnership, corporation or other organization or entity may become a CMSP for purposes of proposed Rule 35 if it satisfies the following requirements: (a) It is designated to DTC by one or more Participants or Pledgees as a collateral management service provider for purposes of Rule 35; (b) it (i) satisfies at least one of the qualifications set forth in Section 1(a)–(h) of Rule 3 [11] or (ii) is organized in a country other than the United States, is regulated by a financial regulatory authority in the country in which it is organized, and demonstrates that it has notified the Commission in writing of its intention to operate under Rule 35; [12] and (c) it establishes a connection to DTC in accordance with the reasonable requirements of DTC in order to be able to receive position and transaction information and to submit instructions to DTC in accordance with the Rules and Procedures.[13]

Proposed Section 2 of Rule 35 would also provide that DTC may decline to accept an entity as a CMSP if it would present material risk to DTC, its Participants and Pledgees, or impose material costs to DTC. For illustrative purposes only, some examples of circumstances in which DTC might reject a collateral management service provider as a CMSP may include, without limitation, circumstances in which DTC reasonably believes that acceptance of the collateral management service provider as a CMSP would (i) subject DTC to additional legal or regulatory regimes, to which it is not otherwise subject; (ii) expose DTC to additional technology risk; or (iii) cause DTC to be in violation of applicable law or regulation.

ii. CMSP Accounts

The proposed rule change would amend Rule 35 to allow either a Participant or a Pledgee to designate any Account as a CMSP Account. The key feature of a CMSP Account is that it allows the designated CMSP access and authority to provide instruction to DTC (as further described below) for the Delivery, Pledge, or Release of Securities on behalf of a Participant or Pledgee, as applicable. The proposed rule change would specify that, with respect to a CMSP Account, a Participant or Pledgee would retain the right to instruct DTC as otherwise provided in the Rules and Procedures.

Pursuant to proposed Section 3 of Rule 35, a Participant or Pledgee would be able to designate one or more CMSP Accounts and, concurrently, designate one or more CMSPs with respect to each CMSP Account. The designation of a CMSP with respect to a CMSP Account by a Participant or Pledgee would constitute:

(1) The appointment of the CMSP by the Participant or Pledgee of the CMSP to act on its behalf under Rule 35;

(2) the authorization of the appointed CMSP by the Participant or Pledgee to receive CMSP Reports and to provide CMSP Instructions;

(3) the authorization of DTC by the Participant or Pledgee to act in accordance with any CMSP Instruction of such CMSP; and

(4) the representation and warranty of the Participant or Pledgee that it is duly authorized to instruct DTC to provide CMSP Reports to the CMSP and to act in accordance with any CMSP Instruction.

With the exception of references to Pledgees and to the new concept of CMSP Instruction, these authorizations, representations, and warranties would substantially track Rule 35, as previously adopted.

In addition, the proposed rule change would not substantially alter the liability and indemnification provisions in Rule 35. The proposed rule change would provide that each Participant and Pledgee that designates a CMSP with respect to a CMSP Account would indemnify DTC, and any nominee of DTC, against any loss, liability or expense as a result of any claim arising from the compliance of DTC with CMSP Instructions, except to the extent such loss, liability, or expense is caused directly by the DTC's gross negligence or willful misconduct.

iii. CMSP Reports

As discussed above, Rule 35 currently provides a mechanism for a Participant to authorize DEGCL to receive position and transaction information from DTC, in the form of CMS Reports and CMS Delivery Information.[14] The proposed rule change would permit a Participant or Pledgee to designate a CMSP that would be authorized to receive CMSP Reports and give CMSP Instructions with respect to CMSP Accounts for which the CMSP is designated. The CMSP Position Report and CMSP Information are analogous to the reports provided to DEGCL under existing Rule 35 (defined as the CMS Report and CMS Delivery Information, respectively).[15]

[10] *See supra* note 8.

[11] Sections 1(a)–(h) of Rule 3 provide the qualifications for a partnership, corporation or other organization or entity to be eligible to become a Participant. Specifically, it must satisfy at least one of the following qualifications: ''(a) it is a corporation which engages in clearance and settlement activities and which is a subsidiary of a national securities exchange or national securities association registered under the Exchange Act; (b) it is a member or member organization in good standing of a corporation described in paragraph (a) above; (c) it is a corporation which is authorized pursuant to Article 8 of the Uniform Commercial Code, or other similar statutory provision in effect in the jurisdiction in which such corporation engages in business, to engage in the business of effecting the transfer or pledge of Securities by book-entry and which engages in such business; (d) it is a bank or trust company which is subject to supervision or regulation pursuant to the provisions of Federal or State banking laws or any subsidiary of such a bank or trust company or a bank holding company or any subsidiary of a bank holding company; (e) it is an insurance company subject to supervision or regulation pursuant to the provisions of State insurance laws; (f) it is an investment company registered under section 8 of the Investment Company Act; (g) it is a pension fund or other employee benefit fund; or (h) if it does not qualify under paragraphs (a) through (g) above, it is (i) a financial institution which demonstrates to the Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from direct access to the Corporation's services or (ii) a broker-dealer registered under the Exchange Act.'' *Supra* note 3.

[12] In order to protect DTC, its Participants and Pledgees, a collateral management service provider that wishes to act under proposed Rule 35 would need to be subject to regulatory oversight comparable to a Participant, as provided in proposed Section 2(b)(i) of Rule 35, or, if the entity is organized in a country other than the United States (a ''non-U.S. entity''), it would need to be regulated by a financial regulatory authority in the country in which it is organized, as provided in proposed Section 2(b)(ii) of Rule 35. Further, the proposed rule change would require that, in order to be eligible to become a CMSP, the non-U.S. entity must notify the Commission in writing of its intention to operate under proposed Rule 35. While DTC reserves the right to request documentation and/or information relating to a collateral management service provider's compliance with the requirements of proposed Section 2 of Rule 35, it would be the sole responsibility of the Participant or Pledgee to evaluate and choose an appropriate collateral management service provider that, at a minimum, satisfies the requirements. Under proposed Section 2 of Rule 35, the designating Participant or Pledgee would remain liable as principal for the actions of its designated CMSP(s) on its behalf, and would indemnify DTC for any loss, liability, or expense as a result of any claim arising from (i) any act or omission of the CMSP, (ii) the provision of CMSP Reports to the CMSP by DTC, or (iii) DTC's compliance with instructions of the CMSP.

[13] *See infra* note 15.

[14] *See supra* note 7.

[15] The proposed rule change would not alter the provision in Rule 35 that states that DTC will provide the CMSP Reports ''through such dedicated communications channels, satisfactory to [DTC] in its sole discretion, as [DTC] shall afford for this purpose.'' Typically, DTC would have infrastructure and operations that it would use to transmit information to, or receive information from, CMSPs under proposed Rule 35. DTC would

Continued

Existing Rule 35 defines ''CMS Delivery Information'' to mean, ''with respect to CMS Securities and any Delivery or Pledge thereof from, or Delivery or Release thereof to, a CMS Sub-Account, a copy of any Delivery, Pledge, or Release message sent to the CMS Participant by DTC, including the following information: (x) the CUSIP, ISIN, or other identification number of such CMS Securities, and (y) the number of shares or other units or principal amount of such CMS Securities.'' This definition was drafted to align with DEGCL specifications. Pursuant to the proposed rule change, the definition would be drafted in more general terms to provide flexibility for the different collateral management service offerings of CMSPs (in addition to DEGCL). Pursuant to the proposed rule change, ''CMSP Information'' would mean, ''with respect to a CMSP Account of a Participant or Pledgee, a copy of any message sent to the Participant or Pledgee by the Corporation.'' These messages would include, but would not be limited to, the Delivery, Pledge, and Release messages referenced in the definition of CMS Delivery Information in existing Rule 35.

Similarly, existing Rule 35 defines ''CMS Report'' to mean, ''with respect to a CMS Participant and its CMS Sub-Account, the following information identifying the CMS Securities that are, at the time of such report, credited to such CMS Sub-Account: (i) The CUSIP, ISIN, or other identification number of the CMS Securities, and (ii) the number of shares or other units or principal amount of the CMS Securities.'' This definition was drafted to align with DEGCL specifications. Pursuant to the proposed rule change, ''(i) the CUSIP, ISIN, or other identification number of the CMS Securities, and (ii) the number of shares or other units or principal amount of the CMS Securities'' would be deleted from the definition.

Finally, similar to existing Rule 35, proposed Rule 35 would provide that DTC would have no liability to any Participant or Pledgee as a result of providing one or more CMSP Reports to any CMSP pursuant to proposed Section 5 of Rule 35.

consider requests from CMSPs for alternative methods of connectivity, taking into account factors that may include, but are not limited to, operational feasibility, user demand, and cost. In such a situation, the applicable CMSP would be responsible for all development, integration, implementation, and additional operating costs related to such alternate method of transmission.

iv. CMSP Instructions

The proposed rule change would further amend Rule 35 to provide that a CMSP designated by a Participant or Pledgee with respect to a CMSP Account would be authorized to instruct DTC, on behalf of the Participant or Pledgee, for the Delivery, Pledge, or Release of Securities credited to such CMSP Account, as applicable.[16] CMSP Instructions would be subject to the terms and conditions of the Rules and the Procedures applicable to Deliveries, Pledges, and Releases of Securities generally, including risk management controls.[17] The purpose of this proposed change is to streamline collateral processing by CMSPs by allowing them to receive information directly from DTC and to take direct action on that information through CMSP Instructions, on behalf of Participants and Pledgees.

Pursuant to the proposed rule change, the right of any CMSP to instruct DTC with respect to a CMSP Account would not preclude instructions by the Participant or Pledgee itself, or CMSP Instructions by another CMSP, with respect to the same CMSP Account. Furthermore, Rule 35 would provide that DTC has no liability (i) to a Participant or Pledgee for acting in accordance with, or relying upon, CMSP Instructions, or (ii) to any CMSP as a result of DTC acting in accordance with, or relying upon, instructions of any other Person, including, but not limited to, the Participant or Pledgee or any other designated CMSP.

C. Proposed Rule Changes

In connection with the foregoing, DTC proposes to make the following changes (including ministerial changes) to Rule 35.

Title. DTC is proposing to replace the current title ''CMS Reporting'' with ''CMSP Reports and Instructions,'' to reflect the amended substance of the proposed rule.

Section 1. For stylistic consistency, DTC is proposing to insert the title ''Certain Defined Terms'' for Section 1. For the reasons explained above, DTC is further proposing to (i) delete the definitions of CMS, CMS Participant, CMS Representative, CMS Securities, DEGCL, and DTCC; (ii) add definitions for CMSP, CMSP Account, CMSP Instruction, and CMSP Reports; (iii) replace the defined term ''CMS Delivery Information'' with ''CMSP Information'' and simplify the definition by referring to ''a copy of any message sent to the Participant or Pledgee'' with respect to a CMSP Account, instead of ''a copy of any Delivery, Pledge, or Release message sent to the CMS Participant by DTC, including the following information: (x) the CUSIP, ISIN, or other identification number of such CMS Securities, and (y) the number of shares or other units or principal amount of such CMS Securities''; and (iv) replace the defined term ''CMS Report'' with ''CMSP Position Report'' and simplify the definition by removing the DEGCL specifications of ''(i) the CUSIP, ISIN, or other identification number of the CMS Securities, and (ii) the number of shares or other units or principal amount of the CMS Securities.''

Proposed Section 2 (New). DTC is proposing to insert a new proposed Section 2, titled ''Qualification as a CMSP.'' As discussed above, Section 2 would set forth the requirements that an entity must satisfy to become a CMSP.

Section 2 (Proposed Section 3). DTC is proposing to renumber Section 2 to Section 3, and to change the title of proposed Section 3 to ''CMSP Accounts.'' DTC is further proposing to modify subsection (a) to delete DEGCL CMS-specific terms and to reflect that (i) a Participant or Pledgee can designate one or more CMSP Accounts, as well as designate one or more CMSPs for each CMSP Account, and (ii) the designation of a CMSP with respect to a CMSP Account by a Participant or Pledgee would constitute: (1) The appointment of the CMSP by the Participant or Pledgee of the CMSP to act on its behalf under Proposed Rule 35; (2) the authorization of the appointed CMSP by the Participant or Pledgee to receive CMSP Reports and to provide CMSP Instructions; (3) the authorization of DTC by the Participant or Pledgee to act in accordance with any CMSP Instructions of such CMSP; and (4) the representation and warranty of the Participant or Pledgee that it is duly authorized to instruct DTC to provide

[16] For a CMSP Account of a Participant, that would include Delivery or Pledge. For a CMSP Account of a Pledgee, that would include Delivery or Release.

[17] DTC risk management controls, including Collateral Monitor and Net Debit Cap (as defined in Rule 1, Section 1 of the Rules), are designed so that DTC may complete system-wide settlement notwithstanding the failure to settle of its largest Participant or Affiliated Family of Participants. The Collateral Monitor tests whether a Participant has sufficient collateral for DTC to pledge or liquidate if that Participant were to fail to meet its settlement obligation. Pursuant to these controls under applicable DTC Rules and Procedures, DTC would not process any Delivery or Pledge instruction order from a CMSP Account that would cause the Participant to exceed its Net Debit Cap or to have insufficient DTC Collateral to secure its obligations to DTC. Deliveries would be processed in the same order and with the same priority as otherwise provided in the Rules and Procedures (*i.e.,* such Deliveries and Pledges would not take precedence over any other type of Delivery or Pledge in the DTC system).

CMSP Reports to the CMSP and to act in accordance with CMSP Instructions. DTC is further proposing to modify subsection (b) to remove CMS-specific references, to reflect the inclusion of Pledgees, CMSPs, and CMSP Instruction in the proposed rule, and to make ministerial changes. Additionally, DTC proposes to remove subsection (c) as it would be no longer relevant because it relates exclusively to DEGCL.

Section 3 (Proposed Section 4). DTC is proposing to renumber Section 3 as Section 4, and to change the title of the section to ''Instructions on a CMSP Account.'' DTC is further proposing to (i) modify subsection (a) to remove provisions relating to the transfer of Securities to a CMS Sub-Account, and to insert a provision stating that a Participant or Pledgee retains its right to instruct DTC with respect to its CMSP Account, and (ii) modify subsection (b) to remove provisions relating to the transfer of Securities to a CMS Sub-Account, and to insert a provision specifying that a CMSP may instruct the Delivery, Pledge, or Release of Securities to or from a CMSP Account for which it is designated pursuant to proposed Section 3 of Rule 35. Further, DTC proposes to insert proposed subsection (c) that would state that all Deliveries, Pledges, and Releases to or from a CMSP Account would be subject to the terms and conditions of the Rules and Procedures applicable to Deliveries, Pledges, and Releases of Securities generally.

Section 4. DTC proposes to delete this section, as it relates to DEGCL specifications for a CMS Report and would no longer be relevant.

Section 5. DTC is proposing to replace the current title of ''CMS Delivery Information'' with ''CMSP Reports.'' DTC is further proposing to insert proposed subsection (a) to provide for the provision of CMSP Position Reports and CMSP Information to each CMSP for each CMSP Account for which it is designated. DTC additionally proposes to delete the following language, because it relates to DEGCL-specific requirements: ''CMS Delivery Information. The Corporation shall, for purposes of CMS, provide CMS Delivery Information to the CMS Representative, in real-time, with respect to (i) each Delivery or Pledge from, and (ii) Delivery or Release to, any CMS Sub-Account.'' Further, DTC proposes to incorporate the remaining language of Section 5, modified to conform with the defined terms of the proposed rule change, into proposed subsection (b).

Section 6. DTC is proposing to modify the section to (i) add references to CMSPs, Pledgees, CMSP Reports, and CMSP Instructions, (ii) remove references to CMS Participant, CMS Report, Delivery Information, and CMS Representative, and (iii) update a cross-reference relating to CMSP Reports. DTC is further proposing to add disclaimers of liability to (i) a Participant or Pledgee for acting in accordance with, or relying upon, CMSP Instructions, or (ii) any CMSP as a result of DTC acting in accordance with, or relying upon, instructions of any other Person, including, but not limited to, the Participant or Pledgee or any other designated CMSP, with respect to a CMSP Account.

For additional clarity, DTC is also proposing to make ministerial changes to (i) update articles, pronouns, and determiners, and (ii) modify language for stylistic conformity within the proposed rule.

Implementation Timeframe

DTC will implement the proposed rule change two Business Days after approval of this filing by the Commission. Participants would be advised of the implementation date of this proposed rule change through the issuance of a DTC Important Notice.

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(F) of the Act.[18]

Section 17A(b)(3)(F) of the Act[19] requires, *inter alia,* that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions. By amending Rule 35 (i) to expand its application to CMSPs generally, and (ii) to provide that Pledgees, in addition to Participants, may designate an Account under Rule 35, the proposed rule change would provide any Participant or Pledgee the opportunity to choose one or more CMSPs that align most efficiently with its specific collateral management needs and to structure its Accounts accordingly. In addition, by amending Rule 35 to permit any Participant or Pledgee to designate one or more CMSPs to provide CMSP Instructions to DTC with respect to a CMSP Account, the proposed rule change would reduce the number of actions that a Participant or Pledgee that has a CMSP would need to take in order to effect the settlement of collateral transactions at DTC, thereby adding efficiency by providing straight-through submission and processing of settlement instructions by a CMSP without further actions by the Participant or Pledgee. Further, for enhanced clarity, the proposed rule change would make ministerial changes to Rule 35 so the processes relating to CMSPs are clear and consistent. Therefore, by (i) providing Participants and Pledgees the opportunity to choose a CMSP that aligns most efficiently with its needs, (ii) providing streamlined submission and processing of settlement instructions by a CMSP on behalf of the Participant or Pledgee, and (iii) providing a clear and consistent rule relating to CMSPs, the proposed rule change is designed to improve efficiency in the processing and settlement of collateral transactions, thereby promoting the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F).

Rule 17Ad–22(e)(21) promulgated under the Act requires, *inter alia,* that each covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.[20] By amending Rule 35 to permit a Participant or Pledgee to designate one or more CMSPs to provide CMSP Instructions to DTC with respect to a CMSP Account, the proposed rule change would provide (i) an efficient mechanism for a Participant or Pledgee to designate collateral management service providers for its Account at DTC, and (ii) flexibility to a Participant or Pledgee to structure its Accounts in a manner that is most effective for the collateral management needs of that Participant or Pledgee and for the specifications of its designated CMSP(s), and is therefore designed to be efficient and effective in meeting the requirements of Participants, consistent with the requirements of the Act, in particular Rule 17Ad–22(e)(21).

(B) Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed rule change to amend Rule 35 to (i) expand its application to CMSPs generally, (ii) provide that Pledgees, in addition to Participants, may designate an Account under Rule 35, and (iii) provide for CMSP Instructions to DTC with respect to a CMSP Account, would have an impact on competition by potentially promoting competition, and would not

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] *Id.*

[20] 17 CFR 240.17Ad–22(e)(21).

impose a burden on competition.[21] By removing provisions particular to DEGCL only, and providing that any Participant or Pledgee can designate a CMSP for a CMSP Account, the proposed rule change would (i) offer collateral management service providers (in addition to DEGCL) the opportunity to provide collateral management services to Participants and Pledgees under proposed Rule 35, and (ii) provide any Participant or Pledgee the opportunity to choose from among competing collateral management service providers. In addition, by providing that a Participant or Pledgee can designate one or more CMSPs to provide CMSP Instructions to DTC with respect to a CMSP Account for which it is designated, the proposed rule change would provide CMSPs the opportunity to include direct messaging to DTC as part of their services to Participants or Pledgees. Therefore, DTC believes that the proposed rule change would not impose a burden on competition but may promote competition.

DTC does not believe that the proposed ministerial changes to Rule 35 would have any impact on competition because these clarifications would merely make changes for accuracy and consistency and therefore would not affect the rights and obligations of any Participant or Pledgee or other interested party.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[21] 15 U.S.C. 78q–1(b)(3)(I).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2018–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2018–006. 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 website (*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 website 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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2018–006 and should be submitted on or before August 14, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15769 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83665; File No. SR–ICEEU–2018–009]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to Amendments to the ICE Clear Europe CDS End-of-Day Price Discovery Policy (''Price Discovery Policy'')

July 18, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2018, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

ICE Clear Europe proposes to modify certain provisions of its Price Discovery Policy related to the bid-offer width (''BOW'') methodology for pricing single name credit default swap (''CDS'') contracts. These revisions do not require any changes to the ICE Clear Europe Clearing Rules or Procedures.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules.

set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

(a) Purpose

ICE Clear Europe proposes revising its Price Discovery Policy to enhance the methodology used to determine BOWs for single name CDS contracts and to make corresponding changes to related governance processes.

Each business day, ICE Clear Europe determines end-of-day (''EOD'') levels for CDS Contracts through in accordance with the Price Discovery Policy, based on EOD submissions from its CDS Clearing Members. ICE Clear Europe uses these EOD levels for mark-to-market and risk management purposes. As part of this price discovery process, ICE Clear Europe determines BOWs for each CDS Contract. The BOW is intended to estimate the bid-offer width for the two-way market available for each clearing-eligible instrument at the specified determination time on each business day. The BOWs are then used in ICE Clear Europe's price discovery process as inputs in the determination of EOD levels, and other risk management matters.

The current methodology for determining BOWs for single-name CDS Contracts is based on a consensus BOW derived from observed intraday spread-quotes for the most actively traded instrument (''MATI'') across the term structure and cleared coupons. The spread-based consensus BOW is multiplied by a ''scrape factor'' to reflect any differences between the BOWs provided in intraday quotes and BOWs achieved in the market. ICE Clear Europe applies various factors to the consensus BOW to reflect differences in instrument liquidity at longer and shorter maturities, and at higher and lower coupons.

ICE Clear Europe is proposing to enhance the methodology for determining EOD BOWs for single name instruments. The enhancement eliminates the use of the ISDA CDS Standard Model from the computation of single name BOWs. ICE Clear Europe established its current BOW methodology at a time when it accepted submissions to its end-of-day price discovery process in both spread and price terms, at the discretion of its Clearing Members. Since that time, ICE Clear Europe has enhanced its end-of-day price discovery process to accept Single Name submissions only in price terms, eliminating the need for spread-based BOWs.[4] The proposed enhancement also determines BOWs consistently across single names on all reference entities, including those for which only sparse intraday data is available. The enhancement also extends the application of price-based BOW floors from the 0/3 month, 6 month and 1 year benchmark tenors to the entire set of benchmark tenors. Finally, the proposed enhancement introduces a dynamic feature that can widen BOWs in response to the observed dispersion of price-space mid-market levels submitted in the EOD price discovery process.

Under the proposed enhancement ICE Clear Europe will compute a consensus BOW for each benchmark instrument, not only for the most actively traded instrument. Rather than consensus BOWs being derived only from intraday quotes, they will be computed as a price-based floor plus a fraction of the instrument's currently observed level, based on the average of price-space mid-market levels submitted by CDS Clearing Members as part of the EOD price discovery process. ICE Clear Europe will continue to apply various factors to the consensus BOW to reflect differences in liquidity at longer and shorter maturities and at higher and lower coupons. Under the proposed enhancement, the Clearing House will determine systematic BOWs for each benchmark instrument at the most actively traded coupon (''MATC'') by applying tenor scaling factors to the corresponding consensus BOWs. These tenor scaling factors reflect the BOW of each tenor relative to the BOW of the most actively traded tenor. ICE Clear Europe will determine systematic BOWs for each benchmark instrument at other coupons by applying a combination of tenor scaling factors and coupon scaling factors to the corresponding consensus BOWs. Coupon scaling factors are an adjustment to the BOW to reflect decreased market activity at coupons larger or smaller than the MATC, and accordingly result in a wider BOW for such coupons as compared to the MATC. ICE Clear Europe will apply the appropriate Single Name variability factor resulting in the final systematic EOD BOWs based on the applicable variability band (a similar variability factor can be applied in the current approach, but on a discretionary basis). The variability factor is an additional scaling factor that widens the BOW to account for volatile or fast-moving market conditions, on the basis of a market proxy variability band that is designed to reflect observed variability levels in intraday quotes.[5]

ICE Clear Europe will determine the final EOD BOW as the greater of an instrument's systematic BOW, and a dynamic BOW established for the instrument based on the dispersion of price-based mid-market EOD submissions by CDS Clearing Members for the given instrument. The amendments remove the requirement for ICE Clear Europe to provide the spread space equivalents for BOWs.

ICE Clear Europe also proposes revisions to the governance provisions of the Price Discovery Policy. Under the revisions, and consistent with the amendments to the methodology described above, the parameters used in the EOD price discovery process are established by ICE Clear Europe's clearing risk department in consultation with ICE Clear Europe's trading advisory committee, which provides additional insight into current market dynamics and conditions. The responsibilities of ICE Clear Europe's clearing risk department in this regard will include determining the price-based floors and scaling factors used to establish BOWs. (References to determination of scrape factors, which are no longer used, have been removed.)

The revised Price Discovery Policy removes a duplicative table relating to the assignment of index risk factors to market proxy groups, and updates cross-references accordingly. ICE Clear Europe also proposes a revision that trading desks at each self-clearing member are requested (but not required), to copy ICE Clear Europe on the intraday quotes they provide market participants via email.

(b) Statutory Basis

ICE Clear Europe believes that the proposed amendments are consistent with the requirements of Section 17A of the Act[6] and the regulations thereunder applicable to it. Section 17A(b)(3)(F) of the Act[7] in particular requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative

[4] ICE Clear Europe continues to use the ISDA CDS Standard Model for certain other purposes under the Price Discovery Policy in which it may convert between spread and price levels, and accordingly references to the model have been retained in the revised Price Discovery Policy notwithstanding that the model is no longer used for determining single-name BOWs.

[5] For further discussion of the variability band approach, see Exchange Act Release No. 34–83389 (SR–ICEEU–2018–006) (June 6, 2018), 83 FR 27356 (June 12, 2018).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

agreements, contracts, and transactions, the safeguarding of securities and funds in the custody or control of the clearing agency, and the protection of investors and the public interest. The proposed amendments are designed to enhance the Clearing House's Price Discovery Policy, which is necessary to determine the daily settlement prices for cleared CDS Contracts that are used in mark-to-market margin settlement and additionally are key inputs of the risk management and margin models of the Clearing House for CDS contracts. The proposed amendments in particular will update the methodology for determining BOWs, which are an important part of the determination of the EOD level. The amendments provide a more comprehensive and dynamic approach for determining BOWs for single-name CDS Contracts, that applies across all tenors of such contracts. The revised methodology takes into account both observed and submitted price levels and implements appropriate price floors and tenor, coupon and variability scaling factors that can adjust the BOW for particular instruments (including less actively traded instruments) to reflect liquidity and other market conditions. In ICE Clear Europe's view, the revised approach, together with the other aspects of the Price Discovery Policy, will facilitate more accurate determinations of EOD levels for the full range of cleared single-name instruments, and strengthen the overall EOD price discovery process. As a result, ICE Clear Europe believes that the amendments are consistent with requirements to promote prompt and accurate clearing and settlement, within the meaning of Section 17A(b)(3)(F).[8] For similar reasons, ICE Clear Europe believes that the amendments are also consistent with the risk-based margining requirements of Commission Rule 17Ad–22(e)(6),[9] including the requirement to use reliable sources of timely price data and procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable. The enhancements discussed above will in particular take into account a broad range of observed and submitted price data and enhance the soundness of the overall methodology applied to calculating EOD pricing, through the use of tenor, coupon and variability factors to develop more accurate BOW levels for the full range of cleared instruments, including those that are less actively traded and for which direct pricing data may be less readily available. Finally, ICE Clear Europe believes that the amendments are consistent with the governance requirements of Commission Rule 17Ad–22(e)(2),[10] including ensuring that its written policies provide for governance arrangements that specify clear and direct lines of responsibility. In this regard, the amendments update the specific responsibilities of the Clearing Risk department and the TAC in the determination of BOWs and the establishment of relevant parameters, including price-based floors and scaling factors.

(B) Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule changes would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The proposed changes to the Price Discovery Policy, and in particular the revised BOW methodology for Single Name instruments, will apply uniformly across all CDS Clearing Members and market participants. ICE Clear Europe does not believe the amendments will adversely affect competition among CDS Clearing Members, the cost of clearing, or the ability of market participants to clear CDS contracts generally. Similarly, the Clearing House does not believe the amendments will reduce access to clearing of CDS contracts or limit market participants' choices for clearing CDS contracts. Therefore, ICE Clear Europe does not believe the proposed rule changes impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed amendments have not been solicited or received by ICE Clear Europe. ICE Clear Europe will notify the Commission of any comments received with respect to the proposed rule change.

---

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 17 CFR 240.17Ad–22(e)(6). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable:

(6) Cover, if the covered clearing agency provides central counterparty services, its credit exposures to its participants by establishing a risk-based margin system that, at a minimum:

(i) Considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market;

(ii) Marks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances;

(iii) Calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default;

(iv) Uses reliable sources of timely price data and uses procedures and sound valuation models for addressing circumstances in which pricing data are not readily available or reliable;

(v) Uses an appropriate method for measuring credit exposure that accounts for relevant product risk factors and portfolio effects across products;

(vi) Is monitored by management on an ongoing basis and is regularly reviewed, tested, and verified by:

(A) Conducting backtests of its margin model at least once each day using standard predetermined parameters and assumptions;

(B) Conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for backtesting on at least a monthly basis, and considering modifications to ensure the backtesting practices are appropriate for determining the adequacy of the covered clearing agency's margin resources;

(C) Conducting a sensitivity analysis of its margin model and a review of its parameters and assumptions for backtesting more frequently than monthly during periods of time when the products cleared or markets served display high volatility or become less liquid, or when the size or concentration of positions held by the covered clearing agency's participants increases or decreases significantly; and

(D) Reporting the results of its analyses under paragraphs (e)(6)(vi)(B) and (C) of this section to appropriate decision makers at the covered clearing agency, including but not limited to, its risk management committee or board of directors, and using these results to evaluate the adequacy of and adjust its margin methodology, model parameters, and any other relevant aspects of its credit risk management framework; and

(vii) Requires a model validation for the covered clearing agency's margin system and related models to be performed not less than annually, or more frequently as may be contemplated by the covered clearing agency's risk management framework established pursuant to paragraph (e)(3) of this section.''

[10] 17 CFR 240.17Ad–22(e)(2). The rule states that ''[e]ach covered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable:

(2) Provide for governance arrangements that:

(i) Are clear and transparent;

(ii) Clearly prioritize the safety and efficiency of the covered clearing agency;

(iii) Support the public interest requirements in Section 17A of the Act (15 U.S.C. 78q–1) applicable to clearing agencies, and the objectives of owners and participants;

(iv) Establish that the board of directors and senior management have appropriate experience and skills to discharge their duties and responsibilities;

(v) Specify clear and direct lines of responsibility; and

(vi) Consider the interests of participants' customers, securities issuers and holders, and other relevant stakeholders of the covered clearing agency.''

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2018–009 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2018–009. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice 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 website 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 filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's website at *https://www.theice.com/clear-europe/regulation.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2018–009 and should be submitted on or before August 14, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–15770 Filed 7–23–18; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 02/02–0621 issued to Brookside Pecks Capital Partners, L.P., said license is hereby declared null and void.

United States Small Business Administration

Dated: July 2, 2018.

A. Joseph Shepard,

Associate Administrator for Investment and Innovation.

[FR Doc. 2018–15760 Filed 7–23–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15588 and #15589; LOUISIANA Disaster Number LA–00086]

Administrative Declaration of a Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Louisiana dated 07/17/2018.

Incident: Severe Storms, Tornadoes and Straight-line Winds.

Incident Period: 04/13/2018 through 04/14/2018.

DATES: Issued on 07/17/2018.

Physical Loan Application Deadline Date: 09/17/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 04/17/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes: Caddo

Contiguous Parishes/Counties:

Louisiana: Bossier, De Soto, Red River.

Arkansas: Lafayette, Miller.

Texas: Cass, Harrison, Marion, Panola.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.625
Homeowners without Credit Available Elsewhere	1.813
Businesses with Credit Available Elsewhere	7.160
Businesses without Credit Available Elsewhere	3.580
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.580
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15588 C and for economic injury is 15589 0.

The States which received an EIDL Declaration # are Louisiana, Arkansas, Texas.

[11] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Number 59008)

Dated: July 17, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–15756 Filed 7–23–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA–2018–0526]

Corrections to Previous Notice Regarding Supplemental Guidance on the Airport Improvement Program (AIP) for Fiscal Years 2018–2020

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

ACTION: Notice.

SUMMARY: On July 9, 2018, the FAA published a **Federal Register** notice announcing the process for eligible airport sponsors in two categories to notify the FAA of any supplemental discretionary funding requests. This notice addresses two omissions, one correction and one update.

FOR FURTHER INFORMATION CONTACT: Elliott Black, Director, Office of Airport Planning and Programming, APP–1, at (202) 267–8775.

SUPPLEMENTARY INFORMATION: The July 9, 2018 notice required airport sponsors to submit specific information via electronic mail (email) in order to request supplemental funding. In addition to the original requirements, for each request, the submission must also identify the total capital cost of the proposed project and the amount of funding being requested.

In addition, the FAA is developing an optional form that may make it easier for airports to ensure they provide all required information. The FAA will post the form online at *https://www.faa.gov/airports/aip/aip_supplemental_appropriation/.* Accordingly, airports may still submit their requests via electronic mail (email) as stated in the original **Federal Register** notice, or they may complete the optional form and transmit it via email. In addition, the FAA may eventually develop a web-based electronic portal for submission of requests. If this happens, then the FAA will post an announcement on the same website, which now also supports automated notifications regarding updates for users who choose to subscribe to the website.

Finally, in the July 9 notice, footnotes #6, 7 and 9 incorrectly referred to footnote #4.

They should have referred instead to footnote #5.

All other information, including submission requirements, evaluation criteria and deadlines remain unchanged from the original July 9 notice.

Issued in Washington, DC, on July 18, 2018.

Elliott Black,

Director, Office of Airport Planning and Programming, Federal Aviation Administration.

[FR Doc. 2018–15829 Filed 7–23–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on a Land Use Change From Aeronautical to Non-Aeronautical Use for Revenue Generation of 8.5 Acres of Airport Land at Southbridge Municipal Airport in Southbridge, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: Notice is being given that the FAA is considering a request from the Town of Southbridge, MA, to change the land use from aeronautical to non-aeronautical use for 8.5 acres of land for revenue generation. The parcel is located southwest of the runway and terminal building and will be used for a solar farm. The land lease rate is based on an appraisal and the annual lease will be placed in the airport's operations and maintenance account.

DATES: Comments must be received on or before August 23, 2018.

ADDRESSES: You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts, on July 16, 2018.

Gail B. Lattrell,

Director (Acting), ANE–600.

[FR Doc. 2018–15831 Filed 7–23–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2007–28700]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by a letter dated May 31, 2018, Kansas City Southern Railway Company (KCSR) petitioned the Federal Railroad Administration (FRA) for a modification of its waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232. FRA assigned the petition Docket Number FRA–2007–28700.

By letter dated December 11, 2017, KCSR received an extension of its conditional relief (originally granted by FRA on January 18, 2008) from 49 CFR 232.205, *Class I brake test-initial terminal inspection,* and 49 CFR part 215, *Freight car safety standards,* for freight cars received in interchange at the U.S./Mexico border crossing in Laredo, Texas, to permit required inspections to be conducted in Laredo Yard, approximately 9 miles north of the interchange point. In its present petition, KCSR requests clarification to perform the Class III air brake test required by condition #5 of FRA's letter of December 11, 2017, at its Nuevo Laredo or Sanchez Yards, both of which are within 19 miles of its Laredo Yard. KCSR states that they and U.S. Customs and Border Protection (CBP) have been working collaboratively with Mexican authorities to solve border security and operational challenges of the International Bridge complex. KCSR states their experience operating trains through the complex has demonstrated that when northbound trains stop on the International Bridge to meet the waiver requirement of performing a Class III air brake test, they experience a significant amount of safety risk. KCSR further states having to stop on the International Bridge to perform the

Class III air brake test actually increases the risk of equipment damage due to vandalism/theft and increases the risk to the community due to blocked crossings and heavy pedestrian traffic south of the border in Nuevo Laredo. The Department of Homeland Security and CBP have said that trains coming to a complete stop at the International Border presents the greatest opportunity for theft, contraband and/or trespassers to gain access to trains entering the United States. KCSR states its requested clarification to perform the elements of the Class III air brake test in Nuevo Laredo or Sanchez Yards would mitigate these public safety concerns.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 23, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–15795 Filed 7–23–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0011; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2013 Porsche Panamera Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that certain model year (MY) 2013 Porsche Panamera passenger cars (PCs) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the MY 2013 Porsche Panamera PCs) and are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 23, 2018.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–5308.

SUPPLEMENTARY INFORMATION:

I. History: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS (49 CFR part 571) shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle

originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7 *Processing of Petitions,* NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

II. Summary of Petition: J.K. Technologies, LLC (JK), of Baltimore, Maryland (Registered Importer R–90–006) has petitioned NHTSA to decide whether nonconforming MY 2013 Porsche Panamera PCs are eligible for importation into the United States. The vehicles that JK believes are substantially similar are MY 2013 Porsche Panamera PCs manufactured for sale in the United States, and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner submitted information with its petition intended to demonstrate that the subject non-U.S.-certified vehicles as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified MY 2013 Porsche Panamera PCs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems for Light Vehicles,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 201 *Occupant Protection in Interior Impact,* 202a *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S.-certified vehicles are capable of being readily altered to meet the following standards in the manners indicated:

Standard No. 101 *Controls and Displays:* Replacement of the instrument cluster with the U.S.-model component and reprogramming of its software as described in the petition.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the headlamps, taillamps, and front and rear side markers with U.S.-model components. Reprogramming of the vehicle's software must also be performed to activate these systems.

Standard No. 110 *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 Pounds) or Less:* Installation of the required tire information placard.

Standard No. 111 *Rear Visibility:* Replacement of the passenger side mirror with the U.S.-model, or inscription of the required warning statement on the face of the existing mirror.

Standard No. 208 *Occupant Crash Protection:* Replacement of the seatbelt assemblies and the air bag control unit. In addition, replacement of the front passenger side seat weight sensing system—including the sensor mat and seat cushion, airbag warning telltale, seat wiring harness, and sun visor. After installation of these components, the vehicle's software must be updated and correct installation and operation confirmed using an appropriate diagnostic programming tool as described in the petition. All air bag warning labels and owner manual inserts must be inspected for compliance with the requirements in the standard and added or replaced with U.S.-model versions if not already present on the vehicle.

Standard No. 209 *Seat Belt Assemblies:* Replacement of seat belt assemblies with U.S.-certified components as previously stated under FMVSS No. 208.

Standard No. 301 *Fuel System Integrity:* During installation of U.S.-model components and software as described in the petition to meet the requirements of the Environmental Protection Agency (EPA), the requirements of this standard will be complied with and maintained.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

III. Comments: All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and considered. To the extent possible, comments filed after the closing date will also be considered to the fullest extent possible and available for examination in the docket at the above addresses.

Once the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

This notice of receipt of the subject petition does not represent any agency decision or other exercise of judgment concerning the merits of the petition. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Michael A. Cole,

Acting Director, Office of Vehicle Safety Compliance.

[FR Doc. 2018–15776 Filed 7–23–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2011–0177]

Notice of Submission of Proposed Information Collections to OMB; Agency Request for Renewal of Previously Approved Information Collections: Nondiscrimination on the Basis of Disability in Air Travel

AGENCY: Office of the Secretary, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Department of Transportation's (Department or DOT) Office of the Secretary (OST) is submitting a request to the Office of Management and Budget (OMB) for renewal of the OMB control number 2105–0571, titled Nondiscrimination on the Basis of Disability in Air Travel, for the information collections described below. On April 18, 2018, the Department published a **Federal**

Register Notice with a 60-day comment period soliciting comments on the information collections. See 83 FR 17221. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: Written comments should be submitted by August 23, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: John C. Wood, Office of the General Counsel, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, 202–366–9342 (Voice), 202–366–7152 (Fax), or *john.wood@dot.gov* (Email). Arrangements to receive this document in an alternative format may be made by contacting the above-named individual.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0571.

Title: Nondiscrimination on the Basis of Disability in Air Travel.

Type of Review: Renewal of information collections.

Background: This notice covers two information collection requirements in the Department's Air Carrier Access Act (ACAA) implementing regulation, 14 CFR part 382 (Part 382), Nondiscrimination on the Basis of Disability in Air Travel. Specifically, pursuant to section 382.43(d), covered carriers must provide an online mechanism for passengers to request disability accommodation services (*e.g.,* enplaning/deplaning assistance, deaf/hard of hearing communication assistance, escort to service animal relief area, etc.) for a particular flight. Pursuant to section 382.43(e), covered carriers must also ensure that when a user activates a link on a carrier's primary website to embedded third-party software or to an external website, a disclaimer is displayed notifying the user that the application or website may not be accessible. These requirements became effective on December 12, 2015, and December 12, 2016, respectively. Covered carriers are U.S. and foreign air carriers that operate at least one aircraft having a designed seating capacity of more than 60 passengers and own or control a primary website that markets passenger air transportation or a tour, or tour component that must be purchased with air transportation, to the general public in the United States.[1]

The Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On April 18, 2018, OST published a **Federal Register** Notice announcing its intention to renew OMB control number 2105–0571 and inviting interested persons to submit comments on these information collections for 60 days. See 83 FR 17221. During this time, the Department received one comment related to the information collections.

The commenter, Paralyzed Veterans of America (PVA), supported both information collections and emphasized that carriers should provide an opportunity for passengers with disabilities to request disability accommodation in advance of arriving at the gate at an easy to locate place on an airline's website. PVA also stated that carriers should then use the information to make sure that passengers receive any needed assistance in a timely manner. PVA added that collecting service request information has the potential to benefit all stakeholders, including carriers, as it helps carriers understand the types and frequency of requests received across routes and travel periods. The PVA comment made no reference to the estimated number of respondents or burden hours for the information collections. The Department also received another comment, but that comment was outside the scope of the Paperwork Reduction Act. It did not address any issue related to the information collections that are the subject of this renewal.

Accordingly, this notice announces that the information collection activities set forth in Part 382 have been re-evaluated and certified under 5 CFR 1320.5(a) and are being forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c). Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1230.12(d); *see also* 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure their full consideration. 5 CFR 1320.12(c); *see also* 60 FR 44983 (Aug. 29, 1995).

The renewed OMB control number will be applicable to all the provisions set forth in this notice. The title, a description of the information collection, its need and proposed use, respondents, and the periodic reporting burden are set forth below for each of the information collections:

1. Online Request for Disability Accommodation

Description of the need for the information and proposed use: Pursuant to 14 CFR 382.43(d), each covered carrier must provide a mechanism on its website for passengers to request a disability accommodation service for a future flight and provide advance notice of their request. Carriers may, but need not, require passengers to include contact information on the form in order to follow-up and request more specific information about the passengers' accommodation needs. Carriers may also use the aggregate data from the online service requests to understand and better plan for the volume and types of service requests they receive across time periods and routes, but also are not required to do so.

While the content and design of the online service request form is up to the carriers, the Department anticipates that each covered U.S. and foreign carrier that markets scheduled air transportation to the general public in the United States would incur initial costs associated with developing and reviewing a design and implementation plan for the request form, developing, coding, and integrating the form into the website, as well as testing, debugging, and connecting the form with a backend database to store the information. The final regulatory analysis (FRA) for the final rule entitled Nondiscrimination on the Basis of Disability in Air Travel: Accessibility of websites and Automated Kiosks at U.S. Airports estimated that it will take an average of 32 labor hours per carrier to develop, implement, integrate, connect, and test the online request form. Initial costs are reduced for carriers that rely on a request form developed by another entity. There are no recordkeeping or

[1] While there are approximately 190 U.S. and foreign air carriers that conduct passenger-carrying service to, from, or in the United States with at least one aircraft having a designed seating capacity of more than 60 seats, not all of those carriers have a primary website that markets passenger air transportation to the general public in the U.S. The Department estimates that approximately 165 of those 190 carriers are subject to the Department's web-accessibility requirements as they operate such aircraft and have a primary website that markets to U.S. consumers.

reporting requirements. However, carriers should use the service request information to facilitate appropriate, timely assistance to their passengers.

Respondents: Certificated U.S. and foreign air carriers operating to, from, and within the United States that operate at least one aircraft having a seating capacity of more than 60 passengers and own or control a primary website that markets air transportation to the general public in the U.S.

Estimated Number of Respondents: 165 U.S. and foreign carriers, of which the Department expects all to have achieved compliance with the requirement in a prior year. The Department estimates that each year there will be 3 new respondent carriers.

Estimated Annual Burden on Respondents: 0 hours per carrier compliant in a prior year, unless the carrier voluntarily elects to modify or improve its form, and 32 hours per carrier creating an online request form.

Estimated Total Annual Burden: 96 hours. This estimate was calculated by multiplying the total number of labor hours per year that a carrier is estimated to spend to develop, implement, integrate, connect, and test the online request form (32) by the estimated number of new respondent carriers each year (3).

Frequency: One-time requirement.

2. Website Accessibility Disclaimer Notice

Description of the need for the information and proposed use: Pursuant to 14 CFR 382.43(e), covered carriers must provide a disclaimer notice for each link on their primary website that enables a user to access software or an external website that is not in the carrier's control. The disclaimer notice must be activated the first time a user clicks the link and must notify the user that the application/website is not within the carrier's control and may not follow the same accessibility policies as the primary website. The Department anticipates that each covered U.S. and foreign carrier will incur costs associated with identifying all links on their websites that may require a disclaimer such as developing and reviewing the design and language for the disclaimer notice, as well as developing, testing, and deploying the code to the appropriate web pages.

The incremental labor hours associated with providing the required disclaimer may vary depending on the number of links on the website to which this requirement applies. The FRA estimated that it will take an average of 6 labor hours per carrier to identify the links and then develop, test, and deploy the disclaimer notice on the website. We also estimate that it will take less than 30 minutes per year for a carrier to associate the notice with any new links to external websites or third-party software added to their websites.

There are no recordkeeping or reporting requirements associated with this information collection.

Respondents: Certificated U.S. and foreign air carriers operating to, from, and within the United States that operate at least one aircraft having a seating capacity of more than 60 passengers and own or control a primary website that markets air transportation to the general public in the U.S.

Estimated Number of Respondents: 165 U.S. and foreign carriers, of which the Department expects all to have achieved compliance with the requirement in a prior year. The Department estimates that each year there will be 3 new respondent carriers.

Estimated Annual Burden on Respondents: 6 hours for 3 new carrier respondents to create, test, and deploy the disclaimer. 30 minutes for 165 carriers compliant in prior years to associate the notice with new links and third-party software.

Estimated Total Annual Burden: 100.5 hours. This estimate was calculated by multiplying the total number of labor hours per year that a carrier is estimated to spend to develop, test, and deploy the disclaimer notice (6) by the estimated number of new respondent carriers each year (3). To that total we added the product of the number of hours that we estimated carriers may spend associating the notice with new weblinks (.5 hours) and the number of carriers that are expected to have achieved compliance in a prior year (165).

Frequency: One-time and recurrent requirements.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on July 18, 2018.

Blane A. Workie,

Assistant General Counsel for Aviation Enforcement and Proceedings.

[FR Doc. 2018–15794 Filed 7–23–18; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple IRS Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before August 23, 2018 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Jennifer Leonard by emailing *PRA@treasury.gov,* calling (202) 622–0489, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Taxable Fuel; registration.

OMB Control Number: 1545–0725.

Type of Review: Extension without change of a currently approved collection.

Abstract: Certain sellers of gasoline and diesel fuel may be required under section 4101 to post bond before they incur liability for gasoline and diesel fuel excise taxes imposed by sections 4081 and 4091. This form is used by

taxpayers to give bond and provide other information required by regulations sections 48.4101–2.

Form: 928.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1,280.

Title: Orphan Drug Credit.

OMB Control Number: 1545–1505.

Type of Review: Extension without change of a currently approved collection.

Abstract: Filers use this form to elect to claim the orphan drug credit, which is 25% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Form: 8820.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 316.

Title: Qualified lessee construction allowances for short-term leases.

OMB Control Number: 1545–1661.

Type of Review: Extension without change of a currently approved collection.

Abstract: The previously approved regulations provide guidance with respect to Sec. 110, which provides a safe harbor whereby it will be assumed that a construction allowance provided by a lessor to a lessee is used to construct or improve lessor property when long-term property is constructed or improved and used pursuant to a short-term lease. The regulations also provide a reporting requirement that ensures that both the lessee and lessor consistently treat the property subject to the construction allowance as nonresidential real property owned by the lessor.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 10,000.

Title: Membership Applications for IRPAC, IRSAC, and ETACC (IRS Committee's), IRS Advisory Council, and Tax Check Waiver.

OMB Control Number: 1545–1791.

Type of Review: Extension without change of a currently approved collection.

Abstract: The Federal Advisory Committee Act (FACA) requires that committee membership be fairly balanced in terms of points of view represented and the functions to be performed. As a result, members of specific committees often have both the expertise and professional skills that parallel the program responsibilities of their sponsoring agencies. In order to apply to be a member of the Internal Revenue Service Advisory Council (IRSAC), the Information Reporting Program Advisory Committee (IRPAC), Advisory Committee on Tax Exempt and Government Entities, or the Electronic Tax Administration Advisory Committee (ETAAC), applicants must submit a Membership Application. Selection of committee members is made based on the FACA's requirements and the potential member's background and qualifications. Therefore, an application is needed to ascertain the desired skills set for membership. The information will also be used to perform Federal Income Tax, FBI, and practitioner checks as required of all members and applicants to the Committees or Council. The tax check waiver permits the Internal Revenue Service (IRS) to release information about the applicant, which would otherwise be confidential. This information will be used in connection with my application for appointment to membership in one of the IRS Advisory Committee/Council. It is necessary for the purpose of ensuring that all panel members are tax compliant. Information provided will be used to qualify or disqualify individuals to serve as panel members. The information will be used as appropriate by the Taxpayer Advocate service staff, and other appropriate IRS personnel. Form 8453–FE is used to authenticate the electronic Form 1041, U.S. Income Tax Return for Estates and Trusts, authorize the electronic filer to transmit via a third-party transmitter, and authorize an electronic fund withdrawal for payment of federal taxes owed. Form 8879–EMP is used if a taxpayer and the electronic return originator (ERO) want to use a personal identification number (PIN) to electronically sign an electronic employment tax return. Form 8879–F is used by an electronic return originator when the fiduciary wants to use a personal identification number to electronically sign an estate's or trust's electronic income tax return, and if applicable consent to electronic funds withdrawal.

Forms: 12339–B, 12339, 12339–C, 13775.

Affected Public: Individuals or Households, Businesses or other for-profits.

Estimated Total Annual Burden Hours: 492.

Title: Form 3491—Consumer Cooperative Exemption Application.

OMB Control Number: 1545–1941.

Type of Review: Extension without change of a currently approved collection.

Abstract: A cooperative uses Form 3491 to apply for exemption from filing information returns (Forms 1099–PATR) on patronage distributions of $10 or more to any person during the calendar year.

Form: 3491.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 148.

Title: TD 9467 (REG–139236–07) and Notice 2014–53.

OMB Control Number: 1545–2095.

Type of Review: Extension without change of a currently approved collection.

Abstract: TD 9467 (AFTAP)—the previously approved Regulations under sections 430(d), 430(g), 430(h)(2), and 430(i) provide guidance on the determination of benefit liabilities and the valuation of plan assets for purposes of the funding requirements that apply to single employer defined benefit plans pursuant to changes made by the Pension Protection Act of 2006. In order to implement the statutory provisions under section 430(h)(2), the regulations provide for the sponsor of a defined benefit plan to make any of several elections related to the interest rate used for minimum funding purposes and require written notification of any such election to be provided to the plan's enrolled actuary. These final regulations provide for the sponsor of a defined benefit pension plan to make any of several elections. Notice 2014–53 (HATFA)—The Highway and Transportation Funding Act of 2014 (HATFA), Public Law 113–159 was enacted on August 8, 2014, and was effective retroactively for single employer defined benefit pension plans, optional for plan years beginning in 2013 and mandatory for plan years beginning in 2014. Notice 2014–53 provides guidance on these changes to the funding stabilization rules for single-employer pension plans.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 158,000.

Title: TD 9447 (Final) Automatic Contribution Arrangements.

OMB Control Number: 1545–2135.

Type of Review: Extension without change of a currently approved collection.

Abstract: These previously approved regulations provide a method by which an automatic contribution arrangement

can become a qualified automatic contribution arrangement and automatically satisfy the ADP test of section 401(k)(3)A)(ii). These regulations also describe how an automatic contribution arrangement can become an eligible automatic contribution arrangement and employees can get back mistaken contributions.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 30,000.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: July 19, 2018.

Jennifer P. Quintana,

Treasury PRA Clearance Officer.

[FR Doc. 2018–15821 Filed 7–23–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Findings of Research Misconduct

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), gives notice that the Department has made findings of research misconduct against Alba Chavez-Dozal, Ph.D., a former employee of the New Mexico VA Health Care System in Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Research Misconduct Officer, Office of Research Oversight, 10R, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 632–7620. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), gives notice under VHA Handbook 1058.02 ''Research Misconduct'' § 6k, that the Department has made findings of research misconduct against Alba Chavez-Dozal, Ph.D., a former employee of the New Mexico VA Health Care System in Albuquerque, New Mexico.

Specifically, the Department found that the Respondent, a post-doctoral research fellow who formerly held a VA without compensation appointment, engaged in research misconduct by intentionally and/or knowingly:

(1) Recording fabricated data that described the generation and characterization of an END3 mutant yeast strain and presenting that data at two lab meetings;

(2) Fabricating the image of a Southern blot reported in Figure 1A of a journal article titled ''Functional Analysis of the Exocyst Subunit Sec15 in *Candida albicans*'' published in *Eukaryot Cell* (2015) 14:1228–39. (Retraction in: *Eukaryot Cell* (2015) 14(12):ii);

(3) Falsifying research results by using the same protein gel to represent two different experiments: A degradation assay utilizing the SEC15 mutant in Figure 6A of the publication *Eukaryot Cell* (2015) 14:1228–39 and a degradation assay utilizing the SEC6 mutant in Figure 9A of a journal article titled ''The *Candida albicans* Exocyst Subunit Sec6 Contributes to Cell Wall Integrity and is a Determinant of Hyphal Branching'' published in *Eukaryot Cell* (2015) 14:684–97. (Retraction in: *Eukaryot Cell* (2015) 14(12):i);

(4) Falsifying research results reported in Figures 4A (vacuole characterization), 6 (cell growth) and 9B (lipase secretion) of the publication *Eukaryot Cell* (2015) 14:684–97 by using images that represent different conditions than those reported;

(5) Falsifying protein localization results reported in Figures 7, 8 and 9 of the publication *Eukaryot Cell* (2015) 14:1228–39 by using microscopy images that represent different conditions than those reported; and

(6) Republishing falsified data from *Eukaryot Cell* (2015) 14:684–97 and *Eukaryot Cell* (2015) 14:1228–39 in the review article titled ''The exocyst in *Candida albicans* polarized secretion and filamentation'' in *Curr Genet* (2016) 62:343–6. (Retraction in: *Curr Genet* (2016) 62:911).

In response to these findings, the Department has imposed the following corrective actions:

(1) Prohibition from conducting VA research for four years.

(2) Publication of VA's finding of research misconduct.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jacquelyn Hayes-Byrd, Acting Chief of Staff, Department of Veterans Affairs, approved this document on June 27, 2018, for publication.

Dated: July 18, 2018.

Jeffrey M. Martin,

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

[FR Doc. 2018–15762 Filed 7–23–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR) will be held on Tuesday and Wednesday, August 28–29, 2018, in Room 542, 1800 G Street NW, Washington, DC 20006. The meeting will begin at 8:30 a.m. EST and adjourn at 4:00 p.m. EST each day. The meeting is open to the public.

The purpose of the Committee is to provide advice to the Secretary on the rehabilitation needs of Veterans with disabilities and on the administration of VA's rehabilitation programs.

On August 27, 2018, Committee members will be provided with updated briefings on various VA programs designed to enhance the rehabilitative potential of disabled Veterans.

On August 28, 2018, the Committee will begin consideration of potential recommendations to be included in the Committee's next annual report.

Although no time will be allocated for receiving oral presentations from the public, members of the public may submit written statements for review by the Committee to Sabrina McNeil, Designated Federal Officer, Veterans Benefits Administration (28), 810 Vermont Avenue NW, Washington, DC 20420, or via email at *Sabrina.McNeil@va.gov.* In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Because the meeting is being held in a government building, a photo I.D. must be presented at the Guard's Desk as part of the clearance process. Due to an increase in security protocols, and in order to prevent delays in clearance processing, you should allow an additional 30 minutes before the meeting begins. Any member of the public who wish to attend the meeting should RSVP to Sabrina McNeil at (202) 461–9618 no later than close of business, August 20, 2018, at the phone number or email address noted above.

Dated: July 18, 2018.

LaTonya L. Small,

Federal Advisory Committee Management Officer.

[FR Doc. 2018–15745 Filed 7–23–18; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 83 Tuesday,
No. 142 July 24, 2018

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 226

Endangered and Threatened Wildlife and Plants: Final Rulemaking To Designate Critical Habitat for the Main Hawaiian Islands Insular False Killer Whale Distinct Population Segment; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 226

[Docket No. 120815341–8396–02]

RIN 0648–BC45

Endangered and Threatened Wildlife and Plants: Final Rulemaking To Designate Critical Habitat for the Main Hawaiian Islands Insular False Killer Whale Distinct Population Segment

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

ACTION: Final rule.

SUMMARY: We, NMFS, issue a final rule to designate critical habitat for the Main Hawaiian Islands (MHI) insular false killer whale (IFKW) (*Pseudorca crassidens*) distinct population segment (DPS) by designating waters from the 45-meter (m) depth contour to the 3,200-m depth contour around the main Hawaiian Islands from Niihau east to Hawaii, pursuant to section 4 of the Endangered Species Act (ESA). We have excluded 14 areas (one area, with two sites, for the Bureau of Ocean Energy Management (BOEM) and 13 areas requested by the Navy) from the critical habitat designation because we have determined that the benefits of exclusion outweigh the benefits of inclusion, and exclusion will not result in extinction of the species. Additionally, the Ewa Training Minefield and the Naval Defensive Sea Area are precluded from designation under section 4(a)(3) ofthe ESA because they are managed under the Joint Base Pearl Harbor-Hickam Integrated Natural Resource Management Plan that we find provides a benefit to the MHI IFKW.

DATES: This rule becomes effective August 23, 2018.

ADDRESSES: The final rule, maps, and other supporting documents (Economic Report, ESA Section 4(b)(2) Report, and Biological Report) can be found on the NMFS Pacific Island Region's website at *http://www.fpir.noaa.gov/PRD/prd_mhi_false_killer_whale.html#critical_habitat.*

FOR FURTHER INFORMATION CONTACT: Susan Pultz, NMFS, Pacific Islands Region, Chief, Conservation Planning and Rulemaking Branch, (808) 725–5150; or Lisa Manning, NMFS, Office of Protected Resources (301) 427–8466.

SUPPLEMENTARY INFORMATION:

Background

On December 28, 2012, the listing of the MHI IFKW (*Pseudorca crassidens*) DPS as endangered throughout its range under the ESA became effective. The listing cited the population's high extinction risk and insufficient conservation efforts in place to reduce that risk (77 FR 70915; November 28, 2012). With approximately 150 individuals, small population size and incidental take (hooking or entanglements) in commercial and recreational fisheries are the highest threats to this DPS. However, other medium-level threats such as environmental contaminants, competition with fisheries for food, effects from climate change, and acoustic disturbance may also play a role in impeding recovery (NMFS 2016). Under section 4 of the ESA, critical habitat shall be specified to the maximum extent prudent and determinable at the time a species is listed as threatened or endangered (16 U.S.C. 1533(b)(6)(C)). In the final listing rule, we stated that critical habitat was not determinable at the time of the listing, because sufficient information was not currently available on the geographical area occupied by the species, the physical and biological features essential to conservation, and the impacts of the designation (77 FR 70915; November 28, 2012). Under section 4 of the ESA, if critical habitat is not determinable at the time of listing, a final critical habitat designation must be published 1 year after listing (16 U.S.C. 1533(b)(6)(C)(ii)). The Natural Resources Defense Council filed a complaint in July 2016 with the U.S. District Court for the District of Columbia seeking an order to compel NMFS to designate critical habitat for the MHI IFKW DPS, and a court-approved settlement agreement was filed on January 24, 2017 (*Natural Resources Defense Council, Inc.* v. *Penny Pritzker, National Marine Fisheries Services,* 1:16–cv–1442 (D.D.C.)). The settlement agreement stipulated that NMFS will submit the final rule to the Office of the Federal Register by July 1, 2018.

Based on the recommendations provided in the Draft Biological Report, the initial Regulatory Flexibility Analysis (RFA) and ESA section 4(b)(2) analysis (which considers exclusions to critical habitat based on economic, national security and other relevant impacts), we published a proposed rule on November 3, 2017 (82 FR 51186) to designate waters from the 45-m depth contour to the 3,200-m depth contour around the main Hawaiian Islands from Niihau east to Hawaii, with some exceptions, as MHI IFKW critical habitat. In accordance with the definition of critical habitat under the ESA, this area contained physical or biological features essential to conservation of the species and which may require special management considerations or protections. The proposed rule included background information on MHI IFKW biology and habitat use, which is not included here but the reader may access by referring to the proposed rule (82 FR 51186; November 3, 2017).

In the proposed rule, we described the physical or biological features essential to the conservation of MHI IFKWs as (1) island-associated marine habitat for MHI IFKWs; (2) prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; (3) waters free of pollutants of a type and amount harmful to MHI IFKWs, and (4) habitat free of anthropogenic noise that would significantly impair the value of the habitat for false killer whale use or occupancy. We requested public comments through January 2, 2018. For a complete description of our proposed action, including the natural history of the MHI IKFW, we refer the reader to the proposed rule (82 FR 51186; November 3, 2017).

Statutory and Regulatory Background for Critical Habitat

The ESA defines critical habitat under section 3(5)(A) as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (1) essential to the conservation of the species and (2) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed upon a determination by the Secretary that such areas are essential for the conservation of the species. (16 U.S.C. 1532(5)(A)). Conservation is defined in section 3(3) of the ESA as: To use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary (16 U.S.C. 1532(3)). Section 3(5)(C) of the ESA provides that except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.

Section 4(a)(3)(B) prohibits designating as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DOD) or designated for its use, that are subject to an Integrated Natural Resources Management Plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species, and its habitat, for which critical habitat is proposed for designation.

Section 4(b)(2) of the ESA requires us to designate critical habitat for threatened and endangered species on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. This section also grants the Secretary of Commerce (Secretary) discretion to exclude any area from critical habitat upon determining that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat. However, the Secretary may not exclude areas if this will result in the extinction of the species. Our regulations provide that critical habitat shall not be designated within foreign countries or in other areas outside U.S. jurisdiction (50 CFR 424.12(g)). Once critical habitat is designated, section 7(a)(2) of the ESA requires Federal agencies to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify that habitat (16 U.S.C. 1536(a)(2)). This requirement is in addition to the section 7(a)(2) requirement that Federal agencies ensure their actions are not likely to jeopardize the continued existence of ESA-listed species. Specifying the geographic location of critical habitat also facilitates implementation of section 7(a)(1) of the ESA by identifying areas where Federal agencies can focus their conservation programs and use their authorities to further the purposes of the ESA. Critical habitat requirements do not apply to citizens engaged in actions on private land that do not involve a Federal agency. However, designating critical habitat can help focus the efforts of other conservation partners (*e.g.,* State and local governments, individuals, and nongovernmental organizations).

Summary of Changes From the Proposed Rule

After considering public comments received and the best scientific information available, we have made the following changes: (1) We have combined the four proposed features into a single essential feature with four characteristics that describe how island-associated marine habitat is essential to MHI IFKWs; and (2) we have excluded under section 4(b)(2) the Kaulakahi Channel portion of Warning area 186, the area north of Molokai, the reduced Alenuihaha Channel, the Hawaii Area Tracking System, and the Kahoolawe Training Minefield due to national security impacts.

Single Essential Feature

In the proposed rule we identified four features that are essential to MHI IFKWs: Island-associated habitat, prey, water quality, and sound. We received public comments that questioned the clarity of some of these features, and whether certain features were sufficiently described to meet the definition of critical habitat. For example, one comment criticized the feature, island-associated marine habitat for MHI IFKWs, because it lacks objective parameters that warrant special management considerations or protections. The commenter requested more clarity on or removal of this feature.

After review of this comment and other comments, we recognize the interdependence of movement and space, prey, sound, and water quality characteristics in identifying island-associated habitat that is essential to the conservation of the species because these habitat characteristics collectively support important life history functions, such as foraging and reproduction, which are essential for this population's conservation. Indeed, MHI IFKWs are an island-associated population of false killer whales with their range restricted to the shelf and slope habitat around the MHI, unlike pelagic false killer whales found more in open oceans. Because these habitat characteristics are important components to the ecology of these whales, we have reorganized the essential features in the proposed rule into a single feature, island-associated marine habitat for MHI IFKWs, with four characteristics that support this feature. The four characteristics include (1) adequate space for movement and use within shelf and slope habitat; (2) prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; (3) waters free of pollutants of a type and amount harmful to MHI IFKWs; and (4) sound levels that will not significantly impair false killer whales' use or occupancy (see the *Physical and Biological Features* section below for full descriptions).

The first characteristic, adequate space for movement and use within shelf and slope habitat, is used to describe, in part, the ''island-associated marine habitat'' feature in the proposed rule. We have highlighted this as a characteristic of the island-associated habitat for this final rule in response to comments that requested clarity on the special management considerations for this feature. Under the description of this feature, we note the importance of supporting these whales' ability to move to, from, and around areas of concentrated (high) use and provide details about how activities, such as large-scale construction or noise, may act as barriers to movement for these whales within their restricted range.

Characteristics 2 and 3, prey and water quality, have not materially changed from the proposed rule; however, we do provide more information in our description in the *Physical and Biological Features Essential for Conservation* section of this final rule and in the Biological Report about factors that influence these characteristics. For example, we have used information provided in the Biological Report under diet to provide additional detail about the specific types of prey species that these whales are known to eat (NMFS 2017b). Additionally, we have provided more information about factors that threaten prey and water quality in these descriptions.

In the proposed rule we solicited comments on the feature ''habitat free of anthropogenic noise that would significantly impair the value of the habitat for MHI IFKW use or occupancy.'' We received multiple comments that suggested removing this feature for the following reasons: The effects of noise on IFKWs are already considered under the jeopardy standard analysis; the absence of noise is not a feature of the habitat, there is not sufficient scientific justification for the feature, and the management of this feature is not clearly described.

As odontocetes, these whales rely on their ability to receive and interpret sound within their environment in order to forage, travel, and communicate with one another. Accordingly, island-associated habitat must be capable of supporting MHI IFKWs' ability to do so. While noise has the potential to affect individual whales in a manner that may have biological significance (*i.e.,* to result in a ''take'' by harassment, injury, or otherwise), scientific information also indicates that the introduction of a permanent or chronic noise source can degrade the value of habitat by interfering with the sound-reliant

animal's ability to gain benefits from that habitat, impeding reproduction, foraging, or communication (*i.e.,* altering the conservation value of the habitat). This reliance on sound, combined with the whales' adaptation to a restricted range, make sound an important characteristic of island-associated habitat. Thus, it is appropriate to consider how chronic and persistent noise sources may alter the value of that habitat and manage for it.

To clarify how sound as a characteristic of habitat supports these whales and should be managed for this designation, we have revised the language of this characteristic to ''sound levels that would not significantly impair MHI IFKW's use or occupancy.'' For this characteristic we describe the importance of sound in this populations' ecology and describe how noise sources may alter the value of their habitat. After considering public comments, we recognize that the mere presence of noise in the environment—even noise that might result in harassment—does not necessarily result in adverse modification of critical habitat. Rather, chronic exposure to noise as well as persistent noise may impede the population's ability to use the habitat for foraging, navigating, and communicating, and may deter MHI IFKWs from using the habitat entirely (see also our response to Comment 6 and the *Physical and Biological Features Essential for Conservation* section of this rule).

Additional National Security Exclusions

In the proposed rule we noted that we would be considering six additional requests submitted by the Navy, which were subsets of a larger area that the Navy initially requested for exclusion, but which NMFS determined should not be excluded under 4(b)(2). We reviewed these six areas along with four additional areas requested by the Navy consistent with the criteria reviewed for all other areas considered for national security exclusion for this rule.

For the Kaulakahi Channel Portion of W–186, the area north of Molokai, a reduced portion of the Alenuihaha Channel, the Hawaii Area Tracking System, and the Kahoolawe Training Minefield (NMFS 2018b), we find that the benefits of exclusion for national security outweigh the benefit of designating MHI IFKW critical habitat. On June 22, 2017, the Navy requested exclusion of each of these areas as a subset of a larger ''Entire Area.'' The Navy also identified the area north of Molokai for exclusion as a subset of the ''four islands region,'' and the Alenuihaha Channel as a portion of the ''waters surrounding the Island of Hawaii'' exclusion request. NMFS initially proposed not to exclude these areas as included in the larger units (DON 2017a, as referenced in NMFS 2017b). We have now reevaluated these geographically limited portions of the initial request in response to information submitted by the Navy on October 10, 2017, along with the Navy's supplemental information limiting the geographic scope of their request to exclude Alenuihaha Channel. Although the June 22, 2017 request provided a full description of the defense activities in all of these areas, the Navy's supplemental submissions helped improve our understanding of the geographic scope of the particular impacts to national security. For example, the Navy clarified that the Channel Portion of the W–186 area is used to support military activities occurring on the Pacific Missile Range Facility (PMRF) Offshore Areas and that the area north of Molokai provides unique bathymetry that supports the Submarine Command Course (DON 2017b, DON 2018). Supplemental information also identified the unique training capabilities provided by the bathymetry of the Hawaii Area Tracking System and the instrumentation found within the Kahoolawe Training Minefield, which support military readiness. Additionally, with respect to the Alenuihaha Channel, our exclusion decision is limited to the deeper areas of the Channel that support Undersea Warfare training exercises; these waters include approximately 2,609 square kilometers (km^2) (1,007 square miles (mi^2)) of the 4,381 km^2 (1691 mi^2) area identified in the proposed rule. In light of our improved understanding of the defense activities conducted and the reduced size of the requested exclusions, we now conclude that the benefits of exclusion outweigh the benefits of designating critical habitat, and that granting these exclusions will not result in extinction of the species. The Kaulakahi Channel Portion of W–186 area overlapped with approximately 1,631 km^2 (630 mi^2) or approximately 3 percent of the area that was proposed for designation, the area north of Molokai overlapped with approximately 596 km^2 (230 mi^2) or approximately one percent of the area that was proposed for designation, and the Alenuihaha Channel overlapped with approximately 2,609 km^2 (866 mi^2) or approximately 5 percent of the area that was proposed for designation. The Hawaii Area Tracking System overlaps with about 96 km^2 (37mi^2) or about 0.2 percent of the area that was proposed for designation, and the Kahoolawe Training Minefield overlaps with about 12 km^2 (5 mi^2) or about 0.02 percent of the area that was proposed for designation. These overlap a small area of low-use and lower traveled MHI IFKW habitat.

For the other three areas identified in the Navy's October 10, 2017 request, as well as two additional areas identified by the Navy on February 8, 2018, we find that the benefits of designating critical habitat for MHI IFKWs outweigh the benefits of excluding these areas. The *National Security Impacts* section of this rule provides a detailed summary of our weighing process for all areas, and the full analysis can be found in the ESA Section 4(b)(2) Report (NMFS 2018b).

Thus, given these changes, in total we have excluded 14 areas (one area, with two sites, for BOEM and 13 areas requested by the Navy from the critical habitat designation because we have determined that the benefits of exclusion outweigh the benefits of inclusion, and exclusion will not result in extinction of the species. The excluded areas are: (1) The BOEM Call Area offshore of the Island of Oahu (which includes two sites, one off Kaena point and one off the south shore); (2) the Navy Pacific Missile Range Facility's Offshore ranges (including the Shallow Water Training Range (SWTR), the Barking Sands Tactical Underwater Range (BARSTUR), and the Barking Sands Underwater Range Extension (BSURE; west of Kauai)); (3) the Navy Kingfisher Range (northeast of Niihau); (4) Warning Area 188 (west of Kauai); (5) Kaula Island and Warning Area 187 (surrounding Kaula Island); (6) the Navy Fleet Operational Readiness Accuracy Check Site (FORACS) (west of Oahu); (7) the Navy Shipboard Electronic Systems Evaluation Facility (SESEF) (west of Oahu); (8) Warning Areas 196 and 191 (south of Oahu); (9) Warning Areas 193 and 194 (south of Oahu); (10) the Kaulakahi Channel portion of Warning area 186 (the channel between Niihau and Kauai and extending east); (11) the area north of Molokai; (12) the Alenuihaha Channel, (13) the Hawaii Area Tracking System, and (14) the Kahoolawe Training Minefield. In addition, the Ewa Training Minefield and the Naval Defensive Sea Area are precluded from designation under section 4(a)(3) of the ESA because they are managed under the Joint Base Pearl Harbor-Hickam Integrated Natural Resource Management Plan that we find provides a benefit to the MHI IFKW.

Summary of Comments and Response

We requested comments on the proposed rule to designate critical habitat for the MHI IFKW and associated supporting reports as described above. We received 26 individual submissions in response to that request. We have considered all public comments, and provide responses to all significant issues raised by commenters that are relevant to the proposed designation of MHI IFKW critical habitat. We have not responded to comments or concerns outside the scope of this rulemaking, including comments disagreeing with the listing of this DPS as endangered, or recommendations regarding broad ESA policy issues.

Special Management Considerations or Protections

Comment 1: We received comments suggesting that major threats to this DPS were not adequately addressed in the proposed designation including threats associated with longline factory fishing boats, water pollution, and noise pollution. Some commenters noted that the proposal did not mention the threat posed by biannual Rim of the Pacific (RIMPAC) exercises conducted by the Department of Defense. One commenter suggested that RIMPAC exercises should not be allowed to occur in the proposed critical habitat.

Response: The Special Management Considerations or Protection section of the Draft and Final Biological Reports (NMFS 2017a, 2018a) provides information about the types of activities that raise significant habitat-based threats, and the special management considerations or protections that may be necessary to manage or protect the feature and its characteristics, essential to the conservation of MHI IFKWs. Water pollution, noise pollution, and reductions in prey or habitat were among the threats discussed. This section of the reports also identifies seven categories of activities with a Federal nexus (*i.e.,* a project that is authorized, funded, or carried out by a Federal agency) that may have the potential to contribute to these habitat threats and that are subject to the ESA section 7 consultation process. Specifically, we discussed fisheries, activities that contribute to water pollution, and military activities, and how these activities may impact available prey resources, water quality, or sound levels in the marine environment.

We note that federally managed longline fisheries (including the deep-set and shallow-set fisheries) are currently not considered a ''major'' threat to this DPS or their habitat. As noted in the MHI IFKW Recovery Outline (NMFS 2016a), which categorizes the significance of threats to this DPS from low to high, the threat of incidental take (*e.g.,* entanglements or hookings) in federally-managed longline fisheries is considered low because about 95 percent of the DPS' range is within the Main Hawaiian Islands Longline Fishing Prohibited Area that surrounds the MHI (NMFS 2016a; *See* 50 CFR 229.37(d)). Further, we note that fishery interactions, such as entanglements and hooking, are considered a threat to the individual animals themselves and not the habitat. Such threats are properly analyzed under the jeopardy analysis conducted during the section 7 consultation process.

We note that reductions in prey are described as a medium threat, with several fisheries potentially contributing to this risk. In the Draft Biological Report we reviewed the sustainability of stocks that are targeted by the federally managed longline fisheries and that are known IFKW prey species. Current information, although incomplete, suggests that these stocks are sustainably managed and that additional management is not necessary to conserve prey species (NMFS 2018). However, we also note in the Draft and Final Biological Report that, as new information becomes available regarding MHI IFKW dietary needs or the sustainability of overlapping fish stocks, additional management measures may be taken in the future to ensure that MHI IFKW critical habitat is not adversely modified.

With regard to water pollution, we have included water quality as a characteristic of MHI IFKW critical habitat because pollutants in marine waters of the island-associated habitat affect the quality of prey for this DPS and can create environments in which these whales are at higher risk of disease. The Draft and Final Biological Reports discuss water quality threats to MHI IFKW habitat under the Activities that Contribute to Water Pollution section, and discuss activities that may reduce water or prey quality by increasing persistent organic pollutants (POP) or other chemicals of emerging concern, heavy metals, pathogens, or naturally occurring toxins in Hawaii's surrounding waters (NMFS 2017a, 2018a). Although we have not identified additional management measures beyond the existing protections already granted from other regulations (*e.g.,* the Clean Water Act), we note that special management considerations may be necessary in the future, and that a project's specific details, such as discharge location, chemical or biological composition, frequency, duration, and concentration, will help determine necessary conservation measures.

With regard to military activities, the Draft Biological Report indicated that a wide variety of activities were covered by this category including training, construction, and research activities undertaken by the Department of Defense. We have revised the Final Biological Report to clarify that RIMPAC exercises are included among the military training exercises considered under this category. The report notes that many of the military exercises in the Hawaii Range Complex are subject to a five-year MMPA authorization for the incidental take of marine mammals, which is subject to the consultation requirements of the ESA. These five-year reviews include the consideration of exercises that are undertaken during biannual RIMPAC events.

With regard to the comment that we should not allow RIMPAC to occur in critical habitat, we note that a critical habitat designation does not restrict activities from occurring in critical habitat; it is only during the section 7 consultation process that effects on critical habitat are determined and additional conservation and management measures are considered, as appropriate.

Comment 2: BOEM commented that the characterization of offshore energy projects as a threat to the physical and biological features of critical habitat is not supported by information in the rule or supporting documents, and that NMFS was inconsistent in describing the relative risk of activities that are identified as possibly threatening habitat features compared with other activities. BOEM's comment noted that, despite threats from specific energy-related development being described as either uncertain or already managed under existing regulatory protections, the Biological Report suggests that special management considerations would include changes in siting of energy projects based on the boundaries of proposed critical habitat. BOEM noted that this contrasts with NMFS' discussion of and recommendations for the management of fisheries, in which additional management considerations are not suggested for federally managed commercial fisheries, despite the threat of reduced prey availability being described as a moderate risk for the listing of this DPS. BOEM recommended that we ''remove energy activities from [our] list of activities that may threaten

the physical and biological features of critical habitat based on [low risk and uncertain] conclusions made in [our] Draft Biological Report and focus instead on management considerations for other activities that are consistent with habitat requirements for IFKWs.''

Response: We conclude that that offshore energy projects should remain on the list of activities that may affect the physical and biological feature of MHI IFKW critical habitat because there is sufficient information available to suggest that these projects have the potential to affect MHI IFKW critical habitat. Offshore energy includes a broad suite of different projects (*e.g.,* wind, wave, and ocean thermal) that may involve constructing or placing structures in the marine environment, as well as operating and maintaining these structures. As cited in the Draft and Final Biological Reports, the Department of Energy acknowledges that there are common elements among these projects that pose a risk of adverse environmental effects including, but not limited to, noise during construction and operation; alteration of substrates; sediment transportation and deposition; generation of electromagnetic fields (EMF); toxicity of paints, lubricants, and antifouling coatings; and interference with animal movements (Cada 2009). This list of environmental effects indicates that these projects present risk to MHI IFKW prey, water quality, sound levels, and adequate space for movement and use.

As acknowledged in the Draft Biological Report (NMFS 2017a), current information suggests that risks associated with certain threats may be minimal (*e.g.,* EMF) or sufficiently managed under existing regulatory regimes (*e.g.,* water quality). However, the fact that habitat characteristics may directly or indirectly benefit from existing regulatory regimes is not determinative of whether energy development activities have the potential to adversely affect the feature and characteristics essential to MHI IFKWs, such that the feature may require special management or protection. Further, other risks related to noise and adequate space for movement and use remain relatively unclear because noise sources vary (in levels and frequency) among device types, and effects to habitat use as a result of structures in the water may vary locally (Bergstrom *et al.* 2014, Teilmann and Carstensen 2012, Scheidat *et al.* 2011). For example, Teilmann and Carstensen (2012) report a decline in harbor porpoise habitat use followed by evidence of slow recovery since a large scale offshore wind farm was installed in the Baltic, while Scheidat *et al.* (2011) report increased habitat use by harbor porpoises in a wind farm in the Dutch North Sea. Accordingly, project-specific details would be required to analyze the relative risk that any particular type of energy development project may have on MHI IFKW critical habitat. Due to the uncertainties associated with the size and scope of these projects and their impact on MHI IFKWs and their habitat, we expect that monitoring will be recommended for many first generation projects in Hawaiian waters.

As noted by the Department of Energy, project location can play a large role in minimizing the environmental impacts of any particular project (DOE 2009). While we do find that impacts to critical habitat from offshore energy activities may occur, we do not expect that these project siting considerations will be raised as late as the formal section 7 consultation process. Based on BOEM's objective to work with regulatory agencies early in the planning process and to choose locations that will minimize environmental impacts (Gilman *et al.* 2016), we expect that site locations that minimize potential effects to MHI IFKWs and their habitat will be made early in the planning process. We have made revisions to the Final Biological Report and Economic Report to help clarify that change in location of projects is not an expected modification to be made during section 7 consultation; rather, regulatory agencies are likely to consider the sensitivity of the habitat early in the planning process and to select sites that will minimize any potential environmental effects, which is likely to minimize impacts to both MHI IFKWs and their critical habitat.

With regard to the perceived inconsistency between modifications for fishery and energy development activities, we note that our anticipated modifications to minimize effects to MHI IFKW critical habitat vary among activities based on the available information. We recognize that fisheries have the potential to adversely affect MHI IFKW prey stocks and have included this activity in the list of activities that may affect MHI IFKW critical habitat. However, as noted in the Draft and Final Biological Reports, commercial fisheries are already regulated under catch limits and area restrictions that help ensure sustainability of fish stocks, and there is no current information suggesting that fishery catch rates are adversely affecting the availability of prey for IFKWs (NMFS 2017a and 2018a). Nevertheless, we anticipate that through the consultation process, NMFS will recommend project-specific modifications that will help reduce impacts to critical habitat, whether that activity involves commercial fisheries, energy development, or some other Federal action.

Essential Features

Comment 3: The Hawaii Longline Association (HLA) provided comments noting several reasons why the ''prey'' feature may not be appropriately identified as a biological feature essential to the conservation of the MHI IFKW and why the proposed feature should not be used to determine future fisheries management. These comments stated that prey is not a limiting factor for this DPS, and noted that the Biological Report's conclusion, which anticipated no additional management for the longline fisheries, suggests that there are no special management measures required for this feature. HLA noted that without the need for special management measures, this feature does not meet the definition of features that can be used to delineate critical habitat under the ESA. HLA also noted that there is insufficient detail describing the prey feature (*e.g.,* standards identifying the quantity, quality, or availability of prey that is necessary to support MHI IFKW conservation) for NMFS to regulate the fisheries in the future, and noted that any revised management measures premised upon impacts to the prey feature would require a revision to the designation and an updated economic analysis to consider the impacts to and any potential exclusions for commercial fisheries.

Response: As noted in the *Summary of Changes from the Proposed Rule* section, we have restructured the feature essential to the conservation of MHI IFKWs to clarify that prey is one of four characteristics that support the feature, island-associated marine habitat for MHI IFKWs. These characteristics, in combination, support the unique ecology of MHI IFKWs, and each characteristic may require special management considerations or protection to support the overall health and recovery of this population.

The ESA defines critical habitat, in relevant part, as the specific areas within the geographical area occupied by the species at the time it is listed on which are found those physical and biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, 16 U.S.C. 1532(5)(A)(i).

Merriam-Webster defines a limiting factor as the environmental factor that is of predominant importance in restricting the size of a population. The ESA does not require that a feature be limiting, but only that it be essential to conservation and that it may require special management. It is rare that a single factor limits a species' conservation; instead, most listed species face multiple threats of varying magnitudes, and the combination of these threats can hinder recovery. As noted in the species' status review and recovery outline (Oleson *et al.* 2010 and NMFS 2016a), reductions in prey size and biomass as well as environmental contaminants (received through prey) are medium threats for this DPS (Oleson *et al.* 2010, and NMFS 2016a), indicating that prey is an element in supporting recovery of MHI IFKWs. Accordingly, the availability of prey is an important characteristic that supports the successful growth and health of individuals throughout all life-stages. Further, the successful management of this characteristic, which does have competition from fisheries that catch MHI IFKW prey within island-associated marine habitat for MHI IFKWs, will ultimately support recovery of the population.

The phrase ''may require'' indicates that critical habitat includes features that may now, or at some point in the future, be in need of special management or protection. Similar to our analyses in the proposed rule, we determined that this characteristic of the essential feature may require special management considerations or protections due to competition from fisheries that catch MHI IFKW prey. Certain laws and regulatory regimes already directly or indirectly protect, to differing degrees and for various purposes, the prey characteristic of the essential feature. However, in determining whether essential features may require special management considerations or protection, we do not base our decision on whether management is currently in place, or whether that management is adequate, but simply that it may require management. That is, we cannot read the statute to require that additional special management be required before we designate critical habitat (See *Center for Biological Diversity* v. *Norton*, 240 F.Supp.2d 1090 (D. Ariz. 2003)). That a feature essential to conservation may be under an existing management program is not determinative of whether it meets the definition of critical habitat.

We recognize that there is uncertainty associated with the relative importance of particular prey items in the diet; however, the diet of these whales and their energetic requirements are sufficiently described in the Draft and Final Biological Reports (NMFS 2017a and 2018a). Specifically, MHI IFKWs are known to primarily forage on large pelagic fish, including yellowfin tuna, albacore tuna, skipjack tuna, broadbill swordfish, mahi-mahi, wahoo, and lustrous pomfret (for the full list of dietary items see Table 2 of the Final Biological Report; NMFS 2018a), and the energetic requirements for the population is estimated to be approximately 2.6 to 3.5 million pounds of fish annually (see the Diet section of the Final Biological Report, NMFS 2017a). As noted in the Fisheries section of the Final Biological Report several fisheries target or catch MHI IFKW prey species. At least nine MHI IFKW prey species (from Table 2) are taken by the Federally managed longline fisheries (see Table 3 of the Final Biological Report) and several other species are incidentally caught by the state and Federal bottomfish fisheries. This overlap in targeted species of fish indicates there may be competition between fisheries and MHI IFKWs. Our designation and associated economic analysis are based upon the best available scientific information available at the time of designation. At this time, the prey characteristic of the essential feature meets the definition of critical habitat, in that it is essential to the conservation of the species and may require special management considerations or protection.

Comment 4: The Western Pacific Regional Fishery Management Council (the Council) submitted comments noting that they agree with our assessment of prey competition between MHI IFKWs and federally managed fisheries and our conclusion that additional management is not necessary for these activities. However, the Council disagreed with statements that future revised management measures could be necessary for Federal fisheries, noting that this was unlikely in the foreseeable future given the diverse prey base of MHI IFKWs and given existing protections already in place to manage healthy levels of pelagic fish stocks.

Response: As noted in our response to comment 3, we recognize that current information indicates that MHI IFKWs prey on a number of species (see Table 2 of the Final Biological Report; NMFS 2018a) and that their diet is diversified; however, as noted in the Biological Report, there is little known about specific diet composition, prey preferences, or potential differences among the diets of MHI IFKWs of different age, size, sex, or even social cluster. However, we do have information that false killer whales prefer pelagic prey species (*e.g.,* broadbill swordfish, skipjack tuna, albacore tuna, yellowfin tuna, blue marlin, and bigeye tuna) targeted by commercial fisheries. While we do not expect modifications to fishery management at present, we cannot assume that Federal regulations that are designed to maintain sustainable fisheries will be adequate by themselves to address the prey needs of a recovering IFKW DPS. Accordingly, we refrain from speculating as to the need for additional management of this characteristic as more information becomes available in the future.

Comment 5: BOEM commented that there are no special management considerations or protective measures that can reasonably be attributed to the ''Island-associated marine habitat for MHI IKFWs'' feature, without which the feature has little or no utility within the context of ESA consultations. BOEM recommended removing the feature to minimize confusion and avoid unnecessary analyses.

Response: As noted in the *Summary of Changes from the Proposed Rule* section, we have restructured the feature essential to the conservation of MHI IFKWs. The feature, island-associated marine habitat for MHI IFKWs, now consists of four component characteristics that, in combination, help describe the feature of habitat that is essential to MHI IFKWs. As noted above, we previously attempted to describe the significance of allowing for movement to, from, and within this habitat as part of the description of the proposed ''island-associated marine habitat'' feature. In the restructured version of the essential feature for this critical habitat designation, we have specifically described ''adequate space for movement and use within shelf and slope habitat'' as a characteristic of this feature. To clarify the special management considerations or protections, each characteristic includes a discussion of factors that may threaten or pose a risk to that characteristic. With regard to adequate space for movement and use within shelf and slope habitat, we specify that human activities that interfere with whale movement through the habitat by acting as a barrier may adversely affect this characteristic. We also provide examples of activities that may act as barriers to movement, such as large marine structures or sustained acoustic disturbance, and describe factors that may intensify these habitat effects, many of which can be minimized or mitigated.

Comment 6: We received several comments (from HLA, State of Hawaii's Division of Aquatic Resources (DAR), BOEM and the Navy) recommending that NMFS remove the ''habitat free of anthropogenic noise'' feature. The DAR noted that noise is related to an activity and is not a feature of the habitat, and that anthropogenic noise should be considered for its potential negative impacts to IFKWs, but it should not be an essential feature of the habitat. BOEM recommended removing the feature from the designation because (1) the proposed feature is not an existing physical or biological habitat feature, (2) effects of anthropogenic sound are evaluated through the ESA section 7 analysis as a direct effect to the DPS, and (3) there is insufficient information available to predict with confidence if, how, and where noise-related activities may require additional management as an element of habitat for the DPS. HLA noted that it is not appropriate or lawful for NMFS to include the absence of an element (sound) as an essential feature. HLA noted that the absence of certain levels of sound is not a tangible physical or biological feature that can be found in a specific area, and that the presence of sound should be evaluated under the ''jeopardy'' prong of a section 7 consultation because any determination by NMFS that sound may adversely affect the IFKW would be predicated on the finding that the sound affects the animals, not the animal's habitat. Further, HLA noted that many of NMFS' past critical habitat designations for other species that are susceptible to adverse effects associated with in-water sound do not include sound as a feature, and that we should not change our existing policy by identifying it as a feature for this species. The Navy submitted comments expressing concerns that the proposed rule did not include examples of what activities or impacts might adversely affect or adversely modify the proposed sound feature and requested that NMFS remove the feature until such time that the science becomes more mature.

Response: As noted in our response above and the *Summary of Changes from the Proposed Rule* section, based on this and other comments, we have restructured the feature essential to the conservation of MHI IFKWs. In the final rule, the several features described as independent features in the proposed rule now appear as characteristics that exist in combination under a single essential feature, island-associated marine habitat for MHI IFKWs. We agree with the commenters that the description ''free of anthropogenic noise'' does not provide a clear standard for determining how this habitat characteristic supports MHI IFKW conservation within island-associated habitat. However, we still find that sound levels are an important attribute of the island-associated habitat that is essential to MHI IFKWs' conservation.

As odontocetes, these whales rely on their ability to receive and interpret sound within their environment in order to forage, travel, and communicate with one another. Accordingly, island-associated habitat must be capable of supporting MHI IFKWs' ability to do so. While it is clear that noise introduced into the environment has the potential to affect individual whales in a manner that may have biological significance (*i.e.,* to result in a take by harassment or injury), scientific information also indicates that the introduction of a permanent, chronic, or persistent noise source can degrade the habitat of such sound-reliant species by adversely altering the animal's ability to use the habitat for foraging, navigating, or reproduction (*i.e.,* altering the conservation value of the habitat). This reliance on sound, combined with the fact that these whales are adapted to a restricted range, make sound levels an important characteristic of island-associated habitat. Thus, it is appropriate to consider how permanent, chronic, or persistent noise sources may alter the value of that habitat and manage for it.

With regard to the comment that this characteristic has not been expressed as a feature of the habitat, we considered rephrasing this characteristic to describe how ambient sound levels support MHI IFKW's capacity to forage, navigate, and communicate. However, we find that this articulation would not provide sufficient guidance to the regulated community about human activities that may degrade listening conditions for MHI IFKWs within island-associated marine habitat. To clarify how sound as a characteristic of habitat supports these whales and how human activities may adversely affect this characteristic we have revised the language describing this characteristic from ''Habitat free of anthropogenic noise that would significantly impair the value of the habitat for false killer whales' use or occupancy'' to ''sound levels that would not significantly impair MHI IFKW's use or occupancy.'' We believe that this formulation appropriately identifies that these whales rely on sound levels within their environment, and that noise that alters sound levels such that it interferes with these whales' use or occupancy may result in adverse effects to MHI IFKW critical habitat.

In this rule (see the *Physical and Biological Features Essential for Conservation* section) and the Final Biological Report (NMFS 2018a) we describe the importance of sound in this populations' ecology and how chronic noise sources may alter the value of their habitat. We recognize that the mere presence of noise, or even noise which might cause harassment of the species, does not necessarily result in adverse modification. Rather, we emphasize that chronic, or persistent noise sources are of concern and should be evaluated to consider the degree to which the noise may impede the population's ability to use the habitat for foraging, navigating, and communicating, or whether the noise source may deter MHI IFKWs from using the habitat entirely.

Our designation must be based on the best available scientific information at the time of designation and this includes considerable information on the species' reliance on sound in the environment and the effects of sound on their ability to communicate, forage and travel. Although we may not be able to predict exactly what noise-related activities may result in adverse modification of critical habitat or the management measures that will be taken in the future, we conclude that sound is an important characteristic of this species' habitat that may need special management considerations.

While previous critical habitat designations may not always have directly identified sound levels as a characteristic of critical habitat, we have considered how anthropogenic noise affects habitat use for species that are susceptible to the adverse effects associated with in-water sound for example, by creating barriers to passage or movement of Southern Resident killer whales (71 FR 69054; November 29, 2006) and Atlantic sturgeon (82 FR 39160, August 17, 2017). Although we ultimately did not include sound as an essential feature for the Southern Resident killer whale, our designation of critical habitat for Cook Inlet beluga whales does include the essential feature of the absence of in-water noise at levels resulting in the abandonment of habitat by Cook Inlet whales'' (76 FR 20180; April 11, 2011).

As discussed in the Final Biological Report, how human activities that introduce noise in the environment might change the animals' use of habitat and determining the biological significance of that change can be complex and involve consideration of site specific variables, including: The characteristics of the introduced sound (frequency content, duration, and intensity); the physical characteristics of

the habitat; the baseline soundscape; and the animal's use of that habitat. For the MHI IFKW designation, we include ''sound levels'' as a characteristic of the essential feature, because it notifies Federal agencies of the significance of sound levels in supporting MHI IFKWs' habitat use. Additionally, it allows these agencies to use the best available information to consider whether their activities may result in adverse effects to MHI IFKW habitat.

Areas Included in the Designation

Comment 7: We received several comments in support of the size and protections associated with the proposed designation. These comments generally acknowledged the importance of protecting habitat for this DPS. A number of these comments noted that the designation may provide ancillary habitat protections, thereby benefiting other species, biological resources, or cultural resources in Hawaiian waters.

Response: We agree that critical habitat designations are important in supporting thoughtful planning for the conservation of a species and, as noted in the Draft and Final Economic Reports, these designations can provide ancillary habitat protections to other species and resources that overlap with those areas (Cardno 2017 and 2018).

Comment 8: We received several additional comments about the overall size of this designation and the area included. Comments from BOEM and DAR suggested that the size of the designation was too large and both agencies recommended that NMFS focus the designation on high-use areas for IFKWs. Specifically, BOEM noted that the proposed designation includes the entire area used by this DPS, yet the proposed rule suggests that ''high-use'' and ''low-use'' areas within the designation may be used to identify special management considerations for siting offshore energy facilities. BOEM noted that the proposed rule considers access to high-use areas to be important, but does not describe how access may be affected by human activities in an open ocean environment. BOEM recommended focusing on ''high-use areas to provide better definition for special management considerations and/or protections of habitat.''

DAR referred to the large area of the proposed designation at 19,184 mi^2 and noted that the proposal seemed overly large for 151 animals, providing an average of 127 mi^2 per animal. DAR indicated that the non-uniform habitat use patterns of this DPS suggests that all waters within the 45–3,200 m depth range are not equally important and that designating all of these waters is not logical. DAR recommended that NMFS focus on the areas that seem to be important (*i.e.,* high-use areas) as the basis for critical habitat designation.

Comments received from the Marine Mammal Commission (MMC) also noted the large size of this designation and the potential difficulty in managing acute threats to IFKWs over a broad designation. However, the MMC also noted that, for the time being, the size of this designation was appropriate because information necessary to refine this designation is not yet available for this DPS. The MMC noted that the proposal meets the statutory requirements and went on to recommend that NMFS continue to undertake and support research needed to refine the designation in the future to further support recovery needs for this DPS.

Response: We find that the area designated as critical habitat is appropriate and representative of the ecological needs of this large marine predator. Moreover, it is based on the best available information, and does not include the entire range of the DPS. The area that is being designated includes approximately 26.5 percent of this DPS's range. The boundaries take into consideration the population's preference for deeper waters just offshore (45 m) and align with habitat use on the leeward and windward sides of the islands, while also allowing for travel around and among the islands through the selection of the offshore depth boundary at 3,200 m. While much information has been gained about habitat use for this DPS, there is still more to be learned about how habitat use differs among social clusters and over time as seasonal or long-term oceanographic changes influence prey. As noted in this comment, the proposed rule and the Biological Report (Baird *et al.* 2012) applied a density analysis to MHI IFKW satellite tracking information to identify high-density areas (also referred to as high-use areas) of the DPS's range; these portions of the range likely represent particularly important feeding areas for the animals represented in the data (Baird *et al.* 2012). We note however, that the known high-use areas are not necessarily representative of all clusters, as very few animals from some clusters have been tagged to date. Based on the incomplete information available, we cannot conclude that the documented high-use areas represent all feeding areas or sources of prey essential for the conservation of this DPS.

Rather, current information suggests that these whales travel great distances throughout the MHI (Baird *et al.* 2012), and their prey species are also known to be broadly ranging, widely migratory species that are patchily distributed throughout the whales' range (Oleson *et al.* 2010). Additionally, these whales are observed feeding throughout the low-density areas of their range (Baird *et al.* 2012). Although the data indicates that the whales concentrate efforts in certain areas where foraging success is high, additional information indicates MHI IFKWs continue to forage for prey located throughout their range; therefore, other areas of the waters surrounding the MHI meet the definition of critical habitat.

We have not identified the high-use areas of the range as an independent feature of MHI IFKW critical habitat, but rather as a strong indicator of the presence of characteristics of the essential feature. We also use the information about known concentrated habitat use to evaluate the conservation value of areas, as noted in the ESA Section 4(b)(2) Report (NMFS 2018b). Because of the concentrated use of this habitat, we infer the conservation value for high-use areas to be higher than low-use areas of the range. In other words, we considered that these high-use areas of the designation may offer more benefits to IFKWs and that the loss or degradation of these areas may result in a greater impact to the DPS as a whole. In our response to Comment 5, we note that we revised our Biological Report to clarify that we expect siting decisions for renewable energy projects to occur early in the planning stage rather than at the consultation stage. Nonetheless, we do expect planners to take into consideration IFKW use of a particular area and to minimize any potential impacts to these whales and their habitat. Thus, while the effects of certain technologies are largely uncertain, planning groups may choose to avoid placing projects in high conservation value areas if alternative locations exist in low-use areas.

Comment 9: We received comments specific to the boundaries that were selected for the proposed designation. Two comments suggested that NMFS reconsider the inner boundary of the designation. In particular, the National Park Service recommended that the inner boundary of the designation be moved to 30 m in depth to incorporate additional areas where this DPS has been documented (in accordance with Baird *et al.* 2010) and to include a buffer zone. Alternatively, DAR suggested that NMFS use IFKW satellite tagging data to select a boundary for the designation. DAR noted that this data seems to support a critical habitat designation

that is in closer proximity to the islands, especially near Molokai and Hawaii.

The Council requested that NMFS provide further clarification on the basis for selecting the outer boundary of 3,200 m in depth. The Council noted that the depth appears to have been selected to allow the designation to be drawn in a continuous range around the MHI and that the designation may include areas that may not be essential to the conservation of the MHI IFKWs. The Council recommended that an alternative delineation be made based on different depth ranges around each island and the channels to account separately for habitat characteristics around each island and areas used among islands for movement.

Response: In response to these comments we re-analyzed the data used to select the boundaries for this designation as well as new satellite information received from Cascadia Research Collective to determine if different boundaries may be appropriate. We also reviewed the data by island to consider whether alternative patterns exist at different depths or distances from shore.

Review of this information revealed that 2.5–3.8 percent of satellite-tag locations were shallower than 45 m across the islands (the higher percent includes points located on land, which likely fall into shallow locations due to the associated error with these satellite-tag locations). When we mapped shallow satellite-tag locations across the islands, we did not observe clear spatial patterns around each island, but saw that shallower use varied somewhat between islands. Similar to the proposed rule, we then reviewed depth frequency histograms of satellite-tag locations, but considered these locations specific to each island as requested by the above comments. These histograms varied slightly from island to island, but we noted that when high-use areas are located near islands, the depth frequency histogram for that island is skewed toward deeper depths, indicating these data may be limited in describing meaningful patterns around the entire island. In addition to considering depth around each island, we reviewed distance from shore and found similarly disparate patterns ranging from 500 m offshore to over 1,200 m. Looking across the islands as a whole, less than four percent of the satellite-tag locations are found at depths shallower than 45 m, and this remains a depth at which the frequency of satellite-tag locations increases and remains more consistent.

Throughout this review we considered whether prescribing a different depth or distance from shore for each island would provide more clarity about MHI IFKW habitat use or management of their habitat around each island; however, prescribing island-specific boundaries would not better match how these animals use Hawaiian waters. Given the DPS's non-uniform treatment of habitat around each island, splitting these data by island may not partition the habitat in manner that is ecologically meaningful.

With regard to the outer boundary, we selected the outer depth boundary to incorporate those areas of island-associated habitat where MHI false killer whales are known to spend a larger proportion of their time (see high-use discussion in Movement and Habitat Use in the Biological Report), and to include island-associated habitat that allows for movement between islands and around each island. As noted above, these whales move great distances throughout the MHI, moving back and forth between areas off multiple islands. The 3,200 m depth boundary best aligns with the span of habitat used on the leeward and windward sides of the islands, allowing for ample space for these whales to move among areas of concentrated or high-use, including habitat across the core portions of the range.

We have not revised the boundaries at this time because the commenters requested revisions are not supported by the data, although some aspects of our analysis indicate that further consideration may be warranted as additional information becomes available. The current delineation of 45–3,200 m is appropriate because it includes a depth just offshore where MHI IFKWs are more likely to be found and an outer boundary that aligns with habitat use on the leeward and windward sides of the islands, while allowing for travel around and between the islands.

Comment 10: DAR provided comments on the vertical extent of this designation, noting that NMFS should limit the designation to those depths that are utilized by the DPS and their prey. DAR noted that 1,272 m is the maximum dive depth recorded for this DPS, and recommended that, similar to the monk seal critical habitat designation which focuses on the habitat 10-m from the bottom where monk seals forage, the IFKW designation focus on the upper 1,500 m of the water column which is the portion of the habitat being used by the IFKWs.

Response: We considered the recommendation to limit this designation to the depth of 1,500 m; however, given the limited data available and other management considerations associated with water quality and sound, we have not limited the designation to a specific depth. For the Hawaiian monk seal we limited the critical habitat designation to 10 m from the bottom to help clarify where Hawaiian monk seal foraging areas, an essential feature of the designation, exist and to help clarify where protections should apply (80 FR 50926; August 21, 2015). While we recognize that MHI IFKWs and their prey may limit their habitat use to specific depths, information about these patterns is still relatively limited. Further, sound levels and water quality, which also support the feature essential to the conservation of MHI IFKWs, may be at risk at a wider range of depths.

Comment 11: One commenter noted that a study by Baird *et al.* (2011) found an island-associated population of false killer whales in the Papahanaumokuakea Marine National Monument and suggested that this area be added to the critical habitat of the MHI IFKW DPS, because the area is free of anthropogenic noises, and the listed species has been found in this region. The commenter went on to note that an expansion of critical habitat into this region may also shield the DPS from climate change impacts and prepare for range shifts in the DPS or in their prey as a result of climate change.

Response: We have not included areas of the Papahanaumokuakea Marine National Monument in this designation of critical habitat because we find that this area is unoccupied habitat outside the range of the DPS and is not essential to its conservation. To be clear, the MHI IFKW is one of three false killer whale populations found in Hawaiian waters: The MHI IFKW, Northwestern Hawaiian Islands FKW, and pelagic FKW. Only the MHI IFKW is listed under the ESA. Although the range of the MHI IFKW overlaps with that of the Northwestern Hawaiian Islands and pelagic populations, the MHI IFKW range does not extend into the Papahanaumokuakea Marine National Monument. While we can consider designation of critical habitat outside the geographic range of a listed species, given the unique ecology of the MHI IFKW, their reliance on the shelf and slope habitat of the MHI, and the fact that another population of false killer whales occupies the waters of the NWHI, we find no information to suggest that waters in the NWHI are essential to conservation. Further, climate change predictions do not provide information that would allow us to conclude that the NWHI will

provide habitat that is essential to conserving MHI IFKWs.

Areas Ineligible for Designation

Comment 12: We received several comments that disagreed with or questioned our determination that the Joint Base Pearl Harbor Hickam (JBPHH) INRMP provides a benefit to MHI IFKWs. Comments received from the MMC, Natural Resources Defense Council (NRDC), the Center for Biological Diversity (CBD), and a researcher with the Cascadia Research Collective noted that MHI IFKW habitat-use information suggests that the overlapping areas (the Ewa Training Minefield and National Defensive Sea Area) provide important corridors for MHI IFKWs and that NMFS should consider this information in meeting its ESA section 4(a)(3) requirements. These comments also noted that the INRMP was approved prior to the listing of the MHI IFKW, and therefore does not take into account the unique conservation needs of this DPS. Comments from the MMC noted that JBPHH conservation measures mentioned in the proposed rule do not provide a direct, quantifiable, or obviously substantial benefit to MHI IFKWs. The MMC recommended that NMFS withdraw its proposed determination and subsequent preclusion of areas managed under the JBPHH, but if retained, that the INRMP be updated to include activities that benefit IFKWs more directly. In a joint comment, NRDC and CBD also noted that there is not a direct link between the JBPHH conservation measures and direct benefits to the MHI IFKW or their prey. NRDC and CBD noted that many of these measures are merely proposed and not yet officially included in the JBPHH INRMP, which is due to be drafted in 2018. NRDC and CBD similarly recommended that NMFS re-evaluate its consideration of whether the INRMP provides a benefit to MHI IFKWs and that NMFS not preclude these areas from the critical habitat designation due to the high conservation value of these areas for MHI IFKWs.

Response: In response to these comments we reviewed our determination regarding the JBPHH INRMP; we also contacted the Navy for additional information about the on-going implementation and the plans for revision of this INRMP. As noted in the ESA Section 4(b)(2) Report (NMFS 2018b), regulations at 50 CFR 424.12(h) provide that the Secretary will not designate as critical habitat DOD lands that are subject to an INRMP if the Secretary determines in writing that such plan provides a conservation benefit to the species for which critical habitat is being designated. In determining whether such a benefit is provided, NMFS considers (1) the extent of the area and features present; (2) the type and frequency of use of the area by the species; (3) the relevant elements of the INRMP in terms of management objectives, activities covered, and best management practices, and the certainty that the relevant elements will be implemented; and (4) the degree to which the relevant elements of the INRMP will protect the habitat from the types of effects that would be addressed through a destruction-or-adverse-modification analysis. Importantly, NMFS can find that an INRMP provides a benefit to a species where, as here, the species is not directly addressed in the INRMP. In these cases, we consider adaptive conservation management for the feature essential to the conservation of the species (*i.e.,* its habitat features) or the species itself either directly or indirectly. We also consider whether adaptive conservation management measures are effective and reasonably certain to be implemented.

The JBPHH INRMP overlaps with the areas under consideration for critical habitat in two areas, the Naval Defensive Sea Area and the Ewa Training Minefield, which include approximately 27 km^2 (~10 mi^2) of area or approximately 0.5 percent of the areas under consideration for critical habitat. Based on our review of relevant data, including supplemental satellite-tracking information from Cascadia Research Collective (3 new animals), we consider these areas to be low-use (low-density) areas for MHI IFKWs, and note that they travel through these areas at moderate levels (see Figure 4 of the ESA Section 4(b)(2) Report). We therefore consider these areas to be of low to moderate conservation value to MHI IFKWs in comparison to other areas of the designation.

During development of the proposed rule the Navy highlighted a number of JBPHH management efforts that benefit MHI IFKW habitat. After reevaluation, we still find that the JBPHH INRMP provides a number of conservation measures that benefit MHI IFKWs and their habitat, including those that address water quality and fishery prey base (see the *Application of ESA Section 4(a)(3)(B)(i)(Military Lands*) section of this rule). Specifically, measures taken to improve water quality, including restoration projects and pollution prevention plans, directly improve or maintain the water quality characteristic of MHI IFKW critical habitat. Actions taken to remove feral animals, as well as restrictions on free roaming cats in residential areas, also help to maintain water quality and lower the risk of infectious agents being introduced into MHI IFKW habitat. The Navy's participation as an active member of the Toxoplasmosis and At-Large Cat Technical Working Group helps address issues that JBPHH faces on base and encourages a broader response to a conservation issue that threatens much of Hawaii's wildlife, including MHI IFKWs. Finally, the Navy has issued fishing restrictions adjacent to and within areas that overlap the potential designation, and conducts creel surveys that provide information about fisheries in unrestricted areas of Pearl Harbor. These measures provide protections for and information about the marine ecosystem and food web that supports MHI IFKW prey species.

We find that some of these protections (*e.g.,* stormwater and pollution measures or watershed enhancement activities) address effects that would otherwise be addressed through an adverse modification analysis (provided they are not already addressed through baseline protections). Other conservation measures (*e.g.,* controlling cats to prevent the spread of toxoplasmosis and fishery restrictions) address effects to MHI IFKW habitat that otherwise may not be subject to a section 7 consultation. In these instances, the Navy's INRMP provides protections aligned with 7(a)(1) of the ESA, which instructs Federal agencies to aid in the conservation of listed species.

As part of an adaptive management approach for this INRMP, NMFS staff participates in JBPHH INRMP annual reviews to provide recommendations about plan implementation and effectiveness and to receive information about upcoming plan amendments. These reviews help ensure that the plan provides an effective mechanism for addressing MHI IFKW conservation within areas managed under the JBPHH INRMP. Specifically, the reviews provide a reliable method for feedback, regular assurances that the above-described conservation measures are being implemented, and a procedure for assessing and modifying measures to ensure conservation effectiveness.

Although not essential to our determination that the JBPHH INRMP provides a benefit to the MHI IFKW, we also take into consideration additional future measures that the Navy plans to include in updates to the INRMP by December 2018. These expected additional measures include (1) specific information about MHI IFKWs, (2) where MHI IFKWs may be found in areas managed by the installation, (3)

new projects associated with watershed enhancement, and (4) mandatory mitigation measures already used by the Pacific Fleet to minimize impacts to MHI IFKWs as they use these areas. Procedural mitigation measures are mandatory activity-specific measures taken to avoid or reduce the potential impacts on biological resources from stressors, including those that may cause acoustic or physical disturbance to marine mammals during Navy training and testing. These procedural measures are required in the Navy's Protective Measures Assessment Protocol consistent with letters of authorization for training activities issued under the MMPA and supporting ESA analyses. Procedural mitigation measures are adaptively managed as new information becomes available about effective mitigation techniques and are identified in the current Hawaii-Southern California Training and Testing Final Environmental Impact Statement. Examples of measures include training personnel to spot and identify marine mammals (lookouts), reporting requirements for trained lookouts, and halt or maneuvering requirements when marine mammals are spotted within identified mitigation zones of Navy activities (DON 2013 and 2017c). Although not restricted to the JBPHH areas, these mandatory mitigation measures help ensure that the Navy will avoid or reduce the impacts from acoustic stressors on MHI IKFWs as the INRMP is updated by December 2018.

After careful review, we are satisfied that the Navy's 2011 JBPHH INRMP provides a benefit to the MHI IFKW in this relatively small (0.5 percent of habitat that overlaps with areas that meet the definition of MHI IFKW critical habitat) area having low-moderate conservation value to MHI IFKWs. We are satisfied that the Navy's documented history of consistent plan implementation and their commitment to adaptive management through the implementation of mandatory mitigation measures will ensure that MHI IFKWs receive benefits under the JBPHH INRMP, particularly with respect to improving watershed health in the Pearl Harbor area, which will benefit prey and water quality characteristics. Further, we expect that the Navy will continue to strengthen its INRMP through scheduled updates to be completed by December 2018.

Comments on the Economic Impacts

Comment 13: We received comments from BOEM indicating that the proposed rule did not describe the full range of the economic effects because the analysis was limited to a discussion of incremental administrative costs and did not describe, quantitatively or qualitatively, the cost factors associated with changes in site selection should the proposed critical habitat be interpreted to require such changes. BOEM noted that even small changes to siting decisions can equate to large costs, and that during initial planning these decisions can impact the viability of developing reliable and cost-effective renewable energy resources. Additionally, BOEM noted that ''the economic report does not appear to reconcile the estimated increases in administrative costs between sectors [comparing energy and fisheries] when compared with its conclusions for the management needs that are used to justify incremental increases in administrative costs.''

Response: As noted in our response to Comment 2, we expect that BOEM will make site location decisions that minimize potential effects to MHI IFKWs and their habitat early in the planning process (Gilman *et al.* 2016). We also note that current potential site locations are predominantly found in low-use habitat areas. Accordingly, we have revised the Biological Report to clarify that site relocation is not an anticipated modification identified during section 7 consultation for this designation. With regard to the comment about estimated increases in administrative costs between sectors, Chapter 4 of the Economic Report (Cardno 2018) points out that the administrative costs for each activity are estimated using the number of consultations for that activity over the last 10 years (from NMFS section 7 database) as well as any information gathered about likely future projects that may require consultation. These administrative costs take into consideration whether technical assistance, informal, formal, or programmatic consultation is expected and do not include incremental costs associated with any recommended project modifications to minimize the impacts to critical habitat (see Table 4–1; Cardno 2018). The administrative cost differences between fishery activities and energy activities are therefore based on the number and type of consultations expected over the next ten years and do not include any incremental modification costs associated with consultation. Fishery activities regularly undergo consultation around Hawaii, and the consultation history indicated that this category of activity underwent 7 formal, 17 informal and 2 technical assistances over the 10-year period. Thus, the administrative costs for fishery activities were estimated assuming a similar pattern of consultation. Renewable energy development activities do not have the robust history of consultation in Hawaii that fishery activities have. As such, we estimated the administrative costs for these activities based on information provided about three anticipated projects within the next 10 years (the time frame of the analysis), which are assumed to require formal consultation. BOEM and Hawaii State Energy staff indicated that there was uncertainty regarding whether the projects would be implemented in the next ten years. As such, the administrative cost estimates for energy activities were estimated in a range from a low of 0 to a high of 16,000 dollars, to reflect alternatives in which none of the projects occur (0 dollar estimate) and all three projects occur and require consultation in the next 10 years (16,000 dollar estimate).

Comment 14: DAR provided comments suggesting that Federal agencies may not be the only ones impacted by a broad designation and noted that an overly broad critical habitat designation wouldn't necessarily identify important habitats that are essential for the conservation of the species and could unintentionally and unnecessarily, increase management costs. This comment referred to costs and delays to projects associated with the management of Essential Fish Habitat (EFH) and suggested that a broad critical habitat designation could result in similar costs and delays.

Response: As noted in our response to Comment 8, we conclude that this designation is representative of the ecological needs of this endangered population and is based on the best available information. We do not agree that designation is overly broad, as it is based on habitat characteristics that support important biological needs, and includes less than thirty percent of the IFKW's occupied range. Moreover, as noted in the Economic Report (Cardno 2018), the economic impacts of this designation are low because the designation does not include many nearshore areas, including developed shoreline, harbors and inlets, where a majority of Hawaii's marine section 7 consultations occur, and because existing regulatory measures provide some baseline protections for habitat characteristics, such as water quality and prey. As such, we anticipate that the costs of this designation will be largely attributed to federally-managed fisheries, Department of Defense activities, and marine-related construction and energy development,

and we do not anticipate that the additional consultation on effects to critical habitat will result in significant, additional project delays or costs.

We note that the consultation process for critical habitat under the ESA and EFH under the Magnuson-Stevens Act have different requirements and work under different timeframes. We have no basis to conclude that the costs associated with conserving existing EFH are related to costs associated with this critical habitat designation.

Comments on 4(b)(2) Exclusions

Comment 15: The MMC provided comments on the 4(b)(2) weighing process for national security exclusions, expressing concerns that, without a quantitative analysis of benefits to security or conservation, decisions to designate or exclude an area from the designation based on qualitatively balancing IFKW use with potential regulatory compliance burden appear to be somewhat arbitrary. The MMC, provided examples: ''Waters Enroute to PMRF,'' Kingfisher Range, and Kaula and Warning Area 187, in which NMFS chose not to exclude the first area and to exclude the second and third areas, using essentially the same reasoning of having low MHI IFKW use and a minor impact to the Navy's consultation. The MMC recommended that NMFS reconsider its benefit analysis, and investigate methods to draw equivalence, ideally quantitative, between conservation benefits inferred from IFKW usage and benefits of relief from potential regulatory compliance impacts.

Response: We have not identified a quantitative method to compare the benefits of excluding particular areas for national security to the benefits of designation of critical habitat for MHI IFKWs. A qualitative approach allows us to better evaluate the different factors that weigh in the balancing test. We note that even where we have quantitative information, that information is incomplete and may require qualitative assessment. For example, in our comparison of benefits of exclusion versus benefits of designation, we consider MHI IFKW habitat use in areas where satellite tracking information may be underrepresented (*e.g.,* areas known to be used by cluster 2 and 4 animals).

With regard to the ''Waters Enroute to PMRF,'' Kingfisher Range, and Kaula and Warning Area 187 examples, we disagree that our weighing process was inconsistent in the proposed rule, and we note that key differences in our analyses outlined in the ESA Section 4(b)(2) Report turned on differences associated with the size of the requests, the control that DOD has over each area, and the likelihood that other Federal activities may require consultation and may occur in each area. For example, both the Kingfisher and Kaula areas are relatively small in size, and DOD control and use of these areas are likely to preclude other Federal activities that would otherwise undergo consultation, thus presenting a lower benefit of designating critical habitat in these areas. In contrast, ''Waters Enroute to PMRF'' includes a larger area in which the Air Force's activities and use are not likely to preclude other Federal activities that would otherwise undergo consultation. However, based on this comment, and the question raised about inconsistencies in our decision making process, we have revised tables in our ESA Section 4(b)(2) Report to articulate more clearly the differences in our determinations for this weighing process.

As noted above, we have reassessed our evaluation of the waters south and east of PMRF (the Kaulakahi Channel portion of Warning area 186) after considering supplemental information furnished by the Navy in October of 2017, and for the reasons discussed above, we concluded that the benefits of excluding this area outweigh the benefits of designation. While the Kaulakahi Channel portion of Warning area 186 overlaps in part with the ''Waters Enroute to PMRF,'' these two areas were assessed independently based on differences in the geographic scopes of the requests made by the Air Force and Navy, as well as differences in the activities occurring in these areas (DOAF 2017, DON 2017b, DON 2018). Although our independent weighing of the Air Force's request for the ''Waters Enroute to PMRF'' area did not change, we note that a portion of this area is now excluded from critical habitat because it overlaps with the Kaulakahi Channel portion of Warning area 186, where the benefits of exclusion (for Navy activities) were found to outweigh the benefits of designation.

Comment 16: Cascadia Research Collective's Researcher Robin Baird, Ph.D., provided additional information about MHI IFKW habitat use for 13 of the areas analyzed in our 4(b)(2) national security exclusion process as well as the six additional areas we identified in the proposed rule but for which we did not include a proposed exclusion determination. This information included analyses of a larger sample size of satellite tag data from that reported in the Draft Biological Report (*i.e.,* 3 additional individuals' data was included with the 27 already considered in the Draft Biological Report). Using this satellite-tag information and the boundaries of the areas under consideration for exclusion, Baird calculated the total area requested for exclusion (in km^2), percent of the total range, percent of total time spent in an area, days spent in area (per 100 km^2), and the number of visits (per 100 km^2). Baird noted that these analyses show that a number of areas that are proposed for exclusion are relatively high-use areas or appear to be important as transit areas. Baird noted that NMFS should reconsider the exclusion of areas such as FORACS and SESEF based on these calculations. Baird also noted that the NDSA and Ewa Training Minefield, which were determined ineligible under 4(a)(3), also lie within the same important transit corridor off Oahu, and that NMFS should reconsider this decision in terms of the costs of not including these two areas in critical habitat. Comments received from NRDC also requested that we reconsider the exclusion of FORACS, SESEF, and Kingfisher in light of these areas being high transit areas.

With regard to the six additional areas under consideration for exclusion, Baird noted that only one area, the Kaulakahi Channel Portion of W–186, represents an area that is likely not particularly important to the population. The other five areas, however, represent areas where MHI IFKWs spend a disproportionate amount of time. NRDC and the CBD also commented that the NMFS should not exclude the area south of Oahu, the Kaiwi Channel, or the Alenuihaha Channel due to the importance of areas to MHI IFKWs.

Response: We have reanalyzed the areas under consideration for exclusion using the Navy's initial June 2017 request, as supplemented by its October 2017 input and Baird's updated satellite tracking information. As noted in the Draft ESA Section 4(b)(2) Report (NMFS 2017b), for the proposed rule we relied on density analysis of satellite-tracking data to provide information about MHI IFKW habitat use, and the conservation value for high-use areas was inferred to be higher than low-use areas of the range. For particular areas of the range, we also used additional information (*e.g.,* observational data of MHI IFKWs from boat surveys in portions of the MHI) that may supplement our current understanding of MHI IFKW habitat use patterns, because current information provides a limited representation for social clusters 2 and 4.

To consider the conservation value of a particular area relative to other areas of the potential designation, we overlaid tracking information from Cascadia

Research Collective across the whole area under consideration for designation using the grid squares from the high-density areas analysis (from Baird *et al.* 2012). We calculated the number of times tagged animals passed through each grid square and used the standard deviation from these calculations to display travel areas from high to low across the range, similar to the high-density areas. We incorporated information relevant to travel within these areas into our considerations with regard to the benefits of designation, along with information that may supplement our knowledge of particular areas with regard to MHI IFKWs (see ESA Section 4(b)(2) Report for additional detail; NMFS 2018b).

Looking at the maps of MHI IFKW high-density and travel information, FORACS includes areas that fall within low-use areas and moderate to low transit areas, and SESEF and Kingfisher generally fall within low-use areas and low transit areas. After taking into consideration DOD's use of the area (including the types of activities that occur here and the uniqueness of that activity), the likelihood of changes to the consultation, the level of protection already provided by management and the likelihood of non-DOD actions occurring in these areas, we confirm our initial finding that the benefits of excluding these areas for national security still outweigh the benefits of designation. While we recognize that travel to, from, and around habitat areas is important for these whales, we find that existing management protections provide adequate levels of protections for these sites and that Navy control and use of these areas is likely to deter other non-DOD actions that may otherwise require consultation in these particular areas. As such we have excluded these areas from the final designation.

With regard to the six additional areas under consideration for exclusion, we reviewed each area consistent with the review of all other areas considered for national security exclusions for this rule. We agree with commenters that three of these areas (the area north and east of Oahu, the Kaiwi Channel, and the area south of Oahu) represent high-use or high to moderate travel areas for MHI IFKWs. However, the Kaulakahi Channel Portion of W–186, and the area north of Molokai fall within mostly low-use and low travel areas of the designation. Additionally, as noted in the *Summary of Changes from the Proposed Rule* section above, the Alenuihaha Channel request was reduced in geographic scope to only include those deeper areas of the Channel that support Undersea Warfare training, which only overlaps with low-use and low-travel areas.

For the Kaulakahi Channel Portion of W–186, the area north of Molokai, and the reduced Alenuihaha Channel area (NMFS 2018b), we found that the benefits of exclusion for national security outweigh the benefits of designating MHI IFKW critical habitat. We note that on June 22, 2017, the Navy requested exclusion of these areas as a subset of the larger ''Entire Area'' and, in the case of the area north of Molokai, as a subset of the ''four islands region.'' NMFS initially proposed not to exclude these two larger units. Although the June 22, 2017, request provided a full description of the defense activities in these areas (DON 2017a as referenced in NMFS 2017b), the Navy's supplemental submission in October 2017 helped improve our understanding of the geographic scope of the particular impacts to national security in the Kaulakahi Channel Portion of W–186 and the area north of Molokai (see Figure 2 of the proposed rule (82 FR 51186; November 03, 2017) and NMFS 2018b). Additionally, the Navy provided supplemental information regarding training activities in the Alenuihaha Channel, and clarified that its request for exclusion included only the deeper areas of the Channel that support Undersea Warfare training exercises. We also note that all three of these areas represent largely low-use and low-transit habitat and were identified as significant for Navy use and activities. Given our improved understanding of the defense activities conducted and the reduced size of the exclusions, we conclude that the benefits of exclusion outweigh the benefits of designating critical habitat, and that exclusions will not result in extinction of the species.

With respect to the remaining three sites (the area north and east of Oahu, the Kaiwi Channel, and the area south of Oahu), we found that the benefits of designation outweighed the benefits of exclusion, largely because these areas represent high-use or high to moderate transit areas for MHI IFKWs and other non-DOD activities that may require consultation may occur in these areas.

With regard to the comment on the Naval Defensive Sea Area and the Ewa Training Minefield, we refer to our response to Comment 12 regarding our decision to find that the JBPHH INRMP provides a benefit to MHI IFKWs.

Comment 17: We received comments from the MMC requesting that NMFS provide an opportunity for the public to comment on the inclusion or exclusion of any of the six areas that were still under consideration for national security exclusion for the Navy. Similarly, NRDC and CBD noted that the public should have the opportunity to comment on the exclusion of any of these areas, given the large size and overlap with significant proportion of the proposed critical habitat designation.

Response: As explained above, we have exercised our discretion to exclude three of the six sites requested, the Kaulakahi Channel Portion of W–186, the area north of Molokai, and the reduced Alenuihaha Channel area (NMFS 2018b), because we find that the benefits of exclusion for national security outweigh the benefit of designating MHI IFKW critical habitat. As indicated above, on June 22, 2017, the Navy requested exclusion of these areas as a subset of a larger ''Entire Area''. The Navy also requested exclusion of the area north of Molokai as a subset of the larger ''four islands region''. In the proposed rule, we determined that these areas did not warrant exclusion as part of the larger units. While the Navy's June 22, 2017, request provided a full description of the defense activities conducted in these areas, the Navy's supplemental submission in October 2017 helped us reassess our initial decision in the context of a more spatially limited area. Additionally, the Navy clarified that it was only seeking exclusion of the deeper areas of the Alenuihaha Channel that support Undersea Warfare training exercises. Because in the proposed rule we identified both the national security importance of the areas as well as the Navy's supplemental request limiting the geographic scope of the requested exclusions, we are satisfied that the public was afforded a sufficient opportunity to comment on the proposed exclusions.

Comment 18: We received several comments on the proposed exclusion related to the BOEM Call Area, found northwest and south of Oahu.

The Navy submitted comments noting that, while the Navy supports the exclusion of areas suitable for renewable energy development, portions of the currently identified areas (BOEM Call Areas) are not suitable for renewable energy development, due to national security concerns. The Navy asserted that it is committed to bringing renewable energy to Oahu and has identified alternative locations which the Navy deems suitable. In support of identifying areas for renewable energy development, the Navy completed an assessment of areas (see *http://greenfleet.dodlive.mil/rsc/department-of-the-navy-hawaii-offshore-wind-compatibility/*) around Oahu, noting where commercial wind energy projects

are not compatible with military activities and identifying only small sections of the two sites (*i.e.,* two sections of the Call Area) that are compatible (DON 2016).

Response: We understand that the Navy and BOEM continue to discuss areas that are suitable for military activities as well as offshore energy production and that, through these consultations, the most suitable sites will be selected for wind-energy development. However, in determining the economic costs of this designation, we rely on the best available information to identify where economic costs are likely to occur. The two sites noticed as the BOEM Call Area (81 FR 41335; June 24, 2016) remain significant in meeting Hawaii's renewable energy goals as these sites have been identified as areas where wind resources, water depth, and proximity to shore are favorable for wind-energy development. Given that the boundaries of these two sites have not been revised and that the sites are noted as significant for energy development, we have weighed the benefit of excluding the BOEM Call Area based on the economic impacts that may result from this designation. After determining that economic benefits of exclusion outweigh the benefits of designation, we have excluded the BOEM Call Area from this critical habitat designation (see the *Economic Impacts of Designation* section).

Comment 19: Several other comments (received from the MMC; NRDC and CBD (in a joint letter); and the Humane Society of the United States, the Humane Society Legislative Fund, and Whale and Dolphin Conservation (in a joint letter)) expressed disagreement with NMFS' weighing of the benefits of exclusion versus the benefits of designation for the BOEM Call Area and recommended that NMFS not exclude the sites from critical habitat. Among these, several comments noted that the benefits of exclusion do not appear to outweigh the benefits of designation, particularly because these areas represent rather large sections of habitat, which additional satellite tracking information suggests is important to MHI IFKWs for travel. Comments noted the scientific uncertainty about the effects of renewable energy and large-scale in-water projects on MHI IFKWs and their habitat and noted that these factors should favor providing additional protections for the habitat of an endangered DPS with a restricted range.

In recommending that NMFS not exclude this area, the MMC noted that NMFS should only consider exclusion in instances in which the exclusion would not result in the extinction of the DPS and noted that, due to the precarious status of IFKWs, the apparent importance of its entire range to its continued existence, and NMFS' inability to identify which factor or factors caused the population to decline in the past and may continue to threaten its persistence, the exclusion of any of the areas proposed as critical habitat from the final designation could contribute to the population's eventual extirpation.

Response: As noted in our response above, we have excluded the BOEM Call Area (both of the sites northwest and south of Oahu) from this designation (see the *Economic Impacts of Designation* section) Generally, these areas include low-use and lower transit areas for MHI IFKWs, although small areas of overlap occur with moderate transit areas along the northeast tip and eastern edge of the south Oahu area. As noted in the ESA Section 4(b)(2) Report, NMFS is satisfied that there are sufficient pathways within critical habitat to allow for unimpeded transit for MHI IFKWs and that the small overlap in this area will not significantly impede MHI IFKW movement to other areas of critical habitat, due to the relatively small size of this overall exclusion (NMFS 2018b). Although large in-water construction projects are an activity of concern for this DPS, consultations required to ensure that activities are not likely to jeopardize the MHI IFKWs are expected to achieve substantially the same conservation benefits of designating this area as critical habitat for this DPS. Moreover, Federal activities in this area for wind energy development are not expected to result in destruction or adverse modification of MHI IFKW critical habitat.

Given the significance of this offshore area in supporting renewable energy goals for the State of Hawaii and the goals of Executive Order 13795, the low administrative costs of this designation, the existing baseline protections, and the low-use by MHI IKFWs, we find that the benefits of exclusion of this area outweigh the benefits of designation. Based on our best scientific judgment and acknowledging the relatively small size of the area (approximately 0.2 percent of the overall designation), and other safeguards that are in place (*e.g.,* protections already afforded MHI IFKWs under its ESA listing, or regulatory efforts that provide ancillary protections to water quality and prey characteristics, such as the Clean Water Act as amended by the Oil Pollution Act, or the Magnuson-Stevens Fishery Conservation and Management Act), we find that exclusion of this area will not result in the extinction of the species.

Furthermore, we conclude that none of the exclusions will result in extirpation of the species. As previously noted, this population and its habitat benefit throughout its range from other protections under the ESA as well as other statutes and their regulations. In addition, the exclusions outlined in this rule are limited in scope and include habitat that is of lower conservation value for this population. Thus, this designation provides protections throughout the core portions of the MHI IFKWs' range and in areas of high conservation value.

Comment 20: One comment expressed concerns that the BOEM Call Area identified for exclusion could be subject to changes after the public's ability to comment and noted that it was not clear if the public will have an opportunity to see and comment on any changes that could adversely affect protection of the area critical to the survival of this DPS.

Response: As noted in our responses above, we are excluding the BOEM Call Area that was noticed in our proposed rule and, as a result, revisions have not been made to the boundaries. While we recognize that ongoing negotiations between the Navy and BOEM and additional public participation may result in future Call Area boundary changes, we base our decision on the best information currently available and do not speculate on revisions that may occur in the future. The basis for our excluding this area for economic impacts has not changed from the proposed rule (see the *Economic Impacts of Designation* section).

Comment 21: One comment noted that designation of critical habitat in these areas will benefit BOEM, the State of Hawaii, and prospective offshore wind developers by raising awareness that the endangered MHI IFKW may be regularly transiting through the site and allowing these groups to appropriately evaluate the risks of any prospective development.

Response: We agree with the commenter's assertion that the designation of critical habitat will raise awareness and provide public education benefits regarding habitat use of MHI IFKWs (Cardno 2018), and will allow prospective developers to evaluate the risks of developing in particular areas of this designation. However, as more fully described above, we also found that for the BOEM Call Area, the benefits of exclusion outweigh the benefits of designation and that exclusion of this mostly low-use area of habitat will not result in extinction of this DPS.

Comment 22: We received comments that expressed concern as well as confusion about the areas being proposed for exclusion and the protections associated with critical habitat. One commenter expressed concern that a fractured critical habitat designation, due to exclusions, would not provide benefits to MHI IFKWs. Another commenter disagreed with the exemption of military agencies from this rule and noted that the military should be required to obtain permission to conduct projects within critical habitat. A third commenter noted that loud anthropogenic noise created from military activities are in violation of the Marine Mammal Protection Act because it can cause damage to the whales' echolocation system. This commenter suggested that NMFS take into consideration a study by Nachtigall and Supin (2013) on the effects of the louder sounds on false killer whale echolocation systems.

Response: The 4(b)(2) exclusion process allows us to consider the benefits of designating critical habitat compared with the benefit of excluding particular areas due to economics, national security, or other relevant impacts, as long as the exclusion of that area will not result in extinction of the species. Although we have excluded certain areas from designation, ESA protections still apply to MHI IFKWs wherever the species is found (including the excluded areas) due to their listing, and all Federal agencies (including military agencies) that authorize, fund, or carry out activities in these areas will still be subject to section 7 consultation to ensure that their activities are not likely to jeopardize the continued existence of the species. It is through this consultation process that the effects of sound, as well as other effects of the action on individuals and the population are considered. Further, there are often other regulatory protections for marine habitat that will support to some degree the characteristics and feature of MHI IFKWs critical habitat (*e.g.,* the Clean Water Act and the Magnuson-Stevens Fishery Conservation and Management Act). Based on these underlying protections and the designation of critical habitat, which still includes large contiguous portions of high and low-use habitat, we conclude that MHI IFKWs will benefit from this designation. See the Benefits of the Designation section and the Economic Report (Cardno 2018) for further detail regarding direct and ancillary benefits of designation.

With regard to the comments about requiring permission and minimizing the impacts of sound, we also refer back to our response to Comment 1, which explains that military activities already undergo consultation to minimize the impacts of their activities and ensure they are not likely to jeopardize the species. Specifically, military readiness activities in the Hawaii Range Complex are subject to a 5-year MMPA incidental take authorization for marine mammals, which is subject to ESA consultation. These review and consultation efforts under the ESA and MMPA help to identify management or mitigation that may be necessary to minimize adverse impacts to MHI IFKWs, and such analyses include reviews of the best scientific information available, including works such as Nachtigall and Supin (2013), to help identify mitigation measures. MHI IFKW critical habitat will establish an additional consideration to the existing ESA section 7 consultation process in designated areas.

Comments on the Biological Report

Comment 23: We received comments referring to figures used in the Biological Report. One comment noted that the report illustrates the boundaries of the critical habitat but fails to indicate that areas would be excluded. This comment recommended that NMFS avoid public confusion about the actual designation by including maps that depicted the full designation, including all exclusions, in this report. A comment also requested that we re-examine more recent data when reviewing habitat use by this DPS. This comment noted that a figure from Baird *et al.* (2015) shows areas of higher habitat use that are not reflected in Figure 4 of the Biological Report.

Response: The Biological Report is completed prior to analyses pursuant to 4(b)(2) and 4(a)(3) of the ESA, and provides information from the critical habitat review team about features and areas that meet the ESA definition of critical habitat as a first step in the determination process. Only after these areas are identified can we determine which areas warrant consideration under 4(a)(3) or 4(b)(2) of the ESA. That said, we understand the commenter's concerns regarding how maps in this report may mistakenly be taken for the final designation. To clarify this point, we have revised the captions to these maps (in the Biological Report) indicating that this is not the final designation and point the reader to the final rule. With regard to the request to use the most recent information, we note that our information has been updated to include satellite tracking information as of the beginning of January 2018, and we used this updated information to supplement other data upon which we based our exclusions under 4(b)(2) (NMFS 2018b). However, we also wish to clarify that the information used in Baird *et al.* (2015) relies on one standard deviation from the mean to identify biologically import areas, whereas we have relied on the methods used in Baird *et al.* (2012) using two standard deviations from the mean to indicate areas of high use.

Other Comments

Comment 24: We received recommendations from DAR that NMFS hold public hearings on the Kauai, Maui, and Hawaii Islands, in addition to the one hearing that was held on Oahu. With IFKW high-use areas off Hawaii, Northern Molokai, and around the Maui-Nui complex, DAR noted that potential impacts of the proposed designation could be greater for those islands, and that these people should have the opportunity to be heard in the process.

Response: The public comment period was open for 60 days and, and consistent with 50 CFR 424.16(c), NMFS gave notice of and held one public hearing on the proposed action on the island of Oahu. The 60-day comment period provided ample time and opportunity for the public to provide comments electronically or by mail. It should be noted that comments submitted electronically or by mail have the same weight as comments made in public hearings. We held the public hearing in Honolulu, not only because this location is centralized for a majority of the state's population, but also because our Economic Report indicated that a majority of the Federal action agencies, regulated entities, and individual applicants affected by this designation are located on Oahu. In contrast to DAR's statement of concern, we did not find that impacts were likely to be greatest along MHI IFKWs' high-use areas, because these areas do not coincide with areas of high-use for Federal activities, such as offshore development. Aside from this comment, we received no requests for public hearings in other areas of the State and found no additional information to suggest that impacts would be higher near MHI IFKWs' high-use areas.

Comment 25: Comments from the Council stated that critical habitat designations for marine species provide little conservation benefit for the species unless habitat-related factors are known to be inhibiting recovery, and that NMFS did not identify anthropogenic

activities that are likely to negatively affect the habitat's essential features. Accordingly, the Council suggested that, similar to NMFS' finding for the exclusion of renewable energy areas, section 7 analysis associated with the listing of the MHI IFKW DPS should provide substantially the same conservation benefits for most Federal activities, including fisheries.

Response: As noted in the *Special Management Considerations or Protections* section of this rule and the Biological Report, MHI IFKWs do face habitat-related threats (NMFS 2018a). As such, we identified anthropogenic activities that are likely to negatively affect the habitat's essential features. Further, as noted in our response to Comment 3 above, multiple threats often act as obstacles to recovery, requiring that a suite of measures be taken to ensure that imperiled species are able to increase in number and eventually thrive. Critical habitat designations provide important details about habitat characteristics and the conservation value of habitat, which, in turn, serve as valuable planning tools for ensuring that Federal planning and development do not limit recovery for the species. While we found that the section 7 analysis associated with listing would provide substantially the same conservation benefits within the BOEM Call Area, we caution that this finding was site-specific and activity-specific and may not be true across all areas of the designation or from activity to activity.

Critical Habitat Identification

In the following sections, we describe the relevant definitions and requirements in the ESA and our implementing regulations, and the key information and criteria used to prepare this critical habitat designation. In accordance with section 4(b)(2) of the ESA and our implementing regulations at 50 CFR part 424, this final rule is based on the best scientific data available.

To assist with identifying potential MHI IFKW critical habitat areas, we convened a critical habitat review team (CHRT) consisting of five agency staff with experience working on issues related to MHI IFKWs and Hawaii's pelagic ecosystem. The CHRT used the best available scientific data and its best professional judgment to (1) determine the geographical area occupied by the DPS at the time of listing, (2) identify the physical and biological features essential to the conservation of the species, and (3) identify specific areas within the occupied area containing those essential physical and biological features. The CHRT's evaluation and recommendations are described in detail in the Biological Report (NMFS 2018a). Beyond the description of the areas, the critical habitat designation process includes two additional steps (although these are not conducted by the CHRT): (1) Identify whether any area may be precluded from designation because the area is subject to an INRMP that we have determined provides a benefit to the DPS, and (2) consider the economic, national security, or any other impacts of designating critical habitat and determine whether to exercise our discretion to exclude any particular areas. These considerations are described further in the Final ESA Section 4(b)(2) Report (NMFS 2018b), and economic impacts of this designation are described in detail in the Final Economic Report (Cardno 2018).

Physical and Biological Features Essential for Conservation

The ESA does not specifically define physical or biological features; however, court decisions and joint NMFS–USFWS regulations at 50 CFR 424.02 (81 FR 7413; February 11, 2016) provide guidance on how physical or biological features are expressed.

Physical and biological features support the life-history needs of the species including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. Features may constitute combinations of habitat characteristics, and may encompass the relationship between characteristics or the necessary amount of a characteristic needed to support the life history of the species.

Based on the best available scientific information and in response to public comments, the CHRT identified the specific biological and physical feature essential for the conservation of the Hawaiian IFKW DPS, as the following: Island-associated marine habitat for MHI insular false killer whales.

MHI IFKWs are island-associated whales that rely entirely on the productive submerged habitat of the main Hawaiian Islands to support all of their life-history stages. The following characteristics of this habitat support insular false killer whales' ability to travel, forage, communicate, and move freely around and among between the main Hawaiian Islands:

(1) *Adequate space for movement and use within shelf and slope habitat*—As large marine predators, MHI IFKWs are highly mobile, employing a foraging strategy that includes circumnavigating the islands and moving throughout their range. Generally found in deeper waters just offshore of the MHI, these whales move primarily throughout and among the shelf and slope habitat on both the windward and leeward sides of all the islands. This generally includes depths ranging from 45 m to 3,200 m. Available data indicates that habitat use is not uniform in waters that surround the islands, and may be concentrated in certain areas (often described as high-use or high-density areas) that are likely to provide greater foraging success than other areas, and that high-use areas may be specific to certain social clusters.

Human activities can interfere with movement of the whales and adversely affect their ability to travel to and move throughout areas of high-use. In particular, large marine structures or long-term acoustic disturbance may present obstacles to whale movement. These obstacles could cause the whales to swim further to reach high-use areas, expending additional energy and displacing these whales into waters farther from shore. In severe cases, such obstacles may cause the whales to abandon areas of concentrated use.

(2) *Prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth.*

MHI IFKWs are top predators that feed on a variety of large pelagic fish and squid. Prey preference and relative importance is still difficult to determine for this population; however, commonly described prey species from observations include large game fish such as mahi mahi, wahoo, yellowfin tuna, albacore tuna, skipjack tuna, broadbill swordfish and threadfin jack. In addition, analyses from recent strandings of insular false killer whales suggest that some species of squid may play a role in the IFKW diet.

Sustained decreases in prey quantity and availability in island-associated waters can decrease foraging success of these whales and eventually lead to reduced individual growth, reproduction, and development. Additionally, factors that reduce prey size and introduce or increase contaminant or toxin levels reduce the quality of prey for these whales. Decreased prey size reduces the energetic value gained, while

contaminants and toxins introduced through prey consumption may put these whales' individual health or reproduction at risk.

(3) *Waters free of pollutants of a type and amount harmful to MHI insular false killer whales.*

Pollutants that reach Hawaii's marine waters through point source and nonpoint source pollution have the potential to degrade the water quality or prey quality and increase the health risks to MHI IFKWs. As a long-lived, top marine predator, water quality plays an important role in supporting the MHI IFKWs' ability to forage and reproduce free from disease and impairment. Environmental contaminants, such as organochlorines, heavy metals, and other chemicals that persist and accrue in waters surrounding the MHI, accumulate in prey species and subsequently in MHI IFKWs. Biomagnification of some pollutants can adversely affect health in these top marine predators, causing immune suppression, decreased reproduction, or other impairments. Water pollution and changes in water temperatures may also increase pathogens, naturally occurring toxins, or parasites in surrounding waters. MHI insular false killer whales' may be exposed to these infectious or harmful agents (such as bacteria, viruses, toxins, or parasites) either through their prey or directly through ingestion of contaminated waters. Exposure to water pollutants are known to adversely affect the health and reproduction of cetaceans, including false killer whales.

(4) *Sound levels that would not significantly impair false killer whales' use or occupancy.*

For the purposes of this final rule, noises that would significantly impair use or occupancy are those that inhibit MHI IFKW's ability to receive and interpret sound for the purposes of navigation, communication, and detection of predators and prey. Such noises are likely to be long-lasting, continuous, and/or persistent in the marine environment and, either alone or added to other ambient noises, significantly raise local sound levels over a significant portion of an area.

False killer whales rely on their ability to produce and receive sound within their environment to navigate, communicate, and detect predators and prey. With a foraging strategy that is adapted to the shelf and slope habitat of the MHI, these large marine predators travel in subgroups that are dispersed from each other but converge when prey resources are found. Accordingly, these animals rely on their ability to receive and interpret acoustic cues to find prey at a distance and convey information about available prey resources to other dispersed subgroups of IFKWs. Habitats that contribute to the conservation of MHI IFKWs allow these whales to employ underwater sound in ways that support important life history functions, such as foraging and communicating.

A large body of scientific information on the effects of anthropogenic noise on the behavior and distribution of toothed whales, including false killer whales, demonstrates that the presence of anthropogenic noise can adversely affect the value of marine habitat to MHI IFKWs (Shannon *et al.* 2015, Erbe *et al.* 2016, Gedamke *et al.* 2016, Hatch *et al.* 2016). Of particular concern are those noises that are chronic or persistent and cause cumulative interference such that the animals' ability to receive benefits (*e.g.,* opportunities to forage or reproduce) from these habitats is sufficiently inhibited.

How human activities that introduce noise in the environment might change the animals' use of habitat and the determination of the biological significance of that change can be complex and involve consideration of site specific variables, including: The characteristics of the introduced sound (frequency content, duration, and intensity); the physical characteristics of the habitat; the baseline soundscape; and the animal's use of that habitat. NMFS will continue to use the best scientific information available to analyze chronic or persistent noise sources and determine whether they degrade listening conditions within habitat for the IFKW, including but not limited to, the Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing, (81 FR 51693; August 04, 2016; NMFS 2016b, or replacement publications).

Geographical Area Occupied by the Species

The first steps in the critical habitat revision process is to define the geographical area occupied by the species at the time of listing, and to identify specific areas within this geographical area that contain at least one of the essential features that may require special management considerations or protection. As noted earlier, the best available information indicates that the range of this DPS is smaller than the range identified at the time of listing (77 FR 70915, November 28, 2012; Bradford *et al.,* 2015). After reviewing available information, the CHRT noted, and we agree, that the range proposed by Bradford *et al.* (2015) and recognized in the 2015 NMFS Stock Assessment Report provides the best available information to describe the areas occupied by this DPS. This is because this range includes all locations that tagged animals have visited in Hawaii's surrounding waters and accommodates for uncertainty in the data. Therefore, the area occupied by the DPS is the current range as identified in the 2015 SAR, which includes 188,262 km^2 (72,688 mi^2) of marine habitat surrounding the MHI (Carretta *et al.,* 2016).

Areas Under Consideration for Critical Habitat

To be eligible for designation as critical habitat under the ESA's definition of occupied areas, each specific area must contain at least one essential feature that may require special management considerations or protection. To meet this standard, the CHRT concluded that false killer whale tracking data would provide the best available information to identify habitat use patterns by these whales and to recognize where the physical and biological features essential to their conservation exist. Cascadia Research Collective provided access to MHI IFKW tracking data for the purposes of identifying critical habitat for this DPS. Due to the unique ecology of this island-associated population, habitat use is largely driven by depth. Thus, the features essential to the species' conservation are found in those depths that allow the whales to travel throughout a majority of their range seeking food and opportunities to socialize and reproduce.

One area has been identified as including the essential feature for the MHI IFKW DPS. This area ranges from the 45-m depth contour to the 3,200-m depth contour in waters that surround the MHIs from Niihau east to the Island of Hawaii (see the Biological Report for additional detail; NMFS 2018a). MHI IFKWs are generally found in deeper areas just offshore (Baird *et al.,* 2010). For the proposed rule, MHI IFKW tracking locations were used to identify a nearshore depth at which habitat use by MHI IFKWs is fairly consistent. Specifically, MHI IFKW locations were found to be infrequent at depths less than 45 m (less than 2 percent of locations are captured at these depths), and a spatial pattern was not evident in shallower depth locations (*i.e.,* locations were not clumped in specific areas around the MHI). Because the frequency of MHI IFKW locations increased at depths greater than 45 m and appeared to demonstrate more consistent use of marine habitat beyond this depth, the 45-m depth contour was selected to delineate the inshore extent of areas that

would include the proposed essential features for MHI IFKWs. An outer boundary of the 3,200-m depth contour was selected to incorporate those areas of island-associated habitat where MHI IFKWs are known to spend a larger proportion of their time, and to include island-associated habitat that allows for movement between and around each island.

In response to some public comments that suggested we choose different boundaries for this designation (see Comment 9 and response), we re-analyzed the data used to select the boundaries for this designation, and also analyzed new satellite information received from Cascadia Research Collective.

Review of this information revealed that 2.5–3.8 percent of satellite-tag location data were shallower than 45 m across the islands (the higher percentage includes points located on land, which likely fall into shallow locations due to the error associated with these points). When shallow points were mapped across the islands (using GIS), clear spatial patterns were not evident across all islands; for some islands shallower use was seen around a good portion of the island (*e.g.,* Oahu), while for other islands use seemed to vary along different portions of the coastline. In addition to considering depth around each island, we reviewed distance from shore and found disparate patterns ranging from 500 m offshore to over 1,200 m offshore. Looking across the islands as a whole, 45 m remained a depth at which frequency of satellite-tag location data increased and remained more consistent.

Throughout this review we considered whether prescribing a different depth or distance from shore for each island would provide more clarity about MHI IFKW habitat use or for management of their habitat around each island; however, it was not clear that prescribing island-specific boundaries would better match how these animals use Hawaiian waters. Given the population's non-uniform treatment of habitat around each island, splitting these points by island may not partition the habitat in manner that is ecologically meaningful.

As noted above, these whales move great distances throughout the MHI, moving back and forth between areas off multiple islands. NMFS found that the 3,200 m depth boundary best aligns with the span of habitat used on the leeward and windward sides of the islands, allowed for ample space for these whales to move among areas of concentrated or high-use, and included habitat across the core portions of the range.

At this time we find that the current delineation of 45–3,200 m allows for travel around and among the islands and incorporates our objectives of selecting an inner boundary and outer boundary where MHI IFKWs are most likely to be found. The full range of depths—from the 45-m to the 3,200-m depth contours—incorporates approximately 90 percent of the tracking locations of MHI IFKW and includes the feature and characteristics essential to the conservation of the MHI IFKWS DPS. The area that was under consideration for critical habitat included 56,821 km^2 (21,933 mi^2) or 30 percent of the MHI IFKW DPS' range.

Need for Special Management Considerations or Protection

Joint NMFS and USFWS regulations at 50 CFR 424.02 define special management considerations or protection to mean methods or procedures useful in protecting physical and biological features essential to the conservation of listed species.

Several activities were identified that may threaten the physical and biological feature essential to conservation such that special management considerations or protection may be required. This is based on information from the MHI IFKW Recovery Outline, Status Review for this DPS, and discussions from the Main Hawaiian Islands Insular False Killer Whale Recovery Planning Workshop (NMFS 2016a, Oleson *et al.,* 2010, NMFS 2016c). Major categories of activities include (1) in-water construction (including dredging); (2) energy development (including renewable energy projects); (3) activities that affect water quality; (4) aquaculture/mariculture; (5) fisheries; (6) environmental restoration and response activities (including responses to oil spills and vessel groundings, and marine debris clean-up activities); and (7) some military readiness activities. All of these activities may have an effect on one or more characteristics of the essential feature by altering the quantity, quality or availability of the features that support MHI IFKW critical habitat. This is not an exhaustive or complete list of potential effects; rather it is a description of the primary concerns and potential effects that we are aware of at this time and that should be considered in accordance with section 7 of the ESA when Federal agencies authorize, fund, or carry out these activities. The Biological Report (NMFS 2018a) and Economic Analysis Report (Cardno 2018) provide a more detailed description of the potential effects of each category of activities and threats on the essential features. For example, activities such as in-water construction, energy projects, aquaculture projects, and some military readiness activities may have impacts on one or more characteristics of the essential feature.

Unoccupied Critical Habitat Areas

Section 3(5)(A)(ii) of the ESA authorizes the designation of specific areas outside the geographical area occupied at the time the species is listed, if the Secretary determines ''that such areas are essential for the conservation of the species.'' There is insufficient evidence at this time to indicate that areas outside the present range are essential for the conservation of this DPS; therefore, no unoccupied areas were identified for designation.

Application of ESA Section 4(a)(3)(B)(i) (Military Lands)

Section 4(a)(3)(B) of the ESA prohibits designating as critical habitat any lands or other geographical areas owned or controlled by DOD, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such a plan provides a benefit to the species for which critical habitat is proposed for designation.

Regulations at 50 CFR 424.12(h) provide that in determining whether an applicable benefit is provided by a ''compliant or operational'' plan, we will consider the following:

(1) The extent of the area and features present;

(2) the type and frequency of use of the area by the species;

(3) the relevant elements of the INRMP in terms of management objectives, activities covered, and best management practices, and the certainty that the relevant elements will be implemented; and

(4) the degree to which the relevant elements of the INRMP will protect the habitat from the types of effects that would be addressed through a destruction-or-adverse-modification analysis.

NMFS can find that an INRMP provides a benefit to a species where, as here, the species is not directly addressed in the INRMP. In these cases, we consider adaptive conservation management for the features essential to the conservation of the species (*i.e.,* its habitat features) or the species itself either directly or indirectly. We also consider whether adaptive conservation management measures are effective and reasonably certain to be implemented.

The JBPHH INRMP overlaps with the areas under consideration for critical habitat in two areas, the Naval Defensive Sea Area and the Ewa Training Minefield, which include approximately 27 km^2 (~10 mi^2) of area or approximately 0.5 percent of the areas under consideration for critical habitat. Based on our review of relevant data, including supplemental satellite-tracking information from Cascadia Research Collective (3 new animals), we consider these areas to be low-use (low-density) areas for MHI IFKWs, and note that they travel through these areas at moderate levels (see Figure 4 of the ESA Section 4(b)(2) Report). We therefore consider these areas to be of low to moderate conservation value to MHI IFKWs in comparison to other areas meeting the definition of MHI IFKW critical habitat.

In May 2017, we requested information from the DOD to assist in our analysis. Specifically, we asked for a list of facilities that occur within potential critical habitat areas and available INRMPs for those facilities. The U.S. Navy stated that areas subject to the JBPHH INRMP overlap with the areas under consideration for MHI IFKW critical habitat; no other INRMPs were identified as overlapping with the potential designation. This INRMP was drafted prior to the ESA listing of the MHI IFKW and did not incorporate conservation measures that are specific to MHI IFKWs. The plan was compliant through the end of 2017; and although its five-year review as to operation and effect is late, the INRMP remains funded and effective. The Navy continues to implement and report on conservation measures outlined in the JBPHH INRMP and is currently reviewing and updating the INRMP with a goal of finishing in December 2018.

In the response to NMFS' request for information about this INRMP, the Navy outlined several elements of the 2011 INRMP's implemented and ongoing conservation measures that may benefit the MHI IFKW and their habitat (with the characteristic of the essential element that is addressed): Fishing restrictions adjacent to and within areas that overlap the potential designation (prey), creel surveys that provide information about fisheries in unrestricted areas of Pearl Harbor (prey), restrictions on free roaming cats and dogs in residential areas (water free of pollutants), feral animal removal (water free of pollutants), participation in the Toxoplasmosis and At-large Cat Technical Working Group (which focuses on providing technical information to support policy decisions to address the effects of toxoplasmosis on protected wildlife and provides education and outreach materials on the impacts that free-roaming cats have on Hawaii's environment; waters free of pollutants), efforts taken to prevent and reduce the spread of biotoxins and contaminants from Navy lands (including best management practices, monitoring for contamination, restoration of sediments, and spill prevention; waters free of pollutants), a Stormwater Management Plan and a Stormwater Pollution Control Plan associated with their National Pollutant Discharge Elimination System (waters free of pollutants), and coastal wetland habitat restoration projects (waters free of pollutants) (DON 2017a). Although the 2011 JBPHH INRMP does not specifically address the MHI IFKW, several of the above measures support the protection of the IFKW and the physical and biological feature identified for this designation. Specifically, the Navy's efforts that focused on preventing the spread of toxoplasmosis, biotoxins, and other contaminants to the marine environment provide protections for MHI IFKW water quality and address threats to this feature characteristic; these threats are identified in our Draft Biological Report (NMFS 2017a). Further, efforts to support coastal wetland habitat restoration provide protections for MHI IFKW water quality and provide ancillary benefits to MHI IFKW prey, which also rely on these marine ecosystems. Additionally, fishery restrictions in the NDSA and Ewa Training Minefield provide protections to MHI IFKW prey within the limited overlap areas. Some of the protections associated with the management of stormwater and pollution address effects that would otherwise be addressed through an adverse modification analysis. Other protections associated with the spread of toxoplasmosis to the marine environment or that enhance prey, address effects to MHI IFKW habitat that otherwise may not be subject to a section 7 consultation. In these instances, the Navy's INRMP provides protections aligned with 7(a)(1) of the ESA, which instructs Federal agencies to aid in the conservation of listed species.

As part of an adaptive management approach for this INRMP, NMFS staff participates in JBPHH INRMP annual reviews to provide recommendations about plan implementation and effectiveness and to receive information about upcoming plan amendments. These reviews help ensure that the plan provides an effective mechanism for addressing MHI IFKW conservation within areas managed under the JBPHH INRMP. Specifically, the reviews provide a reliable method for feedback, regular assurances that the above-described conservation measures are being implemented, and a procedure for assessing and modifying measures to ensure conservation effectiveness.

Although not essential to our determination that the JBPHH INRMP provides a benefit to the MHI IFKW, we also take into consideration additional future measures that the Navy plans to include in updates to the INRMP by December 2018. These expected additional measures include (1) specific information about MHI IFKWs, (2) where MHI IFKWs may be found in areas managed by the installation, (3) new projects associated with watershed enhancement, and (4) mandatory mitigation measures already used by the Pacific Fleet to minimize impacts to MHI IFKWs as they use these areas. Procedural mitigation measures are mandatory activity-specific measures taken to avoid or reduce the potential impacts on biological resources from stressors, including those that may cause acoustic or physical disturbance to marine mammals during Navy training and testing. These procedural measures are required in the Navy's Protective Measures Assessment Protocol consistent with letters of authorization for training activities issued under the MMPA and supporting ESA analyses. Procedural mitigation measures are adaptively managed as new information becomes available about effective mitigation techniques, and are identified in the current Hawaii-Southern California Training and Testing Final Environmental Impact Statement. Examples of measures include training personnel to spot and identify marine mammals (lookouts), reporting requirements for trained lookouts, and halt or maneuvering requirements when marine mammals are spotted within identified mitigation zones of Navy activities (DON 2017c). Although not restricted to the JBPHH areas, these mandatory mitigation measures help ensure that the Navy will avoid or reduce the impacts from acoustic stressors on MHI IKFWs. These measures will be reflected in the INRMP by December 2018. Additionally, the Navy's continued efforts towards understanding the baseline conditions of Pearl Harbor (and associated watersheds) and improving water quality in this area will also support the prey and water free of pollutants characteristics of MHI IFKW habitat.

After consideration of the above factors, we determined that the Navy's

JBPHH INRMP provides a benefit to the MHI IFKW and its habitat. In accordance with 4(a)(3)(B)(i) of the ESA, areas managed under this INRMP are not eligible for the designation of MHI IFKW critical habitat. Therefore, the Ewa Training Minefield and the Naval Defense Sea Area, both found south of Oahu, are not eligible for designation.

Application of ESA Section 4(b)(2)

Section 4(b)(2) of the ESA requires the Secretary to consider the economic, national security, and any other relevant impacts of designating any particular area as critical habitat. Any particular area may be excluded from critical habitat if the Secretary determines that the benefits of excluding the area outweigh the benefits of designating the area. The Secretary may not exclude a particular area from designation if exclusion will result in the extinction of the species. Because the authority to exclude is discretionary, exclusion is not required for any areas. In this designation, the Secretary has applied statutory discretion to exclude 14 (1 area, with two sites, for economic exclusion and 13 areas for national security exclusion) occupied areas from critical habitat where the benefits of exclusion outweigh the benefits of designation for the reasons set forth below.

In preparation for the ESA section 4(b)(2) analysis, we identified the ''particular areas'' to be analyzed. The ''particular areas'' considered for exclusion are defined based on the impacts that were identified. We considered economic impacts and weighed the economic benefits of exclusion against the conservation benefits of designation for two particular areas where economic impacts were identified as being potentially higher than the costs of administrative efforts and where impacts were geographically concentrated. We also considered exclusions based on impacts on national security. Delineating particular areas with respect to consideration of national security impacts was based on land ownership or control (*e.g.,* land controlled by the DOD within which national security impacts may exist) or on areas identified by DOD as supporting particular military activities. For each particular area we identified the impacts of designation (*i.e.,* the economic costs of designation or impacts to national security). These impacts of designation are equivalent to the benefits of exclusion. We also consider the benefits achieved from designation or the conservation benefits that may result from a critical habitat designation in that area. We then weigh the benefits of designation against the benefits of exclusion. Where the benefits of exclusion outweigh the benefits of designation, the area is excluded from critical habitat as long as we determine that such exclusion would not result in extinction of the DPS. These steps and the resulting list of areas excluded from designation are described in detail in the sections below.

Impacts of Designation

The primary impact of a critical habitat designation stems from the requirement under section 7(a)(2) of the ESA that Federal agencies ensure that their actions are not likely to result in the destruction or adverse modification of critical habitat. Determining this impact is complicated by the fact that section 7(a)(2) contains the overlapping requirement that Federal agencies must also ensure their actions are not likely to jeopardize the species' continued existence. One incremental impact of the designation is the extent to which Federal agencies modify their actions to ensure their actions are not likely to destroy or adversely modify the critical habitat of the species, beyond any modifications they would make because of the listing and the subsequent requirement to avoid jeopardy. When the same modification would be required due to impacts to both the species and critical habitat, the impact of the designation is considered co-extensive with the ESA listing of the species (*i.e.,* attributable to both the listing of the species and the designation of critical habitat). Additional impacts of designation include state and local protections that may be triggered as a result of the designation, and the benefits from educating the public about the importance of each area for species conservation. Thus, the impacts of the designation include conservation impacts for MHI IFKW and its habitat, economic impacts, impacts on national security and other relevant impacts that may result from the designation and the application of ESA section 7(a)(2).

In determining the impacts of designation, we focused on the incremental change in Federal agency actions as a result of critical habitat designation and the adverse modification provision, beyond the changes predicted to occur as a result of listing and the jeopardy provision. Following a line of recent court decisions (including *Arizona Cattle Growers Association* v. *Salazar,* 606 F. 3d 1160 (9th Cir. 2010), *cert. denied,* 562 U.S. 1216 (2011) (*Arizona Cattle Growers*); and *Home Builders Association of Northern California et al.,* v. *U.S. Fish and Wildlife Service,* 616 F.3d 983 (9th Cir. 2010), *cert. denied,* 562 U.S. 1217 (2011) (*Home Builders*)), economic impacts that occur regardless of the critical habitat designation are treated as part of the regulatory baseline and are not factored into the analysis of the effects of the critical habitat designation. In other words, we focus on the potential incremental impacts beyond the impacts that would result from the listing of the species and consultation under the jeopardy clause. In some instances, potential impacts from the critical habitat designation could not be distinguished from protections that may already occur under the baseline (*i.e.,* protections already afforded MHI IFKWs under its listing or under other federal, state, and local regulations). For example, the project modifications needed to prevent destruction or adverse modification of critical habitat may be similar to the project modifications necessary to prevent jeopardy to the species in an area. The extent to which these modifications differ may be project specific, and the incremental changes or impacts to the project may be difficult to tease apart without further project specificity.

Once we determined the impacts of the designation, we then determined the benefits of designation. The benefits of designation include the conservation impacts for MHI IFKWs and their habitat that result from the critical habitat designation and the application of ESA section 7(a)(2). The benefits of exclusion include avoidance of the economic, national security, and other relevant impacts (*e.g.,* impacts on conservation plans) of the designation if a particular area were to be excluded from the critical habitat designation. The following sections describe how we determined the benefits of designation, and how the impacts of designation were considered, as required under section 4(b)(2) of the ESA, to identify particular areas that may be eligible for exclusion from the designation. We also summarize the results of our weighing process and determinations of the areas that may be eligible for exclusion (for additional information see the ESA Section 4(b)(2) Report (NMFS 2018b)).

Benefits of Designation

The primary benefit of designation is the protection afforded under section 7(a)(2) of the ESA, requiring all Federal agencies to ensure their actions are not likely to destroy or adversely modify designated critical habitat. This is in addition to the requirement that all Federal agencies ensure their actions are

not likely to jeopardize the continued existence of the species. Another benefit of critical habitat designation is that it provides specific notice of the feature essential to the conservation of the MHI IFKW DPS and where that feature occurs. This information will focus future consultations and other conservation efforts on the key habitat attributes that support conservation of this DPS. There may also be enhanced awareness by Federal agencies and the general public of activities that might affect that essential feature. Accordingly, identification of that feature may improve discussions with action agencies regarding relevant habitat considerations of proposed projects.

In addition to the protections described above, Chapter 12 of the Final Economic Report (Cardno 2018) discusses other forms of indirect benefits that may be attributed to the designation including, but not limited to, use benefits and non-use or passive use benefits (Cardno 2018). Use benefits include positive changes that protections associated with the designation may provide for resource users, such as increased fishery resources, sustained or enhanced aesthetic appeal in ocean areas, or sustained wildlife-viewing opportunities. Non-use or passive benefits include those independent of resource use, where conservation of MHI IFKW habitat aligns with beliefs or values held by particular entities (*e.g.,* existence, bequest, and cultural values) (Cardno 2018). More information about these types of values may be found in Chapter 12 of the Final Economic Report (Cardno 2018).

Most of these benefits are not directly comparable to the costs of designation for purposes of conducting the section 4(b)(2) analysis described below. Ideally, benefits and costs should be compared on equal terms; however, there is insufficient information regarding the extent of the benefits and the associated values to monetize all of these benefits. We have not identified any available data to monetize the benefits of designation (*e.g.,* estimates of the monetary value of the essential feature within areas designated as critical habitat, or of the monetary value of education and outreach benefits). Further, section 4(b)(2) also requires that we consider and weigh impacts other than economic impacts that may be intangible and do not lend themselves to quantification in monetary terms, such as the benefits to national security of excluding areas from critical habitat. Given the lack of information that would allow us either to quantify or monetize the benefits of the designation for MHI IFKWs discussed above, we determined that conservation benefits should be considered from a qualitative standpoint. In determining the benefits of designation, we considered a number of factors. We took into account MHI IFKW use of the habitat, the existing baseline protections that may protect that habitat regardless of designation, and how the essential feature may be affected by activities that occur in these areas if critical habitat were not designated. These factors combined provided an understanding of the importance of protecting the habitat for the overall conservation of the DPS.

Generally, we relied on density analysis of satellite-tracking data as well as an analysis of travel throughout the areas to provide information about MHI IFKW habitat use (Figure 4 of the Final ESA Section 4(b)(2) Report; NMFS 2018b). The descriptions of MHI IFKW habitat use provided in the sections below describe habitat in terms of high and low-use areas using the density analysis described in Baird *et al.* (2012) and describe how these areas may be used for travel or transit. Cascadia Research Collective supplied satellite-tracking information to support NMFS' determination of this critical habitat designation for the proposed and final rule. For the proposed rule, density analysis of data received included information from 27 tagged individuals (18 from Cluster 1, 1 from Cluster 2, 7 from Cluster 3, and 1 from Cluster 4) (R. Baird, Cascadia Research Collective, pers. comm., June 2017). For the final rule, data from a total of 30 tagged individuals (2 additional animals from cluster 1 and 1 additional animal from cluster 4) was used to inform the analyses (R. Baird, Cascadia Research Collective, pers. Comm, January 2018).

High-use areas denote areas where satellite-tracking information indicates more frequent use by MHI IFKWs. High to moderate travel areas provide further understanding about how these whales travel through specific areas. The conservation value for high-use and high-traveled areas is inferred to be higher than low-use and low-traveled areas of the range; however, all areas contain the essential feature and meet the definition of critical habitat for this DPS. As noted in the Biological Report (NMFS 2018a), there is limited representation among social clusters in the tracking data and information. Accordingly, the available satellite-tracking information may not be fully representative of MHI IFKW habitat use. While describing MHI IFKW use for the exclusion of some particular areas, we provide additional information (*e.g.,* observation data from boat surveys) that supplemented our understanding of MHI IFKW habitat use patterns. In these instances, we describe how this information may enhance our understanding of the conservation value of the area.

Generally, we describe high-use areas as indicating areas of higher conservation value where greater foraging and/or reproductive opportunities are believed to exist. Additionally, high to moderate travel areas indicate areas of concentrated travel. However, particularly within a restricted range, low-use and low-traveled areas continue to offer the essential feature and may provide unique opportunities for foraging as oceanic conditions vary seasonally or temporally.

Economic Impacts of Designation

Economic costs of the designation accrue primarily through implementation of section 7 of the ESA in consultations with Federal agencies to ensure their proposed actions are not likely to destroy or adversely modify critical habitat. The Economic Report (Cardno 2018) considered the Federal activities that may be subject to a section 7 consultation and the range of potential changes that may be required for each of these activities under the adverse modification provision. To the extent possible, the analysis focused on changes beyond those impacts that may result from the listing of the species or that are established within the environmental baseline. However, the report acknowledges that some existing protections to prevent jeopardy to MHI IFKWs are likely to overlap with those protections that may be put in place to prevent adverse modification (Cardno 2018). The project modification impacts represent the benefits of excluding each particular area (that is, the impacts that would be avoided if an area were excluded from the designation).

The Final Economic Report (Cardno 2018) estimates the impacts based on activities that are considered reasonably foreseeable, which include activities that are currently authorized, permitted, or funded by a Federal agency, or for which proposed plans are currently available to the public. These activities align with those identified under the *Special Management Considerations or Protections* section (above). Projections were calculated for the next 10-year period. The analysis relied largely upon NMFS' records of section 7 consultations to estimate the average number of projects that are likely to occur within the particular areas (*i.e.,*

projections were based on past numbers of consultations) and determine the level of consultation (formal, informal) that would be necessary based on the described activity. Where appropriate, the analysis also included projections for actions that are likely to occur within the particular areas that were identified by action agencies (Cardno 2018).

The Final Economic Report (Cardno 2018) identifies the total estimated present value of the quantified incremental impacts of this designation to be between approximately 196,000 to 213,000 dollars over the next 10 years; on an annualized undiscounted basis, the impacts are equivalent to 19,600 to 21,300 dollars per year. Applying discounted rates recommended in the Office of Management and Budget Circular A–4, the Final Economic Report estimates these incremental impacts of designation to be between 170,000 to 185,000 using a 3 percent discount rate and 143,000 to 156,000 using a 7 percent discount rate (Cardno 2018). These impacts include only incremental administrative efforts to consider critical habitat in section 7 consultations for the section 7 activities identified under the *Need for Special Management Considerations or Protections* section of this rule. However, private energy developers may also bear some of the administrative costs of consultation for large energy projects; the Final Economic Report estimates these costs are between 0 and 300 dollars annually undiscounted and are expected to involve three consultation projects over the next 10 years (Cardno 2018). Across the MHI, economic impacts are expected to be small and largely associated with the administrative costs borne by Federal agencies, but may include low administrative costs to non-Federal entities as well.

Both the Final Biological Report and the Final Economic Report recognize that some of the future impacts of the designation are difficult to predict (NMFS 2018a, Cardno 2018). Although considered unlikely, NMFS cannot rule out future modifications for federally managed fisheries and activities that contribute to water quality (NMFS 2018a). For federally managed fisheries, modifications were not predicted as a result of the critical habitat designation based on current management of the fisheries. However, we noted that future revised management measures could result as more information is gained about MHI IFKW foraging ecology, or as we gain a better understanding of the relative importance of certain prey species to the health and recovery of a larger MHI IFKW population. Similarly, modifications to water quality standards were not predicted as a result of this designation; however, future modifications were not ruled out because future management measures may be necessary as more information is gained about how pollutants affect MHI IFKW critical habitat. The Final Economic Report discusses this qualitatively, but does not provide quantified costs associated with any uncertain future modifications (Cardno 2018).

Economic impacts from the designation are largely attributed to the administrative costs of consultations. Generally, the quantified economic impacts for this designation are relatively low because in Hawaii most projects that would require section 7 consultation occur onshore or nearshore and would not overlap with the designation. Projects with a Federal nexus (*i.e.,* authorized, funded, or carried out by a Federal agency) that occur in deeper waters are already subject to consultation under section 7 to ensure that activities are not likely to jeopardize the continued existence of MHI IFKWs, and throughout the specific area, activities of concern are already subject to multiple environmental laws, regulations, and permits that afford the essential features a high level of baseline protection. Despite these protections, significant uncertainty remains regarding the true extent of the impacts that some activities like fishing and activities affecting water quality may have on the essential features, and economic impacts of the designation may not be fully realized. Because the economic impacts of these activities are largely speculative, we lack sufficient information with which to balance them against the benefits of designation.

BOEM provided comments on our proposed rule indicating their appreciation for the BOEM Call Area exclusion. In addition, the Navy submitted comments on the proposed rule noting that, while they support the exclusion of areas suitable for renewable energy development, portions of the currently identified BOEM Call Areas are not suitable for renewable energy development due to national security concerns. In support of identifying areas for renewable energy development, the Navy completed an assessment of areas (see *http://greenfleet.dodlive.mil/rsc/department-of-the-navy-hawaii-offshore-wind-compatibility/*) around Oahu, noting wind farm areas that are not compatible with military activities and identifying only small sections of the two sites that are compatible (DON 2016). However, the Call Area boundaries have not been revised as a result of the Navy's assessment.

In determining the economic costs of this designation, we rely on the best available information to identify where economic costs are likely to occur. The two sites noticed as the BOEM Call Area remain significant in meeting Hawaii's renewable energy goals as these sites have been identified as areas where wind resources, water depth, and proximity to shore are favorable for wind-energy development (81 FR 41335; June 24, 2016). Given that the boundaries of these two sites have not been revised and that the sites are noted as significant for energy development, our exclusion analysis is based on the areas of the current BOEM Call Area (as published in 81 FR 41335; June 24, 2016).

The estimated economic impacts in the BOEM Call Area are expected to occur as a result of three potential commercial wind-energy projects offshore of the island of Oahu (to be located off Kaena point and off the south shore) (81 FR 41335; June 24, 2016).

The BOEM Call Area sites identified for exclusion overlapped with approximately 1,961 km^2 (757 mi^2), or approximately 3.5 percent of the areas that were under consideration for designation. Density analysis of satellite-tracking information indicates that these sites are not high-use areas for MHI IFKWs; rather they include low-use and mostly lower traveled area for MHI IFKWs, with some small overlap into a moderately traveled area. As noted above, the baseline protections are strong, and energy projects are likely to undergo formal section 7 consultation to ensure that the activities are not likely to jeopardize MHI IFKWs or other protected species (Cardno 2018).

Although economic costs of this designation in the BOEM Call Area are considered low, NMFS also considers the potential intangible costs of designation in light of Executive Order 13795, *Implementing an America-First Offshore Energy Strategy,* which sets forth the nation's policy for encouraging environmentally responsible energy exploration and production, including on the Outer Continental Shelf, to maintain the Nation's position as a global energy leader and to foster energy security. In particular, both Hawaii's State Energy Office and BOEM expressed concerns that the designation may discourage companies from investing in offshore energy projects in areas that are identified as critical habitat and noted that the costs of lost opportunities to meet Hawaii's renewable energy goals could be

significant (Cardno 2018). Because Oahu has the greatest energy needs among the MHI and has limited areas available for this type of development, and receiving energy via interconnection among islands is technologically difficult, these wind projects off Oahu are considered necessary to meet the State of Hawaii's renewable energy goals of 100 percent renewable energy by 2045 (Cardno 2018).

Given the significance of this offshore area in supporting renewable energy goals for the State of Hawaii and the goals of Executive Order 13795, the low administrative costs of this designation, the small size of these areas, and the low-use of this area by MHI IKFWs, we find that the benefits of exclusion of this identified area outweigh the benefits of designation. Although large in-water construction projects are an activity of concern for this DPS, we anticipate that consultations required to ensure that activities are not likely to jeopardize the MHI IFKWs will achieve substantially similar conservation benefits for this DPS. Specifically, we anticipate that conservation measures implemented as a result of consultation to address impacts to the species will also provide incidental protections to the habitat feature. Additionally, wind energy projects in these areas are not expected to result in destruction or adverse modification of critical habitat. Based on our best scientific judgment, and acknowledging the small size of this area (approximately 0.2 percent of the overall designation) and that other safeguards that are in place (*e.g.,* protections already afforded MHI IFKWs under its listing and other regulatory mechanisms), we conclude that exclusion of this area will not result in the extinction of the species.

National Security Impacts

The national security benefits of exclusion are the national security impacts that would be avoided by excluding particular areas from the designation. In preparation for the proposed rule, we contacted representatives of DOD and the Department of Homeland Security to request information on potential national security impacts that may result from the designation of particular areas as critical habitat for the MHI IFKW DPS. In response to the request, the Navy and U.S. Coast Guard each submitted a request that all areas be excluded from critical habitat out of concerns associated with activities that introduce noise to the marine environment (NMFS 2017b). Although we considered the request for exclusion of all areas proposed for critical habitat, we also separately considered particular areas identified by the Navy because these areas support specific military activities. The Coast Guard did not provide specific explanations with regard to particular areas. The Air Force provided a request for exclusion that included the waters leading to and the offshore ranges of the PMRF (NMFS 2017b). As the PMRF offshore ranges were also highlighted as important to Navy activities, we included the information provided by the Air Force regarding their request for exclusion for the PMRF ranges with the Navy's information, due to the similarities between the activities and impacts identified for these areas (*e.g.,* both requests in this area were associated with training and testing activities).

We considered a total of 13 sites for exclusion, and we proposed 8 of those sites for exclusion in the proposed rule. Additionally, we notified the public in the proposed rule that we would be considering six additional requests submitted by the Navy (82 FR 51186; November 03, 2017), which were subsets of a larger area that the Navy initially requested for exclusion, but which NMFS determined should not be excluded under 4(b)(2). In addition to these six areas, the Navy requested the exclusion of two additional areas—north and south of Maui as well as the Hawaii Area Tracking System and the Kahoolawe Training Minefield (see the ESA Section 4(b)(2) Report, NMFS 2018b); these four areas were also subsets of the Four Island Region request for exclusion that was not proposed for exclusion at the proposed rule stage.

For the final designation, we reanalyzed the 13 areas already considered for exclusion using the updated satellite tracking information from the Cascadia Research Collective. Additionally, we separately reviewed each of the 10 areas requested by the Navy that were subsets of the larger areas requested for exclusion, consistent with the review criteria for the 13 previous areas considered for national security exclusion.

Our determinations for these 23 requests are summarized in Table 1 below.

As in the analysis of economic impacts, we weighed the benefits of exclusion (*i.e.,* the impacts to national security that would be avoided) against the benefits of designation. The Navy and Air Force provided information regarding the activities that take place in each area, and they assessed the potential for a critical habitat designation to adversely affect their ability to conduct operations, testing, training, and other essential military readiness activities. The possible impacts to national security summarized by both groups included potential restrictions or constraints on military operations, training, research and development, and preparedness vital for combat operations for around the world.

The primary benefit of exclusion is that the DOD's activities would continue under current regulatory regimes and the DOD would not be required to consult with NMFS under section 7 of the ESA regarding its actions that may affect critical habitat, and thus potential delays or costs associated with conservation measures for critical habitat would be avoided. For each particular area, national security impacts were weighed considering the intensity of use of the area by DOD and how activities in that area may affect the features essential to the conservation of MHI IFKWs. Where additional consultation requirements are likely due to critical habitat at a site, we considered how the consultation may change the DOD activities, and how unique the DOD activities are at the site.

Benefits to the conservation of MHI IFKWs depend on whether designation of critical habitat at a site leads to additional conservation of the DPS above what is already provided by being listed as endangered under the ESA in the first place. We weighed the potential for additional conservation by considering several factors that provide an understanding of the importance of protecting the habitat for the overall conservation of the DPS: MHI IFKW use of the habitat (high vs. low use or travel by MHI IFKWs and/or observational data), the existing baseline protections that may protect that habitat regardless of designation, and the likelihood of other Federal (non-DOD) actions being proposed within the site that would be subject to section 7 consultation associated with critical habitat. Throughout the weighing process the overall size of the area considered for exclusion was considered, along with our overall understanding of importance of protecting that area for conservation purposes.

As discussed in the *Benefits of Designation* section (above), the benefits of designation are not directly comparable to the benefits of exclusion for purposes of conducting the section 4(b)(2) analysis because neither have been fully quantified. The ESA Section 4(b)(2) Report (NMFS 2018b) provides our qualitative comparison of the national security impacts to the conservation benefits in order to determine which is greater. If we found

that national security impacts outweigh conservation benefits, we excluded the site from the critical habitat designation. If conservation benefits outweigh national security impacts, we did not exclude the site from the critical habitat designation. The decision to exclude any sites from a designation of critical habitat is always at the discretion of NMFS. Table 1 outlines the determinations made for each particular area identified and the factors that weighed significantly in that process.

TABLE 1—SUMMARY OF THE ASSESSMENT OF PARTICULAR AREAS FOR EXCLUSION FOR THE DOD AND U.S. COAST GUARD BASED ON IMPACTS ON NATIONAL SECURITY

DOD site, agency	Size of particular area, approximate percent of the total area under consideration	Exclusion warranted	Significant weighing factors
(1) Entire Area Under Consideration for Designation, Navy and Coast Guard.	56,821 km^2 (21,933 mi^2), 100 ..	No	This area includes the entire designation and all benefits from MHI IFKW critical habitat would be lost. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting the habitat.
(2) PMRF Offshore Areas, Navy and Air Force.	843 km^2 (~325 mi^2), 1.5	Yes	This area overlaps a relatively small area of low-use and lower traveled areas of MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD training and testing. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(3) Waters Enroute to PMRF from the Port Allen Harbor, Air Force.	1,077 km^2 (~416 mi^2), 2	No	This area overlaps a relatively small area of low-use and lower traveled MHI IFKW habitat that is not owned or controlled by DOD and where non-DOD activities may occur. Impacts from section 7 consultations are expected to be minor. Thus, short delays for minor modifications to consultation are outweighed by benefits of protecting this habitat from future DOD and non-DOD Federal actions. Note: a portion of this area is now excluded from critical habitat because it overlaps with the Kaulakahi Channel portion of Warning area 186.
(4) Kingfisher Range, Navy	14 km^2 (~6 mi^2), .02	Yes	This area overlaps a small area of low-use and lower traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD training. Impacts from short delays from minor modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(5) Warning Area 188, Navy	2,674 km^2 (~1,032 mi^2), 5	Yes	This area overlaps a medium area of low-use and lower traveled MHI IFKW habitat. DOD maintains control over a portion of the habitat, but does not control deeper waters. Impacts from delays and possible major modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are less likely.
(6) Kaula and Warning Area W–187, Navy.	266 km^2 (~103 mi^2), 0.5	Yes	This area overlaps a small area of low-use and very low traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD training. Impacts from short delays by informal consultation outweigh benefits of protecting low-use and very low traveled habitat where future non-DOD Federal actions are unlikely.
(7) W–189, HELO Quickdraw Box and Oahu Danger Zone, Navy.	2,886 km^2 (~1,114 mi^2), 5	No	This area overlaps a medium area of low-use and moderate to low traveled MHI IFKW habitat and a small high-use area for MHI IFKWs. The DOD does not maintain control over these waters and non-DOD activities are expected in portions of this area. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting both high and low-use and moderate to low traveled MHI IFKW habitat from future DOD and non-DOD Federal actions.
(8) Fleet Operational Readiness Accuracy Check Site Range (FORACS), Navy.	74 km^2 (~29 mi^2), 0.1	Yes	This area overlaps a small area of low-use and moderate to low traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD testing to maintain equipment accuracy. Impacts from delays and possible modifications to consultation outweigh benefits of protecting low-use and moderate to low traveled habitat where future non-DOD Federal actions are unlikely.

TABLE 1—SUMMARY OF THE ASSESSMENT OF PARTICULAR AREAS FOR EXCLUSION FOR THE DOD AND U.S. COAST GUARD BASED ON IMPACTS ON NATIONAL SECURITY—Continued

DOD site, agency	Size of particular area, approximate percent of the total area under consideration	Exclusion warranted	Significant weighing factors
(9) Shipboard Electronic Systems Evaluation Facility Range (SESEF), Navy.	74 km^2 (~29 mi^2), 0.1	Yes	This area overlaps a small area of low-use and lower traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD testing to maintain equipment accuracy. Impacts from delays and possible modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(10) W–196 and 191, Navy	728 km^2 (~281 mi^2), 1	Yes	This area overlaps a relatively small area of low-use and lower traveled MHI IFKW habitat that is not controlled by DOD but where non-DOD Federal actions are unlikely. Impacts from short delays and possible modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(11) W 193 and 194, Navy	458 km^2 (~177 mi^2), 1	Yes	This area overlaps a relatively small area of low-use and lower traveled MHI IFKW habitat that is not controlled by DOD but where non-DOD Federal actions are unlikely. Impacts from short delays and possible modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(12) Four Islands Region (Maui, Lanai, Molokai Kahoolawe), Navy.	15,389 km^2 (~5,940 mi^2), 27	No	This area includes a relatively large area of both high and low-use and high and lower traveled MHI IKFW habitat that is not controlled by DOD. Impacts from delays and possible major modifications to consultation are outweighed by benefits of protecting the entire area, which includes both high and low-use and high and lower traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.
(13) Hawaii Island, Navy	16,931 km^2 (~6,535 mi^2); 30	No	This area includes a relatively large area of both high and low-use and high and lower traveled MHI IKFW habitat that is not controlled by DOD. Impacts from delays and possible major modifications to consultation are outweighed by benefits of protecting the entire area, which includes both high and low-use and high and lower traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.
(14) Kaulakahi Channel Portion of W–186, Navy.	1,631 km^2 (~630 mi^2), 3	Yes	This area overlaps a small to medium area of low-use and lower traveled MHI IFKW habitat that is not controlled by DOD. This area is unique for DOD and provides specific opportunities for DOD training and testing. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting low-use and lower traveled habitat where future non-DOD Federal actions are unlikely.
(15) Area North and East of Oahu, Navy.	2,472 km^2 (~954 mi^2), 4	No	This area overlaps a medium area of both high-use and low-use and high to low traveled MHI IFKW habitat. The DOD does not maintain control over these waters and non-DOD activities are expected in portions of this area. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting both high and low-use and high and low traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.
(16) Area to the South of Oahu, Navy.	1,803 km^2 (~696 mi^2), 3	No	This area overlaps a medium area of low-use and moderate to low traveled MHI IFKW habitat. The DOD does not maintain control over these waters and non-DOD activities are expected in portions of this area. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting both low-use and moderate to low traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.
(17) Kaiwi Channel, Navy	2,355 km^2 (~909 mi^2), 4	No	This area includes a medium area with mostly high-use and high to low traveled MHI IKFW habitat that is not controlled by DOD. Impacts from delays and possible major modifications to consultation are outweighed by benefits of protecting the entire area, which includes both high and low-use and high to low traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.

TABLE 1—SUMMARY OF THE ASSESSMENT OF PARTICULAR AREAS FOR EXCLUSION FOR THE DOD AND U.S. COAST GUARD BASED ON IMPACTS ON NATIONAL SECURITY—Continued

DOD site, agency	Size of particular area, approximate percent of the total area under consideration	Exclusion warranted	Significant weighing factors
(18) Area North and Offshore of Molokai; Navy.	596 km² (~230 mi²), 1	Yes	This area overlaps a relatively small area of potential critical habitat and includes mostly low-use and low-travel area for MHI IKFWs. This area also includes very small portions of high-use and moderate to low travelled MHI IFKW habitat on the southern boundary of the area. The DOD does not maintain control over these waters and non-DOD activities may occur in these areas. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting mostly low-use and lower traveled habitat at the edge of the designation.
(19) Alenuihaha Channel, Navy	2,609 km² (~1,007 mi²), 5	Yes	This area overlaps a small to medium sized area of potential critical habitat and includes mostly low-use and low-travel area for MHI IKFWs. The DOD does not maintain control over these waters and non-DOD activities may occur in these areas. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting mostly low-use and lower traveled habitat.
(20) Area north of Maui, Navy	2,590 km² (~1,000 mi²), 5	No	This area overlaps a medium area with high-use and high to low traveled MHI IFKW habitats. The DOD does not maintain control over these waters and non-DOD activities may occur in these areas. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting portions of high-use and high to low traveled MHI IFKW habitat, from future DOD and non-DOD Federal actions.
(21) Area south of Maui, Navy	1,899 km² (~733 mi²), 3	No	This area overlaps a small to medium area of low-use and lower traveled MHI IFKW habitat and is located between three high-use areas of the designation allowing for contiguous travel between those areas. The area is not controlled by DOD. This area is unique for DOD and provides specific opportunities for DOD training and testing. Impacts from delays and possible modifications to consultation are outweighed by benefits of protecting contiguous habitat between MHI IFKW high-use areas, from future DOD and non-DOD Federal actions.
(22) Hawaii Area Tracking System.	96 km² (~37 mi²), 0.2	Yes	This area overlaps a small area of low-use and lower traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD training. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting mostly low-use and lower traveled habitat.
(23) Kahoolawe Training Minefield.	12 km² (~5 mi²) 0.02	Yes	This area overlaps a small area of low-use and lower traveled MHI IFKW habitat where DOD maintains control of the area. This area is unique for DOD and provides specific opportunities for DOD training. The impacts from delays and possible major modifications to consultation outweigh benefits of protecting mostly low-use and lower traveled habitat.

Other Relevant Impacts of the Designation

Finally, under ESA section 4(b)(2) we consider any other relevant impacts of critical habitat designation to inform our decision as to whether to exclude any areas. For example, we may consider potential adverse effects on existing management plans or conservation plans that benefit listed species, and we may consider potential adverse effects on tribal lands or trust resources. In preparing this designation, we have not identified any such management or conservation plans, tribal lands or resources, or anything else that would be adversely affected by the critical habitat designation. Accordingly, we do not exercise our discretionary authority to exclude any areas based on other relevant impacts.

Critical Habitat Designation

This rule designates approximately 45,504 km² (17,564 mi²) of marine habitat surrounding the main Hawaiian Islands within the geographical area presently occupied by the MHI IFKW. This critical habitat area contains physical or biological features essential to the conservation of the DPS that may require special management considerations or protection. We have not identified any unoccupied areas that are essential to conservation of the MHI IFKW DPS and are not proposing any such areas for designation as critical habitat. This rule proposes to exclude from the designation the following areas (one area, two sites, for the Bureau of Ocean Energy Management (BOEM) and 13 exclusions requested by the Navy): (1) The BOEM Call Area offshore of the Island of Oahu (which includes two sites, one off Kaena point and one off the south shore), (2) the Navy Pacific Missile Range Facility's Offshore ranges (including the Shallow Water Training Range (SWTR), the Barking Sands Tactical Underwater Range (BARSTUR), and the Barking Sands Underwater

Range Extension (BSURE; west of Kauai), (3) the Navy Kingfisher Range (northeast of Niihau), (4) Warning Area 188 (west of Kauai), (5) Kaula Island and Warning Area 187 (surrounding Kaula Island), (6) the Navy Fleet Operational Readiness Accuracy Check Site (FORACS) (west of Oahu), (7) the Navy Shipboard Electronic Systems Evaluation Facility (SESEF) (west of Oahu), (8) Warning Areas 196 and 191 (south of Oahu), (9) Warning Areas 193 and 194 (south of Oahu), (10) the Kaulakahi Channel portion of Warning area 186 (the channel between Niihau and Kauai and extending east), (11) the area north of Molokai, (12) the Alenuihaha Channel, (13) Hawaii Area Tracking System, and (14) the Kahoolawe Training Minefield. Based on our best scientific knowledge and expertise, we conclude that the exclusion of these areas will not result in the extinction of the DPS, and will not impede the conservation of the DPS. In addition, the Ewa Training Minefield and the Naval Defensive Sea Area are precluded from designation under section 4(a)(3) of the ESA because they are managed under the JBPHH INRMP that we find provides a benefit to the Main Hawaiian Islands insular false killer whale.

Effects of Critical Habitat Designations

Section 7(a)(2) of the ESA requires Federal agencies, including NMFS, to ensure that any action authorized, funded, or carried out by the agency (agency action) is not likely to jeopardize the continued existence of any threatened or endangered species or destroy or adversely modify designated critical habitat. When a species is listed or critical habitat is designated, Federal agencies must consult with NMFS on any agency action to be conducted in an area where the species is present and that may affect the species or its critical habitat. During the consultation, NMFS evaluates the agency action to determine whether the action may adversely affect listed species or critical habitat and issues its finding in a biological opinion. If NMFS concludes in the biological opinion that the agency action would likely result in the destruction or adverse modification of critical habitat, NMFS would also recommend any reasonable and prudent alternatives to the action. Reasonable and prudent alternatives are defined in 50 CFR 402.02 as alternative actions identified during formal consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid the destruction or adverse modification of critical habitat.

Regulations at 50 CFR 402.16 require Federal agencies that have retained discretionary involvement or control over an action, or where such discretionary involvement or control is authorized by law, to reinitiate consultation on previously reviewed actions in instances in which (1) critical habitat is subsequently designated; or (2) new information or changes to the action may result in effects to critical habitat not previously considered in the biological opinion. Consequently, some Federal agencies may request re-initiation of consultation or conference with NMFS on actions for which formal consultation has been completed, if those actions may affect designated critical habitat. Activities subject to the ESA section 7 consultation process include activities on Federal lands, as well as activities requiring a permit or other authorization from a Federal agency (*e.g.,* a section 10(a)(1)(B) permit from NMFS), or some other Federal action, including funding (*e.g.,* Federal Highway Administration or Federal Emergency Management Agency funding). ESA section 7 consultation would not be required for Federal actions that do not affect listed species or critical habitat, and would not be required for actions on non-Federal and private lands that are not carried out, funded, or authorized by a Federal agency.

Activities That May Be Affected

ESA section 4(b)(8) requires, to the maximum extent practicable, in any regulation to designate critical habitat, an evaluation and brief description of those activities (whether public or private) that may adversely modify such habitat or that may be affected by such designation. A wide variety of activities may affect MHI IFKW critical habitat and may be subject to the ESA section 7 consultation processes when carried out, funded, or authorized by a Federal agency. The activities most likely to be affected by this critical habitat designation once finalized are the following: (1) In-water construction (including dredging); (2) energy development (including renewable energy projects); (3) activities that affect water quality; (4) aquaculture/mariculture; (5) fisheries; (6) environmental restoration and response activities (including responses to oil spills and vessel groundings, and marine debris clean-up activities); and (7) some military readiness activities. Private entities may also be affected by this critical habitat designation if a Federal permit is required, Federal funding is received, or the entity is indirectly affected by delays or changes in a Federal project. These activities would need to be evaluated with respect to their potential to destroy or adversely modify critical habitat. Changes to the actions to minimize or avoid destruction or adverse modification of designated critical habitat may result in changes to some activities. Please see the Economic Analysis Report (Cardno 2018) for more details and examples of changes that may need to occur in order for activities to minimize or avoid destruction or adverse modification of designated critical habitat. Questions regarding whether specific activities would constitute destruction or adverse modification of critical habitat should be directed to NMFS (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**).

References Cited

A complete list of all references cited in this rule can be found on our website at: *http://www.fpir.noaa.gov/PRD/prd_mhi_false_killer_whale.html#fwk_esa_listing* or at *www.regulations.gov,* and is available upon request from the NMFS office in Honolulu, Hawaii (see **ADDRESSES**).

Classification

Takings

Under E.O. 12630, Federal agencies must consider the effects of their actions on constitutionally protected private property rights and avoid unnecessary takings of property. A taking of property includes actions that result in physical invasion or occupancy of private property that substantially affect its value or use. In accordance with E.O. 12630, this rule does not have significant takings implications. The designation of critical habitat for the MHI IFKW DPS is fully described within the offshore marine environment and is not expected to affect the use or value of private property interests. Therefore, a takings implication assessment is not required.

Executive Orders 12866 and 13771

OMB has determined that this rule is significant for purposes of Executive Order 12866 review. Economic and Regulatory Impact Review Analyses and 4(b)(2) analyses as set forth and referenced herein have been prepared to support the exclusion process under section 4(b)(2) of the ESA. To review these documents see **ADDRESSES** section above.

We have estimated the costs for this rule. Economic impacts associated with

this rule stem from the ESA's requirement that Federal agencies ensure any action authorized, funded, or carried out will not likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat. In practice, this requires Federal agencies to consult with NMFS whenever they propose an action that may affect a listed species or its designated critical habitat, and then to modify any action that could jeopardize the species or adversely affect critical habitat. Thus, there are two main categories of costs: Administrative costs associated with completing consultations, and project modification costs. Costs associated with the ESA's requirement to avoid jeopardizing the continued existence of a listed species are not attributable to this rule, as that requirement exists in the absence of the critical habitat designation.

The Economic Report (Cardno 2018) identifies the total estimated present value of the quantified impacts above current consultation effort to be between approximately 192,000 to 208,000 dollars over the next 10 years; on an annualized undiscounted basis, the impacts are equivalent to 19,200 to 20,800 dollars per year. Applying discounted rates recommended in the Office of Management and Budget Circular A–4, the Final Economic Report estimates these incremental impacts of designation to be between 170,000 to 185,000 using a 3 percent discount rate and 143,000 to 156,000 using a 7 percent discount rate (Cardno 2018). These total impacts include the additional administrative efforts necessary to consider critical habitat in section 7 consultations. Across the MHI, economic impacts are expected to be small and largely associated with the administrative costs borne by Federal agencies. However, private energy developers may also bear the administrative costs of consultation for large energy projects. The Final Economic Report estimates these costs to be between 0 and 3,000 dollars over the next 10 years. While there are expected beneficial economic impacts of designating critical habitat, there are insufficient data available to monetize those impacts (see *Benefits of Designation* section).

This rule is not expected to be subject to the requirements of E.O. 13771 because this rule is expected to result in no more than *de minimis* costs.

Executive Order 13132, Federalism

The Executive Order on Federalism, Executive Order 13132, requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations in which a regulation may preempt state law or impose substantial direct compliance costs on state and local governments (unless required by statute). Pursuant to E.O. 13132, we determined that this rule does not have significant federalism effects and that a federalism assessment is not required. We requested information from and coordinated development of this final critical habitat designation with appropriate Hawaii State resources agencies. The designation may have some benefit to state and local resource agencies in that the rule more clearly defines the physical and biological features essential to the conservation of the species and the areas on which those features are found. While this designation would not alter where and what non-Federally sponsored activities may occur, it may assist local governments in long-range planning.

Where state and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests only on the Federal agency.

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

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects when undertaking a ''significant energy action.'' According to Executive Order 13211, ''significant energy action'' means any action by an agency that is expected to lead to the promulgation of a final rule or regulation that is a significant regulatory action under Executive Order 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. We have considered the potential impacts of this action on the supply, distribution, or use of energy (see section 13.2 of the Economic Report; Cardno 2018). It is unlikely for the oil and gas industry to experience a ''significant adverse effect'' due to this designation, as Hawaii does not produce petroleum or natural gas, and refineries are not expected to be affected by this designation. Offshore energy projects may affect the essential features of critical habitat for the MHI IFKW DPS. However, foreseeable impacts are limited to two areas off Oahu where prospective wind energy projects are under consideration (see *Economic Impacts of Designation* section). Impacts to the electricity industry would likely be limited to potential delays in project development, costs to monitor noise, and possibly additional administrative costs of consultation. The potential critical habitat area is not expected to affect the current electricity production levels in Hawaii. Further, it appears that the designation will have little or no effect on electrical energy production decisions (other than the location of the future project), subsequent electricity supply, or the cost of future energy production. The designation is unlikely to impact the industry by greater than the 1 billion kWh per year or 500 MW of capacity provided as guidance in the executive order. It is therefore unlikely for the electricity production industry to experience a significant adverse effect due to the MHI IFKW critical habitat designation.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, whenever an agency publishes a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a RFA describing the effects of the rule on small entities, *i.e.,* small businesses, small organizations, and small government jurisdictions. A final regulatory flexibility analysis (FRFA) has been prepared, which is included as Chapter 13 to the Economic Report (Cardno 2018). This document is available upon request (see **ADDRESSES**), via our website at *http://www.fpir.noaa.gov/PRD/prd_mhi_false_killer_whale.html#fwk_esa_listing* or via the Federal eRulemaking website at *www.regulations.gov.*

A statement of need for and objectives of this rule is provided earlier in the preamble and is not repeated here. This rule will not impose any recordkeeping or reporting requirements. NMFS received comments on the proposed rule and supplementary reports during the 60-day comment period; no comments were received on the initial regulatory flexibility analysis for this action.

We identified the impacts to small businesses by considering the seven activities most likely impacted by the designation: (1) In-water construction (including dredging); (2) energy development (including renewable energy projects); (3) activities that affect

water quality; (4) aquaculture/mariculture; (5) fisheries; (6) environmental restoration and response activities (including responses to oil spills and vessel groundings, and marine debris clean-up activities); and (7) some military activities. As discussed in the *Economic Impacts of Designation* section of this proposed rule and the Economic Report, the only entities identified as bearing economic impacts (above administrative costs) by the potential critical habitat designation are two developers of offshore wind energy projects; however, these entities exceed the criterion established by SBA for small businesses (Cardno 2018). Although considered unlikely (NMFS 2018a), there remains a small, unquantifiable possibility that federally-managed longline boats (*i.e.,* deep-set or shallow-set fisheries) could be subject to additional conservation and management measures. At this time, however, NMFS has no information to suggest that additional measures are reasonably necessary to protect prey species. Chapter 13 of the Economic Report provides a description and estimate of the number of these entities that fit the criterion that could be impacted by the designation if future management measures were identified (Cardno 2018). Due to the inherent uncertainty involved in predicting possible economic impacts that could result from future consultations, we acknowledge that other unidentified impacts may occur.

In accordance with the requirements of the RFA, this analysis considered alternatives to the critical habitat designation for the MHI IFKW that would achieve the goals of designating critical habitat without unduly burdening small entities. The alternative of not designating critical habitat for the MHI IFKW was considered and rejected because such an approach does not meet our statutory requirements under the ESA. We also considered and rejected the alternative of designating as critical habitat all areas that contain at least one identified essential feature (*i.e.,* no areas excluded), because the alternative does not allow the agency to take into account circumstances in which the benefits of exclusion for economic, national security, and other relevant impacts outweigh the benefits of critical habitat designation. Finally, through the ESA 4(b)(2) consideration process, we identified and selected an alternative that may lessen the impacts of the overall designation for certain entities, including small entities. Under this alternative, we considered excluding particular areas within the designated specific area based on economic and national security impacts. This selected alternative may help to reduce the indirect impact to small businesses that are economically involved with military activities or other activities that undergo section 7 consultation in these areas. However, as the costs resulting from critical habitat designation are primarily administrative and are borne mostly by the Federal agencies involved in consultation, there is insufficient information to monetize the costs and benefits of these exclusions at this time. We did not consider other economic or relevant exclusions from critical habitat designation because our analyses identified only low-cost administrative impacts to Federal entities in other areas not proposed for exclusion.

In summary, the primary benefit of this designation is to ensure that Federal agencies consult with NMFS whenever they carry out, fund, or authorize any action that may adversely affect MHI IFKW critical habitat. Costs associated with critical habitat are primarily administrative costs borne by the Federal agency taking the action. Our analysis did not identify any economic impacts to small businesses based on this designation and current information does not suggest that small businesses will be disproportionately affected by this designation (Cardno 2018). Although the analysis shows that we could have certified that there would not be significant economic impact on a substantial number of small entities, we are instead presenting this FRFA.

During a formal section 7 consultation under the ESA, NMFS, the action agency, and the third party applying for Federal funding or permitting (if applicable) communicate in an effort to minimize potential adverse effects to the species and to the proposed critical habitat. Communication among these parties may occur via written letters, phone calls, in-person meetings, or any combination of these. The duration and complexity of these communications depend on a number of variables, including the type of consultation, the species, the activity of concern, and the potential effects to the species and designated critical habitat associated with the activity that has been proposed. The third-party costs associated with these consultations include the administrative costs, such as the costs of time spent in meetings, preparing letters, and the development of research, including biological studies and engineering reports. There are no small businesses directly regulated by this action and there are no additional costs to small businesses as a result of section 7 consultations to consider.

Coastal Zone Management Act

Under section 307(c)(1)(A) of the Coastal Zone Management Act (CZMA) (16 U.S.C. 1456(c)(1)(A)) and its implementing regulations, each Federal activity within or outside the coastal zone that has reasonably foreseeable effects on any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved state coastal management programs. We have determined that the designation of critical habitat for the MHI IFKW DPS is consistent to the maximum extent practicable with the enforceable policies of the approved Coastal Zone Management (CZM) Program of Hawaii. This determination was submitted to the Hawaii CZM Program for review. While the Hawaii CZM Program noted comments from Hawaii's Department of Land and Natural Resources DAR expressing concerns about the expansiveness of the proposed designation, the Hawaii CZM Program concurred with our consistency determination in a letter they issued to NMFS on December 15, 2017. These concerns about the expansiveness of the designation were submitted by DAR and are addressed under our responses to Comments 8 and 10 above.

Paperwork Reduction Act

The purpose of the Paperwork Reduction Act is to minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, and other persons resulting from the collection of information by or for the Federal government. This final rule does not contain any new or revised collection of information. This rule, does not impose recordkeeping or reporting requirements on state or local governments, individuals, businesses, or organizations.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(A) This proposed rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon state, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' The designation of critical habitat does not impose an enforceable duty on non-Federal government entities or private parties. The only regulatory effect of a

critical habitat designation is that Federal agencies must ensure that actions that they fund, authorize, or undertake are not likely to destroy or adversely modify critical habitat under ESA section 7. Non-Federal entities that receive funding, assistance, or permits from Federal agencies, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly affected because they receive Federal assistance or participate in a voluntary Federal aid program; however, the Federal action agency has the obligation to avoid destruction or adverse modification of critical habitat.

(B) This rule will not significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Consultation and Coordination With Indian Tribal Governments

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States towards Indian tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments,'' outlines the responsibilities of the Federal government in matters affecting tribal interests. ''Federally recognized tribe'' means an Indian or Alaska Native tribe or community that is acknowledged as an Indian tribe under the federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

In the list published annually by the Secretary, there are no federally recognized tribes in the State of Hawaii (74 FR 40218; August 11, 2009). Although Native Hawaiian lands are not tribal lands for purposes of the requirements of the President's Memorandum or the Department Manual, recent Department of Interior regulations (43 CFR 50) set forth a process for establishing formal government-to-government relationship with the Native Hawaiian Community. Moreover, we recognize that Native Hawaiian organizations have the potential to be affected by Federal regulations and as such, consideration of these impacts may be evaluated as other relevant impacts from the designation.

We solicited comments regarding areas of overlap with the designation that may warrant exclusion from critical habitat for the MHI IFKW due to such impacts mentioned above, and/or information from affected Native Hawaiian organizations concerning other Native Hawaiian activities that may be affected in areas other than those specifically owned by the organization. We received no additional information regarding any potential impacts.

In conclusion we find that this critical habitat designation does not have tribal implications, because the final critical habitat designation does not include any tribal lands and does not affect tribal trust resources or the exercise of tribal rights.

Information Quality Act (IQA)

Pursuant to the Information Quality Act (section 515 of Pub. L. 106–554), this information product has undergone a pre-dissemination review by NMFS. The signed Pre-dissemination Review and Documentation Form is on file with the NMFS Pacific Islands Regional Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects

50 CFR Part 224

Endangered and threatened species, Exports, Imports, Transportation.

50 CFR Part 226

Endangered and threatened species.

Dated: July 16, 2018.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 224 and 226 are amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. In § 224.101, amend the table in paragraph (h) by revising the entry for ''Whale, false killer (Main Hawaiian Islands Insular DPS) under the ''Marine Mammals'' subheading to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(h) * * *

Species [1]			Citation(s) for listing determination(s)	Critical habitat	ESA rules
Common name	Scientific name	Description of listed entity			
Marine Mammals					
*	*	*	*	*	*
Whale, false killer (Main Hawaiian Islands Insular DPS).	*Pseudorca crassidens*	False killer whales found from nearshore of the main Hawaiian Islands out to 140 km (approximately 75 nautical miles) and that permanently reside within this geographic range.	77 FR 70915, Nov. 28, 2012.	§ 226.226	NA.
*	*	*	*	*	*

[1] Species includes taxonomic species, subspecies, distinct population segments (DPSs) (for a policy statement, see 61 FR 4722, February 7, 1996), and evolutionarily significant units (ESUs) (for a policy statement, see 56 FR 58612, November 20, 1991).

* * * * *

PART 226—DESIGNATED CRITICAL HABITAT

■ 3. The authority citation of part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 4. Add § 226.226, to read as follows:

§ 226.226 Critical habitat for the main Hawaiian Islands insular false killer whale (*Pseudorca crassidens*) Distinct Population Segment.

Critical habitat is designated for main Hawaiian Islands insular false killer whale as described in this section. The maps, clarified by the textual descriptions in this section, are the definitive source for determining the critical habitat boundaries.

(a) *Critical habitat boundaries.* Critical habitat is designated in the waters surrounding the main Hawaiian Islands from the 45-meter (m) depth contour out to the 3,200-m depth contour as depicted in the maps below.

(b) *Essential features.* The essential feature for the conservation of the main Hawaiian Islands insular false killer whale is the following: *Island-associated marine habitat for main Hawaiian Islands insular false killer whales.* Main Hawaiian Islands insular false killer whales are island-associated whales that rely entirely on the productive submerged habitat of the main Hawaiian Islands to support all of their life-history stages. The following characteristics of this habitat support insular false killer whales' ability to travel, forage, communicate, and move freely around and among the waters surrounding the main Hawaiian Islands:

(1) Adequate space for movement and use within shelf and slope habitat;

(2) Prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth;

(3) Waters free of pollutants of a type and amount harmful to main Hawaiian Islands insular false killer whales; and

(4) Sound levels that would not significantly impair false killer whales' use or occupancy.

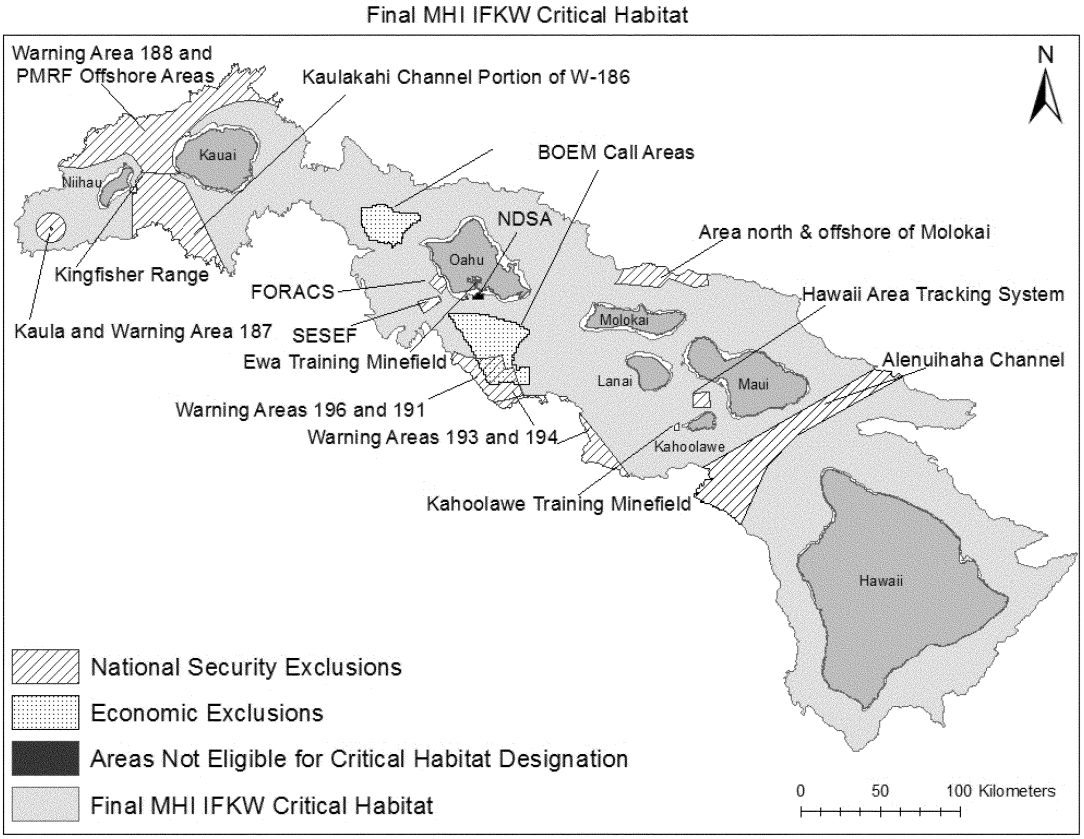
(c) *Areas not included in critical habitat.* Critical habitat does not include the following particular areas where they overlap with the areas described in paragraph (a) of this section:

(1) Pursuant to Endangered Species Act (ESA) section 4(b)(2), the following areas have been excluded from the designation: The Bureau of Ocean Energy Management Call Area offshore of the Island of Oahu (which includes two sites, one off Kaena point and one off the south shore), the Navy Pacific Missile Range Facility's Offshore ranges (including the Shallow Water Training Range (SWTR), the Barking Sands Tactical Underwater Range (BARSTUR), and the Barking Sands Underwater Range Extension (BSURE; west of Kauai), the Navy Kingfisher Range (northeast of Niihau), Warning Area 188 (west of Kauai), Kaula Island and Warning Area 187 (surrounding Kaula Island), the Navy Fleet Operational Readiness Accuracy Check Site (FORACS) (west of Oahu), the Navy Shipboard Electronic Systems Evaluation Facility (SESEF) (west of Oahu), Warning Areas 196 and 191 (south of Oahu), Warning Areas 193 and 194 (south of Oahu), the Kaulakahi Channel portion of Warning area 186 (the channel between Niihau and Kauai and extending east), the area north of Molokai (found offshore at the outer edge of the designation), the Alenuihaha Channel, the Hawaii Area Tracking System, and the Kahoolawe Training Minefield.

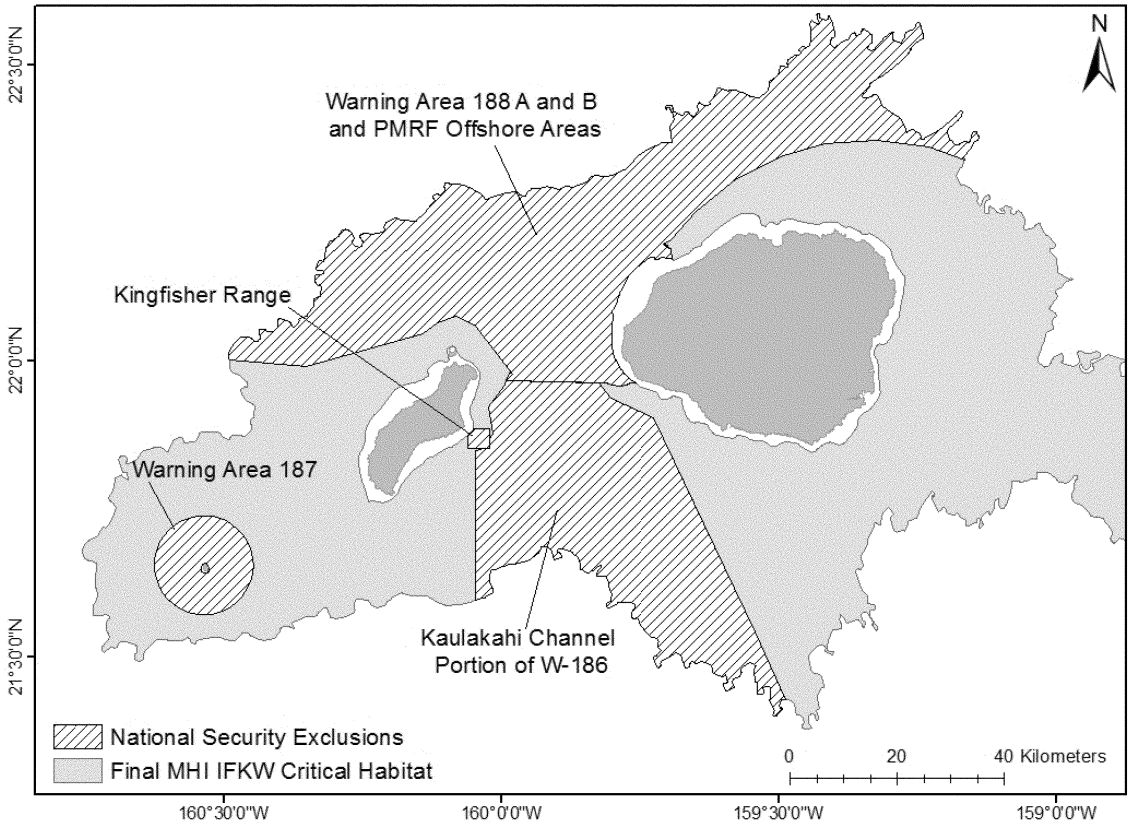
(2) Pursuant to ESA section 4(a)(3)(B), all areas subject to the Joint Base Pearl Harbor-Hickam Integrated Natural Resource Management Pl69.

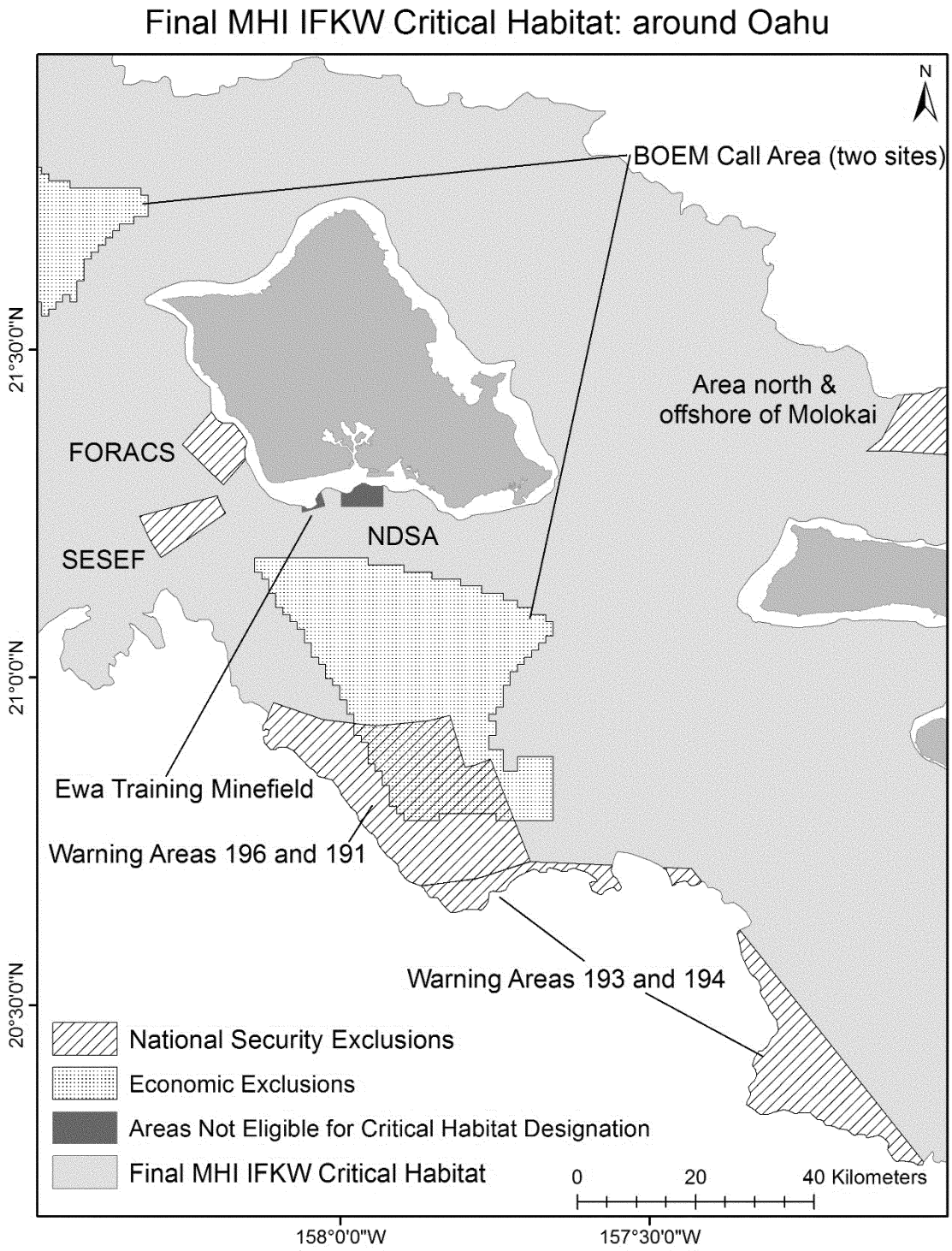
(d) *Maps of main Hawaiian Islands insular false killer whale critical habitat.*

BILLING CODE 3510–22–P

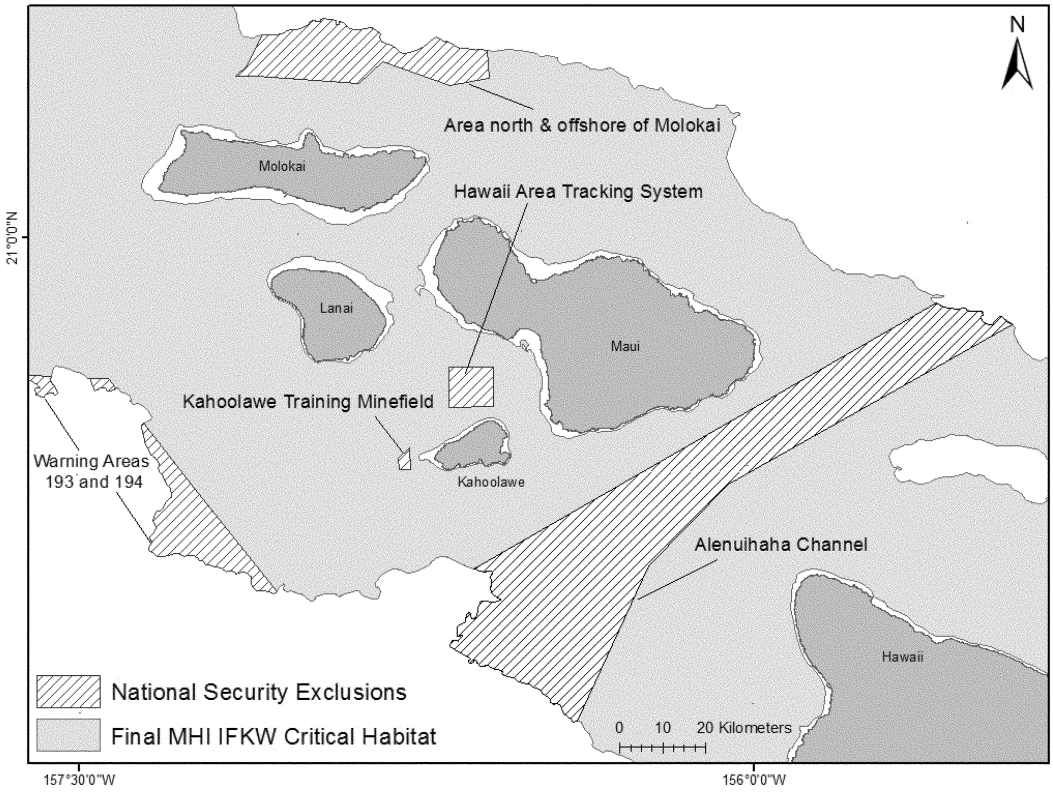


Final MHI IFKW Critical Habitat: around Niihau and Kauai

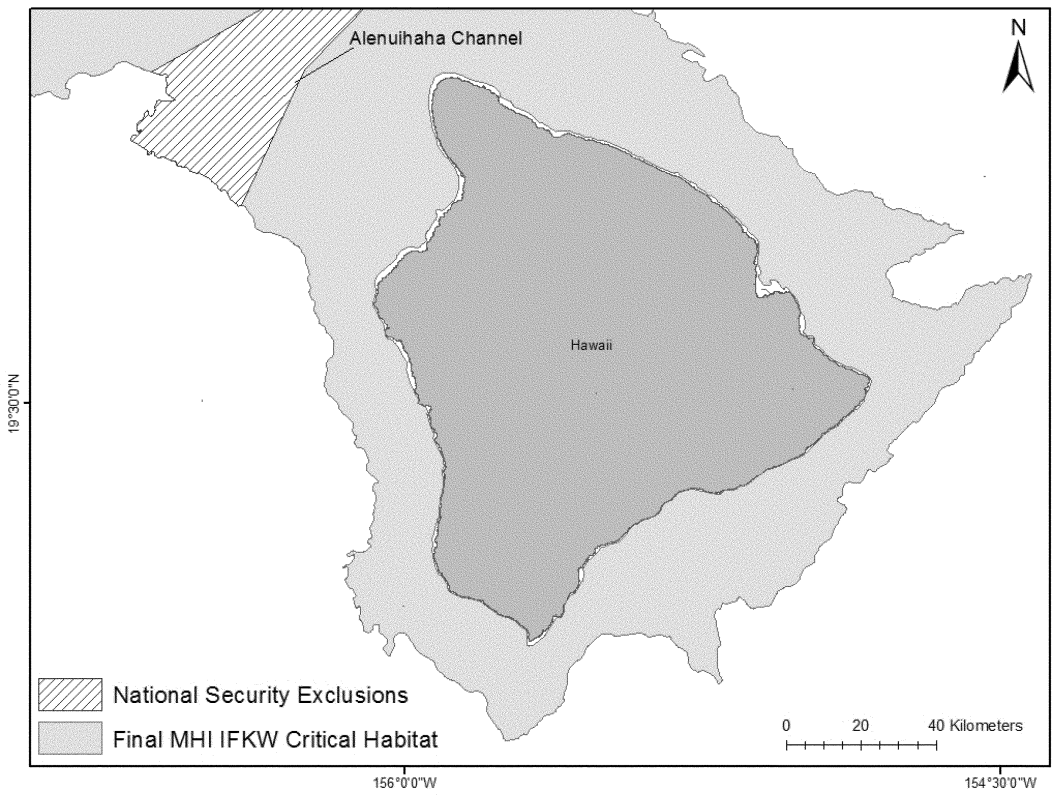



Final MHI IFKW Critical Habitat: around Oahu
N
BOEM Call Area (two sites)
Area north & offshore of Molokai
FORACS
SESEF
NDSA
Ewa Training Minefield
Warning Areas 196 and 191
Warning Areas 193 and 194
21°30'0"N
21°0'0"N
20°30'0"N
158°0'0"W
157°30'0"W
National Security Exclusions
Economic Exclusions
Areas Not Eligible for Critical Habitat Designation
Final MHI IFKW Critical Habitat
0
20
40 Kilometers

Final MHI IFKW Critical Habitat: around Maui, Lanai, Molokai, and Kahoolawe



Final MHI IFKW Critical Habitat: around Hawaii



[FR Doc. 2018–15500 Filed 7–23–18; 8:45 am]
BILLING CODE 3510–22–C

FEDERAL REGISTER

Vol. 83 Tuesday,
No. 142 July 24, 2018

Part III

The President

Executive Order 13845—Establishing the President's National Council for the American Worker

Federal Register
Vol. 83, No. 142
Tuesday, July 24, 2018

Presidential Documents

Title 3—

The President

Executive Order 13845 of July 19, 2018

Establishing the President's National Council for the American Worker

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide a coordinated process for developing a national strategy to ensure that America's students and workers have access to affordable, relevant, and innovative education and job training that will equip them to compete and win in the global economy, and for monitoring the implementation of that strategy, it is hereby ordered as follows:

Section 1. *Purpose.* Our Nation is facing a skills crisis. There are currently more than 6.7 million unfilled jobs in the United States, and American workers, who are our country's most valuable resource, need the skills training to fill them. At the same time, the economy is changing at a rapid pace because of the technology, automation, and artificial intelligence that is shaping many industries, from manufacturing to healthcare to retail. For too long, our country's education and job training programs have prepared Americans for the economy of the past. The rapidly changing digital economy requires the United States to view education and training as encompassing more than a single period of time in a traditional classroom. We need to prepare Americans for the 21st century economy and the emerging industries of the future. We must foster an environment of lifelong learning and skills-based training, and cultivate a demand-driven approach to workforce development. My Administration will champion effective, results-driven education and training so that American students and workers can obtain the skills they need to succeed in the jobs of today and of the future.

Sec. 2. *Policy.* It shall be the policy of the executive branch to work with private employers, educational institutions, labor unions, other non-profit organizations, and State, territorial, tribal, and local governments to update and reshape our education and job training landscape so that it better meets the needs of American students, workers, and businesses.

Sec. 3. *Establishment and Composition of the President's National Council for the American Worker.* (a) There is hereby established the President's National Council for the American Worker (Council), co-chaired by the Secretary of Commerce, the Secretary of Labor, the Assistant to the President for Domestic Policy, and the Advisor to the President overseeing the Office of Economic Initiatives (Co-Chairs).

(b) In addition to the Co-Chairs, the Council shall include the following officials, or their designees:

(i) the Secretary of the Treasury;

(ii) the Secretary of Education;

(iii) the Secretary of Veterans Affairs;

(iv) the Director of the Office of Management and Budget;

(v) the Administrator of the Small Business Administration;

(vi) the Assistant to the President and Deputy Chief of Staff for Policy Coordination;

(vii) the Director of the National Economic Council;

(viii) the Chairman of the Council of Economic Advisers;

(ix) the Director of the National Science Foundation; and

(x) the Director of the Office of Science and Technology Policy.

Sec. 4. *Additional Invitees.* As appropriate and consistent with applicable law, the Co-Chairs may, from time to time, invite the heads of other executive departments and agencies (agencies), or other senior officials in the White House Office, to attend meetings of the Council.

Sec. 5. *Council Meetings.* The Co-Chairs shall convene meetings of the Council at least once per quarter.

Sec. 6. *Functions of the Council.* (a) The Council shall develop recommendations for the President on policy and strategy related to the American workforce, and perform such other duties as the President may from time to time prescribe.

(b) The Council shall develop recommendations for:

(i) a national strategy for empowering American workers, which shall include recommendations on how the Federal Government can work with private employers, educational institutions, labor unions, other non-profit organizations, and State, territorial, tribal, and local governments to create and promote workforce development strategies that provide evidence-based, affordable education and skills-based training for youth and adults to prepare them for the jobs of today and of the future;

(ii) fostering close coordination, cooperation, and information exchange among the Federal Government, private employers, educational institutions, labor unions, other non-profit organizations, and State, territorial, tribal, and local governments as related to issues concerning the education and training of Americans; and

(iii) working with agencies to foster consistency in implementing policies and actions developed under this order.

Sec. 7. *Initial Tasks of Council.* Within 180 days of the date of this order, the Council shall:

(a) develop a national campaign to raise awareness of matters considered by the Council, such as the urgency of the skills crisis; the importance of science, technology, engineering, and mathematics education; the creation of new industries and job opportunities spurred by emerging technologies, such as artificial intelligence; the nature of many careers in the trades and manufacturing; and the need for companies to invest in the training and re-training of their workers and more clearly define the skills and competencies that jobs require;

(b) develop a plan for recognizing companies that demonstrate excellence in workplace education, training, and re-training policies and investments, in order to galvanize industries to identify and adopt best practices, innovate their workplace policies, and invest in their workforces;

(c) examine how the Congress and the executive branch can work with private employers, educational institutions, labor unions, other non-profit organizations, and State, territorial, tribal, and local governments to support the implementation of recommendations from the Task Force on Apprenticeship Expansion established in Executive Order 13801 of June 15, 2017 (Expanding Apprenticeships in America), including recommendations related to:

(i) developing and increasing the use of industry-recognized, portable credentials by experienced workers seeking further education, displaced workers seeking skills to secure new jobs, students enrolled in postsecondary education, and younger Americans who are exploring career and education options before entering the workforce;

(ii) increasing apprenticeship, earn-and-learn, and work-based learning opportunities;

(iii) expanding the use of online learning resources; and

(iv) increasing the number of partnerships around the country between companies, local educational institutions, and other entities, including local governments, labor unions, workforce development boards, and other non-profit organizations, in an effort to understand the types of skills that are required by employers so that educational institutions can recalibrate their efforts toward the development and delivery of more effective training programs.

(d) consider the recommendations of the American Workforce Policy Advisory Board (Board) established in section 8 of this order and, as appropriate, adopt recommendations that would significantly advance the objectives of the Council. The Council shall continue to consider and, as appropriate, adopt the Board's recommendations beyond the initial 180-day period provided by this section;

(e) recommend a specific course of action for increasing transparency related to education and job-training program options, including those offered at 4-year institutions and community colleges. The Council shall also propose ways to increase access to available job data, including data on industries and geographic locations with the greatest numbers of open jobs and projected future opportunities, as well as the underlying skills required to fill open jobs, so that American students and workers can make the most informed decisions possible regarding their education, job selection, and career paths. The Council shall also propose strategies for how best to use existing data tools to support informed decision making for American students and workers;

(f) develop recommendations on how the public sector should engage with the private sector in worker re-training, including through the use of online learning resources. In developing these recommendations, the Council shall examine existing private sector efforts to re-train workers or develop them professionally, and consider how investments in worker training and re-training programs compare to investments in other human-resource related areas, such as recruitment, health benefits, and retirement benefits; and

(g) examine public and private-sector expenditures, including tax expenditures, related to providing Americans with knowledge and skills that will enable them to succeed in the workplace at various stages of life (such as during primary and secondary education, postsecondary education, continuing professional development, and re-training), consider the effectiveness of those expenditures, and make suggestions for reforms in order to serve American workers and students better.

Sec. 8. *Establishment of the American Workforce Policy Advisory Board.* (a) There is hereby established the American Workforce Policy Advisory Board.

(b) The Board shall be composed and function as follows:

(i) The Board shall be composed of the Secretary of Commerce and the Advisor to the President overseeing the Office of Economic Initiatives, and up to 25 members appointed by the President from among citizens outside the Federal Government, and shall include individuals chosen to serve as representatives of the various sectors of the economy, including the private sector, employers, educational institutions, and States, to offer diverse perspectives on how the Federal Government can improve education, training, and re-training for American workers;

(ii) The Board shall be co-chaired by the Secretary of Commerce and the Advisor to the President overseeing the Office of Economic Initiatives;

(iii) Members appointed to the Board shall serve for a term of 2 years. If the term of the Board established in subsection (a) of this section is extended, members shall be eligible for reappointment, and may continue to serve after the expiration of their terms until the appointment of a successor;

(iv) The Board shall advise the Council on the workforce policy of the United States. Specific activities of the Board shall include, to the extent

permitted by law, recommending steps to encourage the private sector and educational institutions to combat the skills crisis by investing in and increasing demand-driven education, training, and re-training, including through apprenticeships and work-based learning opportunities;

(v) Members of the Board shall serve without any compensation for their work on the Board. Members of the Board, while engaged in the work of the Board, may be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in Government service (5 U.S.C. 5701–5707), consistent with the availability of funds;

(vi) The Board shall terminate 2 years after the date of this order, unless extended by the President; and

(vii) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Board, any functions of the President under that Act, except for those in section 6 and section 14 of that Act, shall be performed by the Secretary of Commerce, in accordance with the guidelines issued by the Administrator of General Services.

Sec. 9. *Administrative Provisions.* (a) The Department of Commerce shall provide the Council and the Board with funding and administrative support as may be necessary for the performance of their functions.

(b) The Secretary of Commerce, in consultation with the Co-Chairs of the Council, shall designate an official to serve as Executive Director, to coordinate the day-to-day functions of the Council.

(c) To the extent permitted by law, including the Economy Act (31 U.S.C. 1535), and subject to the availability of appropriations, other agencies may detail staff to the Council, or otherwise provide administrative support, in order to advance the Council's functions.

(d) Agencies shall cooperate with the Council and provide such information regarding its current and planned activities related to policies that affect the American workforce as the Co-Chairs shall reasonably request, to the extent permitted by law.

Sec. 10. *Termination of Council.* The Council shall terminate 2 years after the date of this order, unless extended by the President.

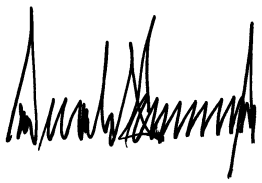
Sec. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(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.



THE WHITE HOUSE,
July 19, 2018.

[FR Doc. 2018–15955
Filed 7–23–18; 11:15 am]
Billing code 3295–F8–P

Reader Aids

Federal Register

Vol. 83, No. 142

Tuesday, July 24, 2018

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JULY

30831–31036 2
31037–31324 3
31325–31440 5
31441–31640 6
31641–31840 9
31841–32060 10
32061–32190 11
32191–32562 12
32563–32758 13
32759–33118 16
33119–33794 17
33795–34020 18
34021–34468 19
34469–34752 20
34753–34932 23
34933–35104 24

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

180 31037

3 CFR

Proclamations:
9766 31641
9767 34017
9768 34019

Executive Orders:
13519 (Revoked by 13844) 33115
13842 32753
13843 32755
13844 33115
13845 35099

Administrative Orders:
Memorandums:
Memorandum of June 4, 2018 31321
Presidential Determinations:
No. 2018–1 of June 4, 2018 31323
Notices:
Notice of July 20, 2018 34931

5 CFR

6 (Amended by EO 13843) 32755
890 32191
892 32191
894 32191
185 34933
2634 33979

Proposed Rules:
531 31694

7 CFR

52 31441
760 33795
905 31442
929 32193
930 31444
985 34935
3201 31841
4280 30831

Proposed Rules:
357 ..... 31697, 31702
906 31471
956 34953
981 31473
1206 32215
1220 31477

8 CFR

212 31447

Proposed Rules:
103 33762
214 33762

10 CFR

30 ..... 32759, 33046
32 ..... 32759, 33046
35 ..... 32759, 33046

Proposed Rules:
431 ..... 31704, 34498, 34499

12 CFR

611 30833
615 30833

Proposed Rules:
44 33432
248 33432
351 33432
1206 33312
1240 33312
1610 31896
1750 33312

13 CFR

120 34021

14 CFR

1 31450
21 31450
23 34022
25 ..... 31450, 32759
26 31450
27 31450
34 31450
39 ..... 31325, 31643, 31646, 31648, 31650, 31850, 32198, 32201, 32203, 32563, 33809, 33817, 33821, 34029, 34031, 34034, 34753, 34755, 34758, 34761
43 31450
45 31450
60 31450
61 ..... 31450, 34040
63 31450
65 31450
67 34040
71 ..... 31327, 31653, 31853, 31854, 31855, 31857
73 ..... 32061, 34763
91 ..... 31450, 34040
97 ..... 30833, 30836, 31450, 32764, 32766
107 31450
110 31450
119 31450
120 34040
121 31450
125 31450
129 31450
133 31450
135 31450
137 31450
141 31450
142 31450
145 31450
183 31450

Proposed Rules:
3 34795

25.....32807
33.....31479
39 .....31488, 31491, 31493, 31496, 31499, 31504, 31507, 31509, 31705, 31911, 32221, 33159, 33162, 33873, 34070, 34072, 34074, 34800
61.....34795
63.....34795
65.....34795
71 .....31708, 33163, 34956

16 CFR

801.....32768
802.....32768
803.....32768
1112.....30837
1211.....32566
1237.....30837
1307.....34764
1308.....34764

17 CFR

210.....31992
229.....31992
230.....31992, 34940
232.....33119
239.....31992
240.....31992
249.....31992
274.....31859

Proposed Rules:

1.....31078
75.....33432
230.....34958
240.....34702
249.....34702
255.....33432

19 CFR

12.....31654

20 CFR

404.....30849
416.....30849

21 CFR

1303.....32784
1308.....31877

Proposed Rules:

101.....32221
573.....34076

22 CFR

41.....31451

24 CFR

28.....32790
30.....32790
87.....32790
180.....32790
200.....31038
330.....31042
3282.....32790

25 CFR

83.....33825

Proposed Rules:

169.....34802

26 CFR

1.....32524, 34469

Proposed Rules:

1.....33875
301.....33165

28 CFR

0.....32759

29 CFR

405.....33826
406.....33826
1910.....31045
4022.....32580

Proposed Rules:

1910.....31086
1926.....34076
4041A 32815
4245.....32815
4281.....32815

30 CFR

Proposed Rules:

70.....31710
71.....31710
72.....31710
75.....31710
90.....31710
250.....31343

32 CFR

175.....34471
706.....31046
763.....31451

33 CFR

100 .....30860, 31047, 31883, 32206, 33121, 33122, 33124, 33125, 34765
117 .....31048, 31452, 31659, 31886, 34041
165 .....30862, 30863, 30865, 30866, 30869, 30871, 30872, 30875, 30877, 31048, 31050, 31052, 31054, 31055, 31057, 31059, 31060, 31062, 31886, 31887, 31889, 31891, 32208, 32582, 32591, 33127, 33842, 34041, 34042, 34046, 34766, 34768, 34770, 34944, 34946, 34948

Proposed Rules:

100.....31913
117.....32602
165 .....31344, 32604, 33165, 34092, 34804
328.....32227

34 CFR

300.....31306
600.....31296
668.....31296
685.....34047

Proposed Rules:

200.....33167

36 CFR

Proposed Rules:

13.....34094

37 CFR

2.....33129

Proposed Rules:

201.....32068

38 CFR

3.....32716
4.....32592
13.....32716
17.....31452

Proposed Rules:

17.....31711

39 CFR

3001.....31258
3004.....31258
3007.....31258

Proposed Rules:

111 .....31712, 34505, 34806, 34807
113.....31713
3050 .....31344, 31346, 31713, 32069, 33879

40 CFR

52 .....31064, 31068, 31072, 31328, 31330, 31332, 31454, 32062, 32064, 32209, 32211, 32794, 32796, 33132, 33730, 33844, 33846, 34050, 34949
63.....30879, 32213
81.....31334, 32064
180.....31893, 34775
300.....32798, 33134

Proposed Rules:

Ch. I 31098
52 .....31087, 31348, 31350, 31352, 31511, 31513, 31915, 32606, 33168, 33886, 33892, 33894, 34094, 34506, 34811, 34813, 34816
63.....31939
68.....34967
80.....31098, 32024
110.....32227
112.....32227
116.....32227
117.....32227
122.....32227
180.....34968
230.....32227
232.....32227
300 .....32227, 32825, 33171, 33176, 33177, 33182, 33186, 34508, 34513
302.....32227
401.....32227
721.....34819
745.....30889
1500.....32071
1501.....32071
1502.....32071
1503.....32071
1504.....32071
1505.....32071
1506.....32071
1507.....32071
1508.....32071

42 CFR

Proposed Rules:

409.....32340
413.....34304
414.....34304
424.....32340
447.....32252
484.....32340
486.....32340
488.....32340

44 CFR

59.....31337
61.....31337
64.....31075, 34052

Proposed Rules:

59.....32956
61.....32956
62.....32956

46 CFR

531.....34780
532.....34780

47 CFR

2.....34478
25.....34478
30.....34478
51.....31659
54 .....30883, 30884, 31458, 33139
61.....34793
63.....31659
64 .....33140, 33143, 34794
68.....31659
73.....33144, 33848
74.....33144

Proposed Rules:

0.....30901
1.....30901, 31515
2.....34520
5.....30901
25.....34520
27.....31515
30.....34520
51.....31099
52.....34974
54.....31516
61.....31099
64.....33899, 33915
73 .....30901, 31516, 32255
74.....30901, 34096

48 CFR

9903.....33146

Proposed Rules:

5.....34820
42.....34820
52.....34820

49 CFR

672.....34053
673.....34418

Proposed Rules:

Ch. II 31944
Subchp. B 31944
210.....32826

50 CFR

21.....32805
224.....35062
226.....35062
229.....33848
300.....33851
622.....34951
635 .....30884, 31677, 33148, 33870
648 .....30887, 31684, 34492
679 .....31340, 31460, 34951

Proposed Rules:

218.....32615
635.....31517
648 .....31354, 31945, 32829
660.....32829
679.....32829

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 770/P.L. 115–197
American Innovation $1 Coin Act (July 20, 2018; 132 Stat. 1515)

H.R. 2061/P.L. 115–198
North Korean Human Rights Reauthorization Act of 2017 (July 20, 2018; 132 Stat. 1519)

S.J. Res. 60/P.L. 115–199
Providing for the reappointment of Barbara M. Barrett as a citizen regent of the Board of Regents of the Smithsonian Institution. (July 20, 2018; 132 Stat. 1526)

H.R. 219/P.L. 115–200

Swan Lake Hydroelectric Project Boundary Correction Act (July 20, 2018; 132 Stat. 1527)

H.R. 220/P.L. 115–201

To authorize the expansion of an existing hydroelectric project, and for other purposes. (July 20, 2018; 132 Stat. 1528)

Last List July 11, 2018

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.