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Federal Register

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS-SC-17-0066; SC17-929-3 C]

Cranberries Grown in States of Massachusetts, et al.; Establishment of Handler Diversion and Reporting Requirements and New Information Collection; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Agricultural Marketing Service is correcting a final rule that appeared in the *Federal Register* on July 12, 2018. The document implemented new information collection and reporting requirements for a handler diversion under the Cranberry marketing order (Order).

DATES: This correction is effective August 23, 2018.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order and Agreement Division, Specialty Crop Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938 or Email: *Melissa.Schmaedick@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: In FR Doc. 2018-14939, beginning on page 32193 in the *Federal Register* of July 12, 2018, the following correction is made:

1. On page 32196, in the second column, the sentence, "The five

currently approved forms in 0581-0304 and one additional form will be merged with forms currently approved under OMB No. 0581-0189, Fruit Crops." is corrected to read "The five currently approved forms in 0581-0304 and one additional form (Handler Withholding Final Report that OMB pre-approved under 0581-0313) will be finalized with the publishing of this rule.

The two collections, 0581-0304 and 0581-0313, will be merged with forms currently approved under OMB No. 0581-0189, Fruit Crops."

Dated: August 16, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018-18039 Filed 8-21-18; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2018-0586]

Safety Zones; Annual Events Requiring Safety Zones in the Captain of the Port Lake Michigan Zone—Corn Festival Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone on the Illinois River in Morris, IL. This action is necessary and intended to protect the safety of life and property on navigable waters before, during, and immediately after a shore based firework display. During the enforcement period listed below, vessels and persons are prohibited from transiting through, mooring, or anchoring within this safety zone without approval from the Captain of the Port Lake Michigan or his or her designated representative.

DATES: The regulations in 33 CFR 165.929, Table 165.929, item (h)(1) will be enforced from 7:25 p.m. through 8:30 p.m. on September 29, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago;

telephone (630) 986-2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone; Corn Festival Fireworks listed as item (h)(1) in Table 165.929 of 33 CFR 165.929. Section 165.929 lists annual events requiring safety zones in the Captain of the Port Lake Michigan zone. This safety zone will encompass all waters of the Illinois River within an 560 foot radius from approximate launch position at 41°21.173' N, 88°25.101' W (NAD 83). This safety zone will be enforced from 7:25 p.m. through 8:30 p.m. on September 29, 2018.

Pursuant to 33 CFR 165.929, entry into, transiting, or anchoring within the safety zone during an enforcement period is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative. Those seeking permission to enter the safety zone may request permission from the Captain of Port Lake Michigan via channel 16, VHF-FM. Vessels and persons granted permission to enter the safety zone shall obey the directions of the Captain of the Port Lake Michigan or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice of enforcement is issued under authority of 33 CFR 165.929, Safety Zones; Annual events requiring safety zones in the Captain of the Port Lake Michigan zone, and 5 U.S.C. 552(a). In addition to this notice of enforcement in the *Federal Register*, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Broadcast Notice to Mariners and Local Notice to Mariners. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via VHF Channel 16 or at (414) 747-7182.

Dated: July 24, 2018.

Thomas J. Stuhldreier,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2018-18112 Filed 8-21-18; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION**34 CFR Parts 200, 237, and 299**

RIN 1810-AB36, 1810-AB37, 1810-AB38, 1810-AB39, 1810-AB40, 1810-AB41, 1810-AB42, 1810-AB43, 1810-AB44, and 1810-AB48

Outdated or Superseded Regulations: Title I, Parts A through C; Christa McAuliffe Fellowship Program; and Empowerment Zone or Enterprise Community—Priority

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Code of Federal Regulations (CFR) to remove outdated or superseded regulations. As a result of new legislation, absence of funding, and review in accordance with the President's regulatory reform initiative, the Secretary has determined that the regulations described below are no longer needed for the reasons discussed.

DATES: Effective August 22, 2018.

FOR FURTHER INFORMATION CONTACT:

Anna Lieth, U.S. Department of Education, 400 Maryland Avenue SW, Room 3W337, Washington, DC 20202. Telephone: (202) 453-5682 or by email: Anna.Lieth@ed.gov.

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: Consistent with Executive Order 13777, "Enforcing the Regulatory Reform Agenda," the Department is evaluating all existing regulations and making recommendations to the Secretary regarding their repeal, replacement, or modification, consistent with applicable law. As part of that effort, we have determined it is appropriate to take three deregulatory actions in this document to remove regulations that are outdated or unnecessary in parts 200, 237, and 299.

The regulations being removed have been superseded by new legislation or were issued to implement a program that is no longer funded. Therefore, these deregulatory actions will have no effect on the current operation of the Department's grant programs. To the extent that amendments to existing regulations or new regulations are needed to implement new legislation, they will be issued separately from this document. Any determination to issue new regulations will be carefully

considered to ensure that it is consistent with the President's regulatory reform efforts and the principles in Executive Orders 12866 and 13771.

The Department is continuing to review its other existing regulations thoroughly. To the extent the Secretary can identify further opportunities for regulatory reform, the Secretary will take appropriate action to revise or eliminate existing regulations, reduce burden, and increase flexibility.

In these final regulations, we take the following three deregulatory actions:

(1) Part 200 (RINs 1810-AB36, 1810-AB39, 1810-AB40, 1810-AB41, 1810-AB42, 1810-AB43, 1810-AB44, and 1810-AB48)

In 2015, the Every Student Succeeds Act (ESSA) reauthorized the Elementary and Secondary Education Act of 1965 (ESEA). Accordingly, some changes to the ESEA have rendered whole portions of the regulations in part 200 inconsistent with the statute. The superseded regulations in part 200 that the Department rescinds are: 34 CFR 200.7 (Disaggregation of Data); 200.12 (State Accountability System); 200.13-200.22 (Adequate Yearly Progress); 200.27-200.28 (Schoolwide Programs); 200.30-200.53 (LEA and School Improvement); 200.55-200.57 and 200.59-200.60 (Highly Qualified Teachers and Duties of Paraprofessionals); 200.81(d), 200.81(f), 200.81(g), and 200.81(h) (Migrant Education Program (MEP)); and 200.89(a) (Allocation of funds under the MEP for FY 2006 and subsequent years). In addition, the ESSA removed the authority for the Migrant Education Even Start Program. Accordingly, the Department rescinds 34 CFR 200.80 because it is no longer needed.

(2) Part 237 (RIN 1810-AB37)

The Department rescinds the regulations governing the Christa McAuliffe Fellowship Program. We take this action because this program is no longer authorized under the Higher Education Act. The program was last funded in 1995.

(3) Part 299 (1810-AB38)

The Department rescinds the regulations establishing the priority for activities in an Empowerment Zone or Enterprise Community. We take this action because the last Congressional extension of tax benefits to Empowerment Zones ended in 2017 and, thus, the program is no longer viable.

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 regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency, for good cause, finds that the requirement is impracticable, unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(B) and (d)(3)). There is good cause to waive rulemaking in this case because these final regulations merely remove existing regulations that are outdated, unnecessary, or superseded by recent statutory changes. This regulatory action adopts no new regulations and does not establish or affect substantive policy. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary and, thus, waives notice-and-comment rulemaking.

The APA also requires that regulations be published at least 30 days before their effective date, unless the agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). Again, because the final regulations merely reflect statutory changes and remove outdated or unnecessary regulatory provisions, the Secretary also has good cause to waive the 30-day delay in the effective date of these regulatory changes under 5 U.S.C. 553(d)(3).

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees,

or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new regulation that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2018, any new incremental costs associated with a new regulation must be fully offset by the elimination of existing costs through deregulatory actions. Because this final rule is not a significant regulatory action, the requirement to offset new regulations in Executive Order 13771 does not apply.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor their regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things, and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and

(5) Identify and assess available alternatives to direct regulation, including providing economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated

present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing this regulatory action only upon a reasoned determination that it provides benefits and will not have any costs. In choosing among alternative regulatory approaches, we selected the approach that maximizes net benefits. Based on the analysis that follows, the Department believes that these regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Need for the Regulatory Action

This regulatory action is necessary to remove superseded, outdated, or unnecessary regulations from the Code of Federal Regulations (CFR).

Analysis of Costs and Benefits

This regulatory action is a benefit to the public, grant recipients, and the Department as the action will remove any confusion that might be caused by maintaining superseded, outdated, or unnecessary regulations in the CFR.

The Department has also analyzed the costs of this regulatory action and has determined that it will impose no additional costs (\$0). As detailed earlier, this regulatory action reflects statutory changes and removes superseded, outdated, or unnecessary regulatory provisions.

Regulatory Flexibility Act Analysis

Pursuant to 5 U.S.C. 601(2), the Regulatory Flexibility Act applies only to rules for which an agency publishes a general notice of proposed rulemaking. The Regulatory Flexibility Act does not apply to this rulemaking because there is good cause to waive notice and comment under 5 U.S.C. 553.

Paperwork Reduction Act of 1995

This rule does not contain any information collection requirements. The previously OMB-approved information collections that were associated with part 237 are no longer active information collections (OMB Control Numbers 1810–0532 and 1810–0537). The OMB-approved information collection associated with the sections of part 200 (Consolidated State Plans OMB 1810–0576) that this rule removes

has been modified as necessary to align with the requirements of the ESSA.

Intergovernmental Review

Some of these programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., Braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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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.

List of Subjects

34 CFR Part 200

Education of disadvantaged, Elementary and secondary education, Grant programs—education, Indians—education, Infants and children, Juvenile delinquency, Migrant labor, Private schools, Reporting and recordkeeping requirements.

34 CFR Part 237

Elementary and secondary education, Grant programs—education, Scholarships and fellowships, Teachers.

34 CFR Part 299

Administrative practice and procedure, Elementary and secondary education, Grant programs—education, Private schools, Reporting and recordkeeping requirements.

Dated: August 9, 2018.

Frank Brogan,

Assistant Secretary for Elementary and Secondary Education.

For reasons discussed in the preamble, and under the authority at 20 U.S.C. 3474, 20 U.S.C. 1221e-3, Public Law 109-270, and Public Law 114-95, the Secretary amends Chapter II of title 34 of the Code of Federal Regulations as follows:

PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

■ 1. The authority citation for part 200 is revised to read as follows:

Authority: 20 U.S.C. 6301 through 6576, unless otherwise noted.

§ 200.7 [Removed and Reserved]

■ 2. Remove and reserve § 200.7.

§ 200.12 [Removed and Reserved]

■ 3. Remove the center heading “State Accountability System” and remove and reserve § 200.12.

§§ 200.13 through 200.22 [Removed and Reserved]

■ 4. Remove the center heading “Adequate Yearly Progress (AYP)” and remove and reserve §§ 200.13 through 200.22.

§§ 200.27 and 200.28 [Removed and Reserved]

■ 5. Remove and reserve §§ 200.27 and 200.28.

§§ 200.30 through 200.53 [Removed and Reserved]

■ 6. Remove the center heading “LEA and School Improvement” and remove and reserve §§ 200.30 through 200.53.

■ 7. Revise the center heading “Qualifications of Teachers and Paraprofessionals” to read “Qualifications of Paraprofessionals”.

§§ 200.55 through 200.57 [Removed and Reserved]

■ 8. Remove and reserve § 200.57.

§§ 200.59 and 200.60 [Removed and Reserved]

■ 9. Remove and reserve §§ 200.59 and 200.60.

§ 200.80 [Removed and Reserved]

■ 10. Remove and reserve § 200.80.

§ 200.81 [Amended]

■ 11. In § 200.81, remove and reserve paragraphs (d), (f), (g), and (h).

§ 200.89 [Amended]

■ 12. In § 200.89, amend the section heading by removing the words “MEP allocations;” and by removing and reserving paragraph (a).

PART 237—[REMOVED AND RESERVED]

■ 13. Remove and reserve part 237.

PART 299—GENERAL PROVISIONS

■ 14. The authority citation for part 299 continues to read as follows:

Authority: 20 U.S.C. 1221e-3(a)(1), 6511(a), and 7373(b), unless otherwise noted.

Subpart B—[Removed and Reserved]

■ 15. Remove and reserve subpart B, consisting of § 299.3.

[FR Doc. 2018-17480 Filed 8-21-18; 8:45 am]

BILLING CODE 4000-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA-R06-RCRA-2017-0556; FRL-9980-07—Region 6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition submitted by Blanchard Refining Company LLC—(Blanchard) to exclude (or delist) the residual solids generated from the reclamation of oil bearing hazardous secondary materials (OBSMs) on-site at Blanchard’s Galveston Bay Refinery (GBR), located in Texas City, Texas from the lists of hazardous wastes. EPA used the Delisting Risk Assessment Software (DRAS) Version 3.0.35 in the evaluation of the impact of the petitioned waste on human health and the environment. The residual solids are listed as F037 (primary oil/water/solids separation sludge) when they are reclaimed from the OBSMs. After careful analysis and evaluation of comments submitted by the public, the EPA has concluded that the petitioned wastes are not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to the residuals solids generated at Blanchard’s Galveston Bay Refinery (GBR), located in Texas City, Texas facility. Accordingly, this final rule excludes the petitioned waste from

the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills but imposes testing conditions to ensure that the future-generated wastes remain qualified for delisting.

DATES: Effective August 22, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-RCRA-2017-0556. 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., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For technical information regarding the Blanchard Refinery petition, contact Michelle Peace at 214-665-7430 or by email at peace.michelle@epa.gov.

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

- I. Overview Information
 - A. What action is EPA finalizing?
 - B. Why is EPA approving this delisting?
 - C. What are the limits of this exclusion?
 - D. How will Blanchard Refining manage the waste if it is delisted?
 - E. When is the final delisting exclusion effective?
 - F. How does this final rule affect states?
- II. Background
 - A. What is a delisting?
 - B. What regulations allow facilities to delist a waste?
 - C. What information must the generator supply?
- III. EPA’s Evaluation of the Waste Data
 - A. What waste and how much did Blanchard petition EPA to delist?
 - B. How did Blanchard sample and analyze the waste data in this petition?
- IV. Public Comments Received on the proposed exclusion
 - A. Who submitted comments on the proposed rule?
 - B. Comments and Responses
- V. Statutory and Executive Order Reviews

I. Overview Information

A. What action is EPA finalizing?

The EPA is finalizing:
 (1) the decision to grant GBR’s petition to have its surface impoundment basin solids excluded, or delisted, from the definition of a hazardous waste, subject to certain continued verification and monitoring conditions; and

(2) to use the Delisting Risk Assessment Software to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency used this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

After evaluating the petition, EPA proposed rule, on October 31, 2017, to exclude GBR's residuals from the treatment of OBSM waste from the lists of hazardous wastes under §§ 261.31 and 261.32. The comments received on this rulemaking will be addressed as part of this decision.

B. Why is EPA approving this delisting?

GBR's petition requests an exclusion from the F037 waste listing pursuant to 40 CFR 260.20 and 260.22. GBR does not believe that the petitioned waste meets the criteria for which EPA listed it. GBR also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1) through (4) (hereinafter, all sectional references are to 40 CFR unless otherwise indicated). In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (3). Based on this review, EPA agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's proposed decision to delist waste from GBR is based on the information submitted in support of this rule, including descriptions of the wastes and

analytical data from the Texas City, Texas facility.

C. What are the limits of this exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of part 261, Appendix IX, and the conditions contained herein are satisfied. The exclusion applies to 20,000 cubic yards of residual solids.

D. How will Blanchard Refining manage the waste if it is delisted?

Storage containers with OBSM residual solids will be transported to an authorized solid waste landfill (e.g., RCRA Subtitle D landfill, commercial/ industrial solid waste landfill, etc.) for disposal.

E. When is the final delisting exclusion effective?

This rule is effective August 22, 2018. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How does this final rule affect states?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only states subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

Here are the details: We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some States (for example, Louisiana, Georgia,

Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Blanchard transports the petitioned waste to or manages the waste in any State with delisting authorization, Blanchard must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What is a delisting?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude from the list of hazardous wastes, wastes the generator does not consider hazardous under RCRA.

B. What regulations allow facilities to delist a waste?

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273 of Title 40 of the Code of Federal Regulations. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

C. What information must the generator supply?

Petitioners must provide sufficient information to EPA to allow the EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Data

A. What waste and how much did Blanchard petition EPA to delist?

In June 2017, Blanchard petitioned EPA to exclude from the lists of hazardous wastes contained in §§ 261.31 and 261.32, residual solids (F037) generated during reclamation activities conducted at its GBR facility located in Texas City, Texas. The waste falls under the classification of listed

waste pursuant to §§ 261.31 and 261.32. Specifically, in its petition, Blanchard requested that EPA grant a conditional exclusion for the annual generation volume of 20,000 cubic yards of F037 residual solids.

The 40 CFR part 261 Appendix VII hazardous constituents which are the basis for listing can be found in Table 1.

TABLE 1—EPA WASTE CODES FOR OBSM RESIDUAL SOLIDS AND THE BASIS FOR LISTING

| Waste code | Basis for listing |
|------------|--|
| F037 | Benzene, benzo(a)pyrene, chrysene, lead, chromium. |

B. How did Blanchard sample and analyze the waste data in this petition?

To support its petition, Blanchard conducted individual sampling events on residual solids resulting from the reclamation of Blanchard’s three (3) identified categories of OBSMs. Each separate sampling event consisted of four (4) composite samples taken during

a 24-hour period of representative operation. Each composite sample was comprised of individual grab samples (*i.e.*, a minimum of four), obtained during separate six (6) hour periods of the 24-hour sampling event. Compositing of samples and performance of quality control requirements were performed by Blanchard’s selected analytical laboratory, TestAmerica Laboratories, Inc. (“TestAmerica”). Blanchard submitted: Historical information on waste generation and management practices; and analytical results from twelve samples for total and TCLP concentrations of constituents of concern (COC)s.

TABLE 2—ANALYTICAL RESULTS/MAXIMUM ALLOWABLE DELISTING CONCENTRATION RESIDUAL SOLIDS BLANCHARD REFINING COMPANY LLC, TEXAS CITY, TEXAS

| Constituent | Maximum total concentration (mg/kg) | Maximum TCLP concentration (mg/L) | Maximum TCLP delisting level (mg/L) |
|------------------------------|-------------------------------------|-----------------------------------|-------------------------------------|
| Acetone | 0.185 | 0.226 | 520.0 |
| Antimony | 53.7 | 0.226 | 0.599 |
| Anthracene | 0.488 | <0.0125 | 25.993 |
| Arsenic | 222.0 | 0.277 | 0.424 |
| Barium | 950.0 | 0.221 | 36.0 |
| Benzene | 1.25 | <0.00280 | 0.077 |
| Benzo (a) anthracene | 0.512 | <0.0106 | 0.070 |
| Benzo(a) pyrene | 0.0298 | <0.0123 | 2.634 |
| Benzo (b) flouranthene | 0.286 | <0.0125 | 22.43 |
| Beryllium | 8.61 | 0.235 | 1.764 |
| Cadmium | 0.441 | <0.00280 | 0.217 |
| Chromium | 120.0 | 0.0550 | 3.06 |
| Chrysene | 0.272 | <0.0103 | 7.006 |
| Cobalt | 242.0 | 0.818 | 0.902 |
| Copper | 639.0 | <0.0813 | 21.527 |
| Cyanide | 99.4 | <0.0702 | 3.08 |
| Diethyl Phthalate | 0.493 | <0.0130 | 990 |
| Flouranthrene | 0.405 | <0.0122 | 2.462 |
| Flourene | 0.420 | <0.00710 | 4.91 |
| Lead | 963.0 | <0.0219 | 0.984 |
| 2, methylphenol | 1.31 | <0.00710 | 28.952 |
| 3,4 methylphenol | 2.18 | <0.00675 | 28.952 |
| Methylene Chloride | 0.827 | 0.00756 | 0.0790 |
| Methyl Naphthalene | 0.365 | <0.0129 | 0.727 |
| Mercury | 0.0403 | 0.000104 | 0.068 |
| Naphthalene | 0.874 | <0.0110 | 0.0327 |
| Nickel | 29,000 | <0.00800 | 13.5 |
| Phenanthrene | 2.16 | <0.0112 | 10.626 |
| Phenol | 6.55 | 0.00813 | 173 |
| Pyrene | 1.76 | <0.0150 | 4.446 |
| Pyridine | 0.197 | <0.0108 | 0.5775 |
| Selenium | 13.5 | 0.0530 | 1.0 |
| Silver | 1.86 | <0.0129 | 5.0 |
| Toluene | 0.670 | <0.00275 | 15.1 |
| Tin | 13.8 | <0.00590 | 387 |
| Thallium | 110.0 | 0.0220 | 0.0366 |
| Vanadium | 75, 400 | 0.215 | 4.6436 |
| Zinc | 1920.0 | 0.487 | 197 |

Notes: These levels represent the highest constituent concentration found in any one sample and does not necessarily represent the specific level found in one sample.

IV. Public Comments Received on the Proposed Exclusion

A. Who submitted comments on the proposed rule?

The EPA received fifteen anonymous public comments on the October 31, 2017, proposed rule via regulations.gov. There were ten comments which had no bearing on the delisting of hazardous waste for Blanchard Refining. Two comments: EPA-R06-RCRA-2017-0556-0003 and EPA-R06-RCRA-2017-0556-0005 were submitted in favor of the issuance of the petition. Comments and responses to the three adverse comments (EPA-R06-RCRA-2017-0556-0009) are addressed below.

B. Comments and Responses

General Comment: EPA Region 6 received ten comments through regulations.gov to which no responses are required. These comments are numbered: EPA-R06-RCRA-2017-0556-0002, EPA-R06-RCRA-2017-0556-0004, EPA-R06-RCRA-2017-0556-0006, EPA-R06-RCRA-2017-0556-0007, EPA-R06-RCRA-2017-0556-0009, EPA-R06-RCRA-2017-0556-0010, EPA-R06-RCRA-2017-0556-0011, EPA-R06-RCRA-2017-0556-0012, EPA-R06-RCRA-2017-0556-0013, and EPA-R06-RCRA-2017-0556-0015 in this rulemaking docket. These commenters expressed concerns regarding wildfires, wind turbines, climate change, car lithium batteries, and opinions on Lead leaching into drinking water which are not appropriately addressed as part of the Hazardous Waste delisting program. Some comments reflect differences in opinions or preferred outcomes, to which an agency response is not appropriate. The EPA acknowledges the submission of these comments but notes the comments are out of the scope of the current final action regarding the delisting of hazardous waste residuals generated at Blanchard Refining.

Comment 1 (EPA-R06-RCRA-2017-0556-0009): "I am writing in representation of the over 150,000 members of TinyTimmy.org. We are against delisting these Blanchard solid hazardous wastes because they do not meet the standards stated clearly by the EPA for such delisting activity. Many of their own test results show a much higher than acceptable levels of some of the most toxic chemicals known to man. This attempt to delist byproducts such as Appendix VII inorganic constituents of concern, lead and chromium, and Appendix VII organic constituents of concern benzene, benzo(a)pyrene and chrysene. The levels found by Blanchard's testing does not meet the

EPA criteria for delisting. Further, doing so violates human safety, groundwater, environment and worker health. We strongly urge the EPA to reconsider and follow its actual mission of protecting the health of both humans and the environment and stop giving out favors to the fossil fuel industry on our backs."

Response 1 (EPA-R06-RCRA-2017-0556-0009). The Delisting Program requires extensive waste sampling and a risk assessment is performed to assess a wastes potential harm to human health and the environment. The program is designed to insure that the wastes which are deemed excluded will not be managed in a manner to harm human health or the environment. This waste will be managed in a Subtitle D industrial waste landfill as solid waste to prevent releases to groundwater and air pathways.

Comment 2 (EPA-R06-RCRA-2017-0556-0014). "I oppose the petition for delisting and believe delisting would pose a threat to the public."

Response 2 (EPA-R06-RCRA-2017-0556-0014). The Delisting Program requires extensive waste sampling and a risk assessment is performed to assess a wastes potential harm to human health and the environment. The program is designed to insure that the wastes which are deemed excluded will not be managed in a manner to harm human health or the environment. This waste will be managed in a Subtitle D industrial waste landfill as solid waste to prevent releases to groundwater and air pathways.

Comment 3 (EPA-R06-RCRA-2017-0556-0016). "I'd like to say thank you for opportunity to comment. My concern is regarding the delisting mandate of the Blanchard Refinery residual solid waste stream with chemicals that are classifiable as known carcinogenicity to human. The EPA is basing the ruling on the results from DRAS (Hazardous Waste Delisting Risk Assessment Software). Per the EPA, "the DRAS is a risk assessment tool and, therefore, can only provide risk analyses based on the information input into the program." Therefore, this software is not a dynamic simulation of the site's actual contaminates level but rather a "subjective" user input simulation.

Also, the criteria for demonstration of health-based levels is the Maximum Toxicity Characteristic Leaching Procedure (TCLP) delisting level. Does this limit cover worksite exposure limits? Will rate of evaporation affect the TCLP concentration? If so, will there be continuous monitoring at the site? For example, Cobalt meets the Maximum TCLP delisting level criteria

of 0.902 (mg/L); however, per a New Jersey Department of Health and Senior Services Hazardous Substance Fact Sheet, it does not meet the workplace exposure limits.¹

The average airborne permissible exposure limits (PEL) according to: OSHA: The legal PEL is 0.1 mg/m³ (8-hour workshift) NIOSH: The recommended PEL is 0.05 mg/m³ (10-hour workshift) ACGIH: The legal PEL is 0.02 mg/m³ (8-hour workshift)

Based on these limits, the maximum TCLP is, using the most conservative case, 900% higher. Also, according to the same study, it is stated that cobalt maybe a carcinogen in humans and there may be no safe level of exposure of exposure to a carcinogen.

Within the delisted chemicals, I have identified multiple chemicals in addition to Cobalt that are classifiable as known carcinogenicity to human, such as benzene and toluene. Since a landfill is considered a worksite, the chemicals should be reconsidered or the PEL considered in the criteria for demonstration of health-based levels."

Response 3 (EPA-R06-RCRA-2017-0556-0016). The requirements of the Federal regulations defined in 40 CFR part 260.20, and 260.22, describe the process by which wastes may be removed from the list of hazardous waste. In addition to extensive quality assurance and quality control data for the samples taken, EPA performs a risk assessment using the Delisting Risk Assessment Software to ensure that our decision is protective of human health and the environment. The constituent concentrations found in the residual solids are below the concentrations that would pose harm to human health and the environment. A waste is eligible for delisting only if that waste, as generated at a particular facility, does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the waste may not contain any other Appendix VIII constituents that would cause the waste to be hazardous. RCRA § 3001(f) and 40 CFR 260.22. A delisting is only intended to address a specific waste stream generated at a specific site. Since individual waste streams may vary depending on raw materials, industrial processes, and other factors, it may be appropriate not to list a specific waste from a specific site. Therefore, while a waste described in the regulations or resulting from the operation of the mixture or derived-from rules generally is hazardous, a specific waste from an individual facility may not be hazardous. For this reason, 40 CFR

260.20 and 260.22 provide an exclusion procedure, called delisting, which allows persons to prove that EPA should not regulate a specific waste from a particular generating facility as a hazardous waste. A risk assessment of the petitioned waste is completed and is a part of the decision factors in issuing an exclusion. Specific health examinations and worker protection are covered by the facility operating plans and overseen by OSHA. Worker safety during the management of this waste to avoid contact with this material are covered by the Health and Safety plans of the petitioner.

V. Statutory and Executive Order Reviews

Under Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore, is not a regulatory action subject to review by the Office of Management and Budget (OMB). This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, “Federalism”, (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule. This action is considered an Executive Order 13771 deregulatory action. This final rule provides meaningful burden reduction by allowing the petitioner to manage an estimated 20,000 cubic yards of residual solids a year under RCRA Subtitle D management standards rather than the more stringent RCRA Subtitle C standards. This action will significantly reduce the costs associated with the on-site management, transportation and

disposal of this wastestream by shifting its management from RCRA Subtitle C hazardous waste management to RCRA Subtitle D nonhazardous waste management.

Similarly, because this rule will affect only a particular facility, this rule does not have tribal implications, as specified in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used DRAS, which considers health and safety risks to children, to calculate the maximum allowable concentrations for this rule. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866. This rule does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988, “Civil Justice Reform”, (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report which includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not

required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability. Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The Agency’s risk assessment did not identify risks from management of this material in an authorized, solid waste landfill (e.g. RCRA Subtitle D landfill, commercial/industrial solid waste landfill, etc.). Therefore, EPA believes that any populations in proximity of the landfills used by this facility should not be adversely affected by common waste management practices for this delisted waste.

Lists of Subjects in 40 CFR Part 261

Environmental protection, Hazardous Waste, Recycling, Reporting and record-keeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: July 31, 2018.

Wren Stenger,

Multimedia Division Director, Region 6.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. In Table 1 of Appendix IX to Part 261, add an entry for “Blanchard Refining Company LLC” in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

| Facility | Address | Waste description |
|--|-----------------------------------|--|
| <p>* Blanchard Refining Company LLC.</p> | <p>* Texas City, TX</p> | <p>* Residual solids (EPA Hazardous Waste Numbers F037) generated at a maximum rate of as 20,000 cubic yards annually. For the exclusion to be valid, Blanchard must implement a verification testing program that meets the following Paragraphs: (1) All leachable concentrations for those constituents must not exceed the following levels measured as mg/L (ppm). The petitioner must use an acceptable leaching method, for example SW-846, Method 1311, to measure constituents in the residual solids leachate: (A) Inorganic Constituents of Concern: Antimony—0.5985; Arsenic—0.424; Barium—36; Beryllium—1.74; Chromium—3.06; Cobalt—0.902; Lead—0.984; Nickel—13.5; Selenium—1.0; Vanadium—4.64, Zinc—197. Mercury—0.068. (B) Organic Constituents of Concern: Acetone—520.0; Anthracene—25.993; Benzene—0.077; Benzo(a)pyrene—2.634, Chrysene—7.006; Methylene Chloride—0.0790; Phenanthrene—10.626; Phenol—173; Pyrene—4.446. (2) Waste Holding and Handling: (A) Blanchard must manage and dispose its residual solids as hazardous waste generated under Subtitle C of RCRA, until they have completed verification testing described in Paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied. (B) Levels of constituents measured in the samples of the residual solids that do not exceed the levels set forth in Paragraph (1) are nonhazardous. Blanchard can manage and dispose the nonhazardous residual solids according to all applicable solid waste regulations. (C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), Blanchard must retreat or stabilize the residual solids represented by the sample exceeding the delisting levels, until it meets the levels in paragraph (1). Blanchard must repeat the analyses of the retreated residual solids. (3) Verification Testing Requirements: Blanchard must perform analytical testing by sampling and analyzing the Residual solids as follows: (i) Collect representative samples of the Residual solids for analysis of all constituents listed in paragraph (1) prior to disposal. (ii) The samples for verification testing shall be a representative sample according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the Blanchard residual solids are representative for all constituents listed in paragraph (1). Blanchard must perform sample collection and analyses, including quality control procedures, according to SW-846 methodologies. (A) Initial Verification Testing: After EPA grants the final exclusion, Blanchard must do the following: (i) Collect four (4) representative composite samples of the residual solids at weekly intervals after EPA grants the final exclusion. The first composite samples may be taken at any time after EPA grants the final approval. Sampling should be performed in accordance with the sampling plan approved by EPA in support of the exclusion. (ii) Analyze the samples for all constituents listed in paragraph (1). Any composite sample taken that exceeds the delisting levels listed in paragraph (1) for the residual solids must be disposed as hazardous waste in accordance with the applicable hazardous waste requirements. (iii) Within thirty (30) days after successfully completing its initial verification testing, Blanchard may report its analytical test data for its initial four (4) weekly composite samples to EPA. If levels of constituents measured in the samples of the residual solids do not exceed the levels set forth in paragraph (1) of this exclusion, Blanchard can manage and dispose the non-hazardous residual solids according to all applicable solid waste regulations. (B) Subsequent Verification Testing: If Blanchard completes initial verification testing requirements, specified in paragraph (3)(A), and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), Blanchard may begin subsequent verification testing as follows: (i) Blanchard must test representative composite samples of the residual solids for all constituents listed in paragraph (1) at least once per month.</p> |

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

| Facility | Address | Waste description |
|----------|---------|---|
| | | <p>(ii) The samples for the monthly testing shall be a representative composite sample according to appropriate methods.</p> <p>(iii) Within thirty (30) days after completing each monthly sampling, Blanchard will report its analytical test data to EPA.</p> <p>(C) Annual Verification Testing: If levels of constituents measured in the samples of the residual solids do not exceed the levels set forth in paragraph (1) of this exclusion for six (6) consecutive months of subsequent verification testing, Blanchard may begin annual testing as follows:</p> <p>(i) Blanchard must test representative composite samples of the residual solids for all constituents listed in paragraph (1) at least once per calendar year.</p> <p>(ii) The samples for the annual testing shall be a representative composite sample according to appropriate methods.</p> <p>(iii) Within sixty (60) days after completing each annual sampling, Blanchard will report its analytical test data to EPA.</p> <p>(D) Termination of Organic Testing: Blanchard must continue testing as required under Paragraph (3)(B) for organic constituents in Paragraph (1)(B), until the analytical results submitted under Paragraph (3)(B) show a minimum of three (3) consecutive monthly samples below the delisting levels in Paragraph (1). Following receipt of approval from EPA in writing, Blanchard may terminate organic testing.</p> <p>(4) Changes in Operating Conditions: If Blanchard significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify EPA in writing. Blanchard may no longer handle the residual solids generated from the new process as nonhazardous until they have completed verification testing described in Paragraph (3)(A) and (B), as appropriate, documented that valid analyses show that paragraph (1) is satisfied, and received written approval from EPA.</p> <p>(5) Stabilization Operation: Blanchard may periodically elect to modify operating conditions to accommodate the addition of chemical stabilization reagents during indirect thermal desorption processing. In the event that Blanchard initiates the inclusion of stabilization during operation, they may no longer handle the residual solids generated from the modified process as nonhazardous until the residual solids meet the delisting levels set in Paragraph (1) under initial verification testing requirements set in paragraph (3)(A) and verify that the stabilization reagents do not add additional constituents to the residual solid leachate. Following completion of modified operation, Blanchard can resume normal operating conditions and testing requirements under Paragraph (3), which were in place prior to initiating stabilization during operation.</p> <p>(6) Data Submittals: Blanchard must submit the information described below. If Blanchard fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (7). Blanchard must:</p> <p>(A) Submit the data obtained through paragraph 3 to the Section Chief, 6MM–RP, Multimedia Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Suite 1200, Dallas, Texas 75202, within the time specified. All supporting data can be submitted on CD–ROM or comparable electronic media.</p> <p>(B) Compile records of analytical data from paragraph (3), summarized, and maintained on-site for a minimum of five years.</p> <p>(C) Furnish these records and data when either EPA or the State of Texas requests them for inspection.</p> <p>(D) Send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: “Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.</p> |

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

| Facility | Address | Waste description |
|----------|---------|--|
| | | <p>If any of this information is determined by EPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion."</p> <p>(7) Reopener:</p> <p>(A) If, any time after disposal of the delisted waste Blanchard possesses or is otherwise made aware of any environmental data (including but not limited to underflow water data or ground water monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Division Director in granting the petition, then the facility must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.</p> <p>(B) If either the verification testing (and retest, if applicable) of the waste does not meet the delisting requirements in paragraph 1, Blanchard must report the data, in writing, to the Division Director within 10 days of first possessing or being made aware of that data.</p> <p>(C) If Blanchard fails to submit the information described in paragraphs (6), (7)(A) or (7)(B) or if any other information is received from any source, the Division Director will make a preliminary determination as to whether the reported information requires EPA action to protect human health and/or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.</p> <p>(D) If the Division Director determines that the reported information requires action by EPA, the Division Director will notify the facility in writing of the actions the Division Director believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed EPA action is not necessary. The facility shall have 10 days from receipt of the Division Director's notice to present such information.</p> <p>(E) Following the receipt of information from the facility described in paragraph (7)(D) or (if no information is presented under paragraph (7)(D)) the initial receipt of information described in paragraphs (6), (7)(A) or (7)(B), the Division Director will issue a final written determination describing EPA actions that are necessary to protect human health and/or the environment. Any required action described in the Division Director's determination shall become effective immediately, unless the Division Director provides otherwise.</p> <p>(8) Notification Requirements:</p> <p>Blanchard must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision.</p> <p>(A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities.</p> <p>(B) For onsite disposal, a notice should be submitted to the State to notify the State that disposal of the delisted materials has begun.</p> <p>(C) Update one-time written notification, if it ships the delisted waste into a different disposal facility.</p> <p>(D) Failure to provide this notification will result in a violation of the delisting exclusion and a possible revocation of the decision.</p> |
| * | * | * |

GENERAL SERVICES ADMINISTRATION

41 CFR Part 102–84

[FMR Case 2018–102–8; Docket 2018–0009; Sequence 1]

RIN 3090–AJ72

Federal Management Regulation; Annual Real Property Inventories

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Direct final rule; request for comments.

SUMMARY: The General Services Administration (GSA) is issuing a direct final rule to remove and reserve regulations regarding the Federal Management Regulation (FMR). The regulations contain ambiguous and outdated provisions regarding reporting requirements, as well as references to systems and forms that are no longer used by agencies or GSA. The regulations are also unnecessary as a result of the Federal Assets Sale and Transfer Act of 2016 and the Federal Property Management Reform Act of 2016, which require executive agencies to report real property data annually to GSA.

DATES: *Effective date:* October 22, 2018.

Comment date: Interested parties should submit written comments to the Regulatory Secretariat Division at one of the addresses shown below on or before September 21, 2018. If an adverse comment or notice of intent to file an adverse comment is received within the specified comment period, GSA will publish a document in the **Federal Register** withdrawing this rule prior to the effective date.

ADDRESSES: Submit comments in response to FMR Case 2018–102–8 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal Rulemaking Portal by entering “FMR Case 2018–102–8” under the heading “Enter Keyword or ID” and select “Search”. Select the link “Submit a Comment” that corresponds with “FMR Case 2018–102–8” and follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FMR Case 2018–102–8” on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Lois Mandell, 1800 F Street NW, Washington, DC 20405.

Instructions: Please submit comments only and cite FMR Case 2018–102–8 in

all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and business confidential information provided. To confirm receipt of your comment(s), please check <http://www.regulations.gov> approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Aluanda Drain, Director, Real Property Policy Division, Office of Government-wide Policy, at 202–501–1624, or aluanda.drain@gsa.gov. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, 202–501–4755. Please cite FMR Case 2018–102–8.

SUPPLEMENTARY INFORMATION:

A. Background

Federal agencies annually reported real property assets as a result of the Senate Committee on Appropriations request that the Government maintain an Annual Real Property Inventory. Executive Order (E.O.) 12411, Government Work Space Management Reforms, dated March 29, 1983 (48 FR 13391, 3 CFR, 1983 Comp., p. 155), requires Executive agencies to produce and maintain a total inventory of work space and related furnishings, and declare excess to the Administrator of General Services all such holdings that are not necessary to satisfy existing or known and verified planned programs. It further requires agencies to establish information systems, implement inventory controls and conduct surveys in accordance with procedures established by the Administrator of General Services, so that a government-wide reporting system may be developed.

E.O. 13327, Federal Real Property Asset Management, dated February 4, 2004 (69 FR 5897), required that the Administrator of General Services, in consultation with the Federal Real Property Council, establish and maintain a single, comprehensive and descriptive database of all real property under the custody and control of all executive branch agencies, except when otherwise required for reasons of national security. This E.O. authorized the Administrator to collect from each Executive agency such descriptive information, except for classified information, as the Administrator considers will best describe the nature,

use, and extent of real property holdings of the Federal Government.

Since the last part 102–84 regulatory update in January 2008 to incorporate the guidance of E.O. 13327, the E.O. has been amended. More recently two laws were enacted, the Federal Assets Sales and Transfer Act of 2016 (Pub. L. 114–287) and the Federal Property Management Reform Act of 2016 (Pub. L. 114–318) that create a statutory requirement for a publicly accessible federal real property database and require executive agencies to report real property data annually to GSA.

Therefore, part 102–84, Annual Real Property Inventories, is unnecessary and outdated, and under the authority of 40 U.S.C. 121(c), GSA is removing part 102–84, Annual Real Property Inventories, and reserving it.

B. Executive Orders 12866 and 13563

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. GSA has determined that this direct final rule is not a significant regulatory action and is not subject to review under section 6(b) of E.O. 12866. GSA has further determined that this direct final rule is not a major rule under 5 U.S.C. 804.

C. Executive Order 13771

This direct final rule is not subject to the requirements of E.O. 13771 because it is related to agency organization, management, or personnel.

D. Regulatory Flexibility Act

This direct final rule will not have a significant economic impact on a substantial number of entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This direct final rule is also exempt from the Administrative Procedures Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel.

E. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the

Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

F. Small Business Regulatory Enforcement Fairness Act

This direct final rule is exempt from Congressional review under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 102–84

Federal buildings and facilities, Government property management.

Dated: August 14, 2018.

Emily W. Murphy,
Administrator.

PART 102–84—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, and under the authority of 40 U.S.C. 121(c), GSA is removing and reserving 41 CFR part 102–84, consisting of sections 102–84.5 through 102–84.55.

[FR Doc. 2018–18041 Filed 8–21–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140501394–5279–02]

RIN 0648–XG424

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for commercial blueline tilefish in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings of blueline tilefish are projected to reach the commercial annual catch limit (ACL) by August 22, 2018. Therefore, NMFS is closing the commercial sector for blueline tilefish in the South Atlantic EEZ at 12:01 a.m., local time, on August 22, 2018, and it will remain closed until the start of the next fishing year on January 1, 2019. This closure is necessary to protect the blueline tilefish resource.

DATES: This temporary rule is effective at 12:01 a.m., local time, on August 22,

2018, until 12:01 a.m., local time, on 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 blueline tilefish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council and NMFS prepared the FMP, and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

As specified at 50 CFR 622.193(z)(1)(i), the commercial ACL for blueline tilefish is 87,521 lb (39,699 kg), round weight. The commercial AM for blueline tilefish requires NMFS to close the commercial sector when the commercial ACL is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register (50 CFR 622.193(z)(1)(i)). NMFS has projected that the commercial ACL for South Atlantic blueline tilefish will be reached by August 22, 2018. Accordingly, the commercial sector for South Atlantic blueline tilefish is closed effective at 12:01 a.m., local time, on August 22, 2018, until 12:01 a.m., local time, on January 1, 2019.

The operator of a vessel with a valid Federal commercial vessel permit for South Atlantic snapper-grouper having blueline tilefish on board must have landed and bartered, traded, or sold such blueline tilefish prior to August 22, 2018. During the commercial closure, all sale or purchase of blueline tilefish is prohibited. The harvest or possession of blueline tilefish in or from the South Atlantic EEZ is limited to the bag and possession limits specified in 50 CFR 622.187(b)(2) and 622.187(c)(1), respectively, while the recreational sector for blueline tilefish is open. These bag and possession limits apply in the South Atlantic on board a vessel with a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper, and apply to the harvest of blueline tilefish in both state and Federal waters.

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of blueline tilefish 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(z)(1)(i) 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 blueline tilefish 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 prior notice and opportunity for public comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.193(z)(1)(i) have already been subject to notice and comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are contrary to the public interest because there is a need to immediately implement this action to protect blueline tilefish, since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL. Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL.

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: August 17, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018–18133 Filed 8–17–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 180703607–8744–01]

RIN 0648–XG340

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to 2018 Atlantic Herring Management Area Sub-Annual Catch Limits

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

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule reduces the sub-annual catch limits for the four Atlantic Herring Management Areas (including Area 1A, 1B, 2, and 3). This action is necessary to address Atlantic herring population decline due to poor recruitment into the population. The reduction is intended to mitigate herring population declines and lead to more available herring biomass and higher catch limits in 2019 and beyond.

DATES: This action is effective August 22, 2018 through December 31, 2018. Comments must be received on or before September 21, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0094, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov / #!docketDetail;D=NOAA-NMFS-2018-0094, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Atlantic Herring 2018 ACL Adjustments.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information

submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, 978–282–8457.

SUPPLEMENTARY INFORMATION:**Background**

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) for herring appear at 50 CFR part 648, subpart K. We implemented 2016–2018 herring specifications (November 1, 2016; 81 FR 75731) in November 2016 as recommended by the Council. The specifications included overfishing limits (OFLs) of 138,000 mt, 117,000 mt, and 111,000 mt for 2016, 2017, and 2018, respectively. The resulting acceptable biological catch (ABC) based on the New England Fishery Management Council’s ABC control rule was 111,000 mt in 2018, an amount equal to the OFL and that had no greater than a 50-percent probability that overfishing would occur. This ABC was consistent with the Council Scientific and Statistical Committee’s advice. The current ACL for the herring fishery is 100,969 mt, and the sub-ACLs for the four management areas are: Area 1A–31,789 mt; Area 1B–3,552 mt; Area 2–31,137 mt; and Area 3–43,763 mt.

In June of 2018, a new Northeast Regional Stock Assessment Workshop (SAW) and review by the Stock Assessment Review Committee (SARC) for Atlantic herring was completed. The assessment concluded that although Atlantic herring was not overfished and overfishing was not occurring in 2017, the stock is declining due to poor recruitment of herring into the population. The stock assessment estimated that recruitment has been at historic lows during the most recent 5 years (2013–2017). The final assessment summary report is available on the Northeast Fisheries Science Center website (www.nefsc.noaa.gov/publications/).

The assessment projects that poor recruitment of Atlantic herring will likely result in a substantial decline in biomass, but that the biomass should increase after reaching a low in 2019 if recruitment returns to historic average levels. The SAW/SARC estimated that if the entire 2018 acceptable biological catch (ABC) (111,000 mt) is harvested, the 2019 overfishing limit (OFL) would need to be reduced by nearly 90 percent,

to 13,700 mt. The SAW/SARC also estimated that if the 2018 catch is half of the ABC (55,000 mt), the OFL in 2019 would need to be 28,900 mt.

The herring specification regulations provide us with the authority to make in-season adjustments to the specifications and sub-ACLs to achieve conservation and management objectives after we have consulted with the Council. Any adjustments must be consistent with the Atlantic Herring FMP objectives and other FMP provisions. After receiving preliminary SAW/SARC results, we consulted with the Council on potential sub-ACL adjustments during the Council’s June 2018 meeting.

At its June 2018 meeting, based on the SAW/SARC preliminary stock assessment projections, the Council recommended capping the sub-ACLs for herring Management Areas 1A, 1B, and 3 at 2017 catch levels, and to set the Area 2 sub-ACL at 8,200 mt. The Council recommended a slightly different approach for Area 2 because the 2017 harvest level had been surpassed, and they wanted to allow for a fall fishery for the bottom trawl fleet, who have consistently relied upon fall herring catch in that area. The Council recommendation was intended to provide some conservation benefits for herring in 2018 and thereby mitigate the impacts of estimated 2019 reductions on the herring industry. After the June Council meeting, additional catch projections completed at the SARC meeting indicated the Council’s recommended level of catch has a 69-percent chance of resulting in overfishing in 2018. The Northeast Fisheries Science Center subsequently provided us with an additional projection based on a 50-percent probability of overfishing. This projection resulted in catch equal to 49,900 mt.

To lessen the risk of overfishing occurring in 2018, we are reducing the 2018 total allowable catch to 49,900 mt, which is 3,775 mt less than the Council’s recommended 53,655 mt. This action only reduces the sub-ACLs for the four herring management areas and does not alter any other limits in the 2016–2018 specifications. We chose to reduce the Council’s recommended catch so that the new area sub-ACLs provide at least a 50-percent probability of preventing overfishing in 2018. We set levels based on the newly projected OFL for 2018 out of precaution to prevent overfishing while allowing the fishery to achieve optimum yield. As explained below, projections based on current catch rates show a low probability that the fishery will catch

these amounts. However, Atlantic herring catch is highly unpredictable, and catch totals could quickly surpass current sub-ACLs in spite of our

projections. The fishery still has an opportunity to achieve these limits and mitigate the economic hardship from expected reductions in 2019–2021. This

2018 reduction is projected to increase the OFL to 30,700 mt in 2019, 38,900 mt in 2020, and 59,800 mt in 2021.

TABLE 1—ADJUSTMENT OF SPECIFICATIONS FOR 2018 HERRING SUB-ACLs

| | 2018 Original (from specifications) | 2018 Council recommendation | NMFS adjusted final |
|-------------------------|--|--------------------------------|------------------------|
| Area 1A Sub-ACL | * 31,789 | * 28,682 | 27,743 |
| Area 1B Sub-ACL | 3,552 | 2,639 | 2,639 |
| Area 2 Sub-ACL | 31,137 | 8,200 | 8,200 |
| Area 3 Sub-ACL | 43,763 | 14,134 | 11,318 |
| Total of Sub-ACLs | ** 110,536 | 53,655 | 49,900 |

* If New Brunswick weir fishery catch through October 1 is less than 4,000 mt, then 1,000 mt will be added to the ACL and Area 1A Sub-ACL.

** Total of the sum of the area sub-ACLs. Note that this is different from the stockwide ACL (100,969 mt) which is not increased by carrying over underages.

We are relying on the SAW/SARC's report and the Northeast Fisheries Science Center's additional projection to set reduced 2018 management area sub-ACLs for the fishery. The SAW/SARC used the most recent and best available data to make projections for future biomass. Although the estimates of future biomass are projections, they represent the best available scientific data for NMFS to act upon to mitigate both further biomass reductions and adverse economic impacts to the herring fishery. Based on this information, we are setting sub-ACLs consistent with projection probabilities that were used to set OFLs for the 2016–2018 specifications.

The herring specification regulations provide that the OFL must be equal to catch resulting from applying the maximum fishing mortality threshold to a current or projected estimate of stock size. When the stock is not overfished and overfishing is not occurring, this is usually the fishing rate supporting maximum sustainable yield (F_{MSY}). Catch that exceeds this amount would result in overfishing. The ABC may be set equal to the OFL, or it may be set lower than the OFL to account for scientific uncertainty. The ACL may be equal to or lower than the ABC after considering management uncertainty.

The 2016–2018 specifications included an ABC that was equal to the OFL for 2018 and was based on a projection showing there was no greater than a 50 percent probability that overfishing would occur at that level. Further, the SSC determined there was a near zero chance the stock would become overfished at that level based on the scientific information available to it at the time. The sub-ACLs were slightly reduced from the ABC to account for management uncertainty in the New Brunswick weir fishery.

We do not anticipate that the fishery will catch the reduced limits for each of

the four management areas. The herring fishery caught 49,500 mt in 2017, and catch rates to date in 2018 are substantially below those for 2017. The largest catch limit reduction in 2018 would occur in Area 3, where we would reduce the sub-ACL by over 30,000 mt. However, catch in Area 3 has dropped sharply in the past 3 years. The fishery caught 33.3k mt in 2015, 18.8k mt in 2016, and 14.1k mt in 2017. The 2018 catch through July 20 is only about 1.2k mt. This is below the catch level through July 20 for 2017, which was the previous lowest catch level for that time series. Similarly, the fishery has failed to catch the Area 1B sub-ACL in two of the previous three years, and the current catch level is less than the lowest of those years (2015), suggesting that it may be difficult for the fishery to catch this area's sub-ACL. Additionally, the vast majority of Area 2 is closed to the midwater trawl fishery due to a river herring/shad catch cap closure, which greatly reduces the likelihood that any more than a small portion of the remaining sub-ACL would be harvested. Finally, even if catch rates increase this year and catch amounts approach the new catch limits set in this action, we are required to close the directed fisheries once 92 percent of the sub-ACL is projected to be caught. This would allow us to constrain catch below the limit that is expected to prevent overfishing.

Classification

The NMFS Assistant Administrator has determined that this interim final rule is consistent with the Atlantic Herring FMP, national standards and other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This interim final rule is exempt from the procedures of Executive Order (E.O.)

12866 because this action contains no implementing regulations.

This interim final rule does not introduce any new reporting, recordkeeping, or other compliance requirements.

This interim final rule does not contain policies with Federalism or "takings" implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries (AA) finds it is impracticable and contrary to the public interest to provide for prior notice and an opportunity for public comment. Additionally, the AA finds there is good cause under 5 U.S.C. 553(d)(1) and (3) to waive the 30-day delay in effectiveness so that the purpose of this rule is not undermined. This action reduces the herring catch limits to reduce the risk of overfishing in 2018 with a goal of increasing herring biomass and future fishery opportunity. This rule must be in effect as soon as practicable to realize these intended benefits.

Before taking this action, we consulted with the New England Council at its June 2018 meeting, at which the Council recommended that we reduce the 2018 sub-ACLs for each herring management area. This consultation was scheduled after preliminary results from the 2018 stock assessment became available indicating that herring biomass is likely to decline substantially in 2019. At this meeting, the Council discussed the preliminary stock assessment results, measures likely necessary in 2019, and took public comment on its recommendation to reduce the 2018 sub-ACLs. As a result of these discussions and input from the public, including the herring industry, the Council recommended reducing 2018 catch to mitigate the economic harm to the herring industry that is

anticipated from necessary reductions in 2019.

A delay in implementing the new catch limits will increase the likelihood that 2018 catch will exceed these new limits. The 2018 catch reductions in this action are based on the new benchmark assessment, which was just recently completed in June 2018. Based on this new scientific information, the reductions in this action would result in a 50-percent probability of preventing overfishing in 2018. Exceeding the new harvest limits would result in a lower biomass and negative economic impacts to the herring industry due to a lower allowable catch in 2019 and beyond. Because herring is a critical bait source for the lobster fishery, these negative economic impacts are also expected to extend to the lobster fishery due to a reduction in bait supply.

Additionally, we are required to implement a 2,000-lb possession limit for each management area through the end of the current fishing year once 92 percent of the area sub-ACL is projected to be caught. We are also required to implement the 2,000-lb possession limit for the whole fishery (all areas) when 95-percent of the total herring ACL is harvested. If a delay in implementing this action results in catch approaching, or exceeding, the new 2018 catch limits, the closure of the directed fishery is more likely. An inseason closure of the directed fishery would be counter to the goals and objectives of this action, which is intended to reduce 2018 catch, but also continue to provide fishing opportunities for the remainder of the 2018 fishing year.

Input from the public at the June 2018 Council meeting was nearly all supportive of reducing 2018 catch limits, and the fishing industry and the public generally are expecting new limits to be set as soon as practicable. The lack of catch to date in 2018 has tempered the industry's expectations, and they no longer anticipate reaching even the reduced ACL. Herring industry members were concerned about the economic impact to the fishery in 2019 if we do not ensure reduced catch this year. Representatives from fishing advocacy and environmental groups also supported reducing 2018 catch limits, suggesting it could improve the projected stock estimates and expedite growth of the stock to previous high levels. The Council recommended we implement this action with the goal of conserving herring biomass and allowing for higher fishery catch limits in the 2019–2021 specifications. We expect the 2018 sub-ACL reductions to increase the estimated herring biomass

in 2019 and provide for more catch for the fishery.

This interim final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

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

Dated: August 17, 2018.

Chris Oliver,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 2018–18128 Filed 8–21–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180104009–8201–01]

RIN 0648–BH49

Extension of Emergency Measures To Address Overfishing of Atlantic Shortfin Mako Shark

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This rule extends the measures in an emergency interim final rule for the North Atlantic shortfin mako shark fishery published on March 2, 2018. This extension is necessary to maintain measures that address overfishing of shortfin mako sharks while long-term measures are developed and to meet requirements of a recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The rule is expected to reduce fishing mortality to address overfishing, consistent with ICCAT Recommendation 17–08, by continuing to reduce landings and increase live releases in the recreational and commercial HMS fisheries, but is not expected to result in significant economic impacts.

DATES: The end of the effective period for the amendments to 50 CFR 635.20, 635.21, 635.24, and 635.71, as published on March 2, 2018 (83 FR 8946), is extended from August 29, 2018, to March 3, 2019.

ADDRESSES: Copies of the Environmental Assessment (EA) and other supporting documents for the emergency action are available from the Highly Migratory Species (HMS)

Management Division website at <https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species>.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis at (978) 281–9273 or Guy DuBeck or Lauren Latchford at (301) 427–8503.

SUPPLEMENTARY INFORMATION:

Background

On March 2, 2018, NMFS implemented an interim final rule using emergency authority under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1855(c), to implement measures in HMS recreational and commercial fisheries to address overfishing consistent with ICCAT Recommendation 17–08 (83 FR 8946). The interim final rule noted that the measures may be extended for up to an additional 186 days if needed while longer-term measures were developed through an FMP amendment. This temporary rule extends the emergency interim final measures for North Atlantic shortfin mako sharks (*Isurus oxyrinchus*) without change. The interim final rule provided detailed information on the background, purpose, need, and justification for implementing these emergency management measures, and that information is not repeated here.

Section 305(c) of the Magnuson-Stevens Act allows for the extension of an emergency regulation or interim measure, which is otherwise effective for up to 180 days, for up to another 186 days, provided that the public has had an opportunity to comment on the emergency regulation. NMFS accepted public comment on the initial emergency measures in the interim final rule through May 7, 2018; comments and responses are summarized below. This extension does not alter the emergency measures already in place. NMFS is not accepting additional public comment on this extension.

NMFS has determined that all the necessary criteria for extending the emergency measures have been met and, therefore, NMFS is extending these emergency measures through March 3, 2019. NMFS has proposed long-term management measures for the North Atlantic shortfin mako shark stock through Draft Amendment 11 to the 2006 Consolidated HMS Fishery Management Plan (FMP), 83 FR 35590 (July 27, 2018), which are expected to replace these emergency measures before the expiration date.

Extended Emergency Management Measures

NMFS is extending the original emergency regulations without change. The management measures in the emergency rule that are being extended are as follows:

- Commercial fishermen on vessels deploying pelagic longline gear, which are required to have a functional electronic monitoring system on board under current regulations, must release all live shortfin mako sharks with a minimum of harm, while giving due consideration to the safety of crew members. Commercial fishermen using pelagic longline gear can only retain a shortfin mako shark if it is dead at haulback;
- Commercial fishermen using gear other than pelagic longline commercial gear (e.g., bottom longline, gillnet, handgear, etc.) must release all shortfin mako sharks, whether they are dead or alive; and
- Recreational fishermen (fishermen with HMS Angling or Charter/Headboat permits, and fishermen with Atlantic Tunas General category and Swordfish General Commercial permits when participating in a registered HMS tournament) must release any shortfin mako sharks smaller than the minimum size of 83 inches (210 cm) fork length (FL).

Comments and Responses

Public comments were accepted on the original interim final rule through May 7, 2018, and one public hearing was held in conjunction with the HMS Advisory Panel meeting in Silver Spring, MD, on March 7, 2018. During the comment period, NMFS received a total of 65 individual written comments on the interim final rule from fishermen, states, and other interested parties and the members of the public. NMFS also received comments related to the emergency interim final rule during the four public scoping meetings associated with Draft Amendment 11 to the 2006 Consolidated HMS FMP. We also included the following comments on Draft Amendment 11 that were relevant to the emergency measures or to our decision to extend them. All written comments can be found at <http://www.regulations.gov/>.

Comment 1: NMFS received many comments expressing general support for the emergency conservation and management measures, citing the importance of sharks, including shortfin mako sharks, to the health of ocean ecosystems.

Response: NMFS agrees that sharks are important predators in ocean

ecosystems, and notes that there are statutory obligations to conserve and manage shark populations, prevent overfishing, and achieve long-term sustainability. NMFS has determined that the emergency measures extended in this rule will address overfishing and sustainability of the North Atlantic shortfin mako shark stock as required by law.

Comment 2: NMFS received several comments suggesting that management measures for shortfin mako sharks should be more restrictive than those implemented in the emergency rule, including prohibiting all retention of shortfin mako sharks, or other more restrictive measures.

Response: NMFS disagrees that more restrictive measures are required at this time. The emergency measures are consistent with those recommended in ICCAT Recommendation 17-08 (with one alteration with respect to the recommended minimum size limit as explained in response to Comment 9), based upon the analyses in the EA (see **ADDRESSES**). The selected measures are expected to reduce U.S. shortfin mako shark catch consistent with the ICCAT recommendation (72-79 percent), while still permitting fishermen to retain shortfin mako sharks under limited circumstances. Given the species' North Atlantic-wide range and that United States catches constitute only approximately 11 percent of total North Atlantic shortfin mako shark catch, the United States cannot unilaterally end overfishing and rebuild the stock through domestic regulations alone, even if there were to be a total prohibition on possession (which has not been recommended by ICCAT). Ending overfishing and rebuilding the stock can only be accomplished through international coordination with nations that harvest the majority of shortfin mako sharks. ICCAT intends to evaluate the effectiveness of these measures in the coming months, update the stock assessment with the most recent data, establish a rebuilding plan, and develop additional measures if necessary. Other types of management measures are not being considered as part of this emergency interim final rule, which addresses overfishing consistent with the ICCAT recommendation.

Comment 3: Several commenters argued that U.S. management of shortfin mako sharks should not be bound to ICCAT recommendations, and measures could be more, or less, restrictive than those recommended by ICCAT.

Response: As a party to ICCAT, the United States is obligated under the Atlantic Tunas Convention Act (ATCA) to carry out binding recommendations

of the Commission. Under ATCA, the Secretary is required to promulgate regulations as may be necessary and appropriate to carry out such recommendations. A range of reasonable alternatives were evaluated in the EA analyzing the impacts of the measures in the emergency rule (see **ADDRESSES**), and the preferred alternatives in the emergency rule were determined by NMFS to be consistent with all statutory requirements. NMFS will continue to work constructively within the ICCAT process to effectively conserve shortfin mako sharks throughout their range and balance the needs of U.S. fisheries.

Comment 4: Many fishermen, recreational and commercial, expressed frustration that their opportunities to land shortfin mako sharks were being restricted by ICCAT, and stated their belief that other countries' fisheries were to blame for the problem, not U.S. fisheries. Some challenged the science behind the stock assessment determinations and argued that the stock is not as depleted as estimated by ICCAT. Most commenters felt that shortfin mako sharks have been sustainably managed in U.S. waters, and responsible U.S. fishermen should not be penalized for poor management outside the United States.

Response: NMFS acknowledges that U.S. fisheries represent a comparatively small amount (approximately 11 percent annually) of total North Atlantic shortfin mako shark harvest, with other countries' fleets representing the majority of catch. NMFS also has an obligation to prevent overfishing and rebuild overfished fish stocks under the Magnuson-Stevens Act. For stocks with a broad geographic range, like North Atlantic mako sharks, however, the United States alone cannot undertake measures that effectively end overfishing and rebuild the stocks, especially where the United States is a small proportion of the overall catch. In such situations, the United States must work cooperatively with other parties to devise and enforce effective measures. Here, ICCAT, with the United States' input, determined that rather than completely prohibit any retention of shortfin mako sharks, it would implement measures that reduce shortfin mako mortality by increasing live releases in ICCAT commercial and recreational fisheries but that allowed limited retention under certain circumstances. These circumstances recognize parties, such as the United States, that have measures in place that effectively limit mako shark landings and interactions, such as minimum size restrictions or electronic monitoring. Some ICCAT parties will not meet these

circumstances allowing retention and will effectively face a complete prohibition absent additional regulatory action. Furthermore, because the stock is overfished with overfishing occurring and previous stock assessments had not assessed it as such, each party to ICCAT that fishes on the stock must take some measure of responsibility for the stock's condition and contribute to ending overfishing immediately to avoid further stock decline and additional restrictions in the future. The next steps in the recommendation include provisions for considering longer rebuilding period timeframes given the biology of the stock and developing a rebuilding plan in 2018. As conservation and management development progresses, NMFS will continue to emphasize the responsible practices of U.S. fishermen and advocate for accountability and equitable regulatory measures with other nations through the ICCAT process. NMFS will also continue to ensure that management decisions developed through ICCAT are based on the best available scientific information by providing accurate data and supporting international stock assessments.

Comment 5: Some commenters opposed the commercial measure that fishermen using pelagic longline gear may only retain shortfin mako sharks that are dead at haulback because the commenters felt the measure is unenforceable.

Response: ICCAT Recommendation 17–08 conditioned limited allowable retention of mako sharks on several circumstances, one of which is the use of electronic monitoring to confirm the status of the shark when caught. NMFS determined that this measure is enforceable due to the presence of video electronic monitoring equipment on all pelagic longline vessels. Video collected from these fishing trips can be used to determine if landed shortfin mako sharks were dead when they were initially brought alongside the vessel. NMFS will review the video collected using the same process as for monitoring bluefin tuna catches implemented in Amendment 7 to the 2006 Atlantic Consolidated HMS FMP (79 FR 71510). As described in the HMS 2017 SAFE Report, videos from fishing sets will be randomly sampled in proportion to a vessel's fishing effort, with approximately 10 percent of sets randomly reviewed for compliance. Thus, this preferred commercial measure is enforceable.

Comment 6: Some commenters stated that recreational fisheries do not have a big impact on shortfin mako shark mortality compared to commercial

fisheries, and therefore should not be subject to such restrictive management measures. Therefore, several of these commenters expressed support for the No Action alternative.

Response: According to the analyses in the EA (see **ADDRESSES**), the percentages of commercial and recreational catches of shortfin mako sharks in U.S. waters in recent years are evenly split. Therefore, U.S. recreational fisheries have a significant role to play in reducing fishing mortality on shortfin mako sharks, and must be included in management of this overfished stock. The No Action alternative would not adequately address overfishing or be consistent with U.S. obligations to ICCAT and other legal requirements.

Comment 7: Many recreational fishermen commented that the increased minimum size limit, from 54 to 83 inches fork length, is excessive and will eliminate the shortfin mako shark recreational fishery given how rarely fish greater than 83 inches fork length are caught. Most of these commenters argued for smaller increases in the minimum size limit and/or alternative management measures (shorter seasons, 1–3 shark per year limits per vessel with a tag system or lottery, slot limits, male-only retention, etc.).

Response: The minimum size limit increase to 83 inches fork length was designed to significantly reduce shortfin mako shark recreational mortality consistent with the ICCAT recommendation. Based on the analyses in the EA (see **ADDRESSES**), less than 20 percent of the shortfin mako sharks landed in recent years were above the 83-inch fork length threshold. NMFS acknowledges that the reduction in landings as a result of this measure could be significant, and minor negative socioeconomic impacts are expected according to the EA. However, this reduction is required to address overfishing and be responsive to U.S. obligations to ICCAT. While some of the alternative measures suggested by recreational fishermen could reduce shortfin mako shark mortality while balancing the needs of the fishery, such measures were beyond the scope of this emergency rule to consider. Some of these alternative management approaches were considered as part of Amendment 11 and may be considered by ICCAT in the future.

Comment 8: Several recreational fishermen raised concerns about the safety at sea associated with trying to measure the length of large, potentially active, shortfin mako sharks to determine if the shark is large enough to be retained.

Response: Shark fishing, especially for shortfin mako sharks, is an inherently dangerous activity that requires experience, skill, and appropriate gear to be safe. Such safety concerns were one of the reasons NMFS chose to implement a single 83-inch minimum size limit for both sexes so that these large, active fish would not have to be excessively handled boatside to determine whether it was a male or female. As with other large, active HMS, it can be difficult to accurately measure the fish without injury to fishermen or the fish. Therefore, NMFS recommends that fishermen err on the side of caution and only retain shortfin mako sharks that are obviously longer than 83 inches fork length when viewed alongside the vessel.

Comment 9: Several recreational fishermen commented that NMFS should be implementing ICCAT Recommendation 17–08 as stated, and not be more restrictive than the recommendation. Specifically, commenters stated that NMFS should implement the Recommendation 17–08 minimum size limits of at least 71 inches fork length for males and at least 83 inches fork length for females (analyzed in Alternative 2 of the EA, see **ADDRESSES**), instead of a single 83-inch fork length minimum size limit for both sexes.

Response: The 2017 ICCAT stock assessment for shortfin mako estimated that catches need to be reduced by 72–79 percent to end overfishing. Based on the analysis for Alternative 2 in the EA (see **ADDRESSES**), the smaller minimum size limit for males would not sufficiently reduce recreational catch to those levels (estimated recreational landings reduction = 49 percent). Thus, NMFS implemented a single minimum size limit at 83 inches fork length that would apply to both sexes to achieve the necessary catch reductions (estimated recreational landings reduction = 83 percent). This single minimum size limit also addressed the safety concerns raised by some fishermen (see response to Comment 8).

Classification

The Assistant Administrator for Fisheries has determined that the emergency measures extended by this temporary rule are necessary to address overfishing of the North Atlantic shortfin mako shark fishery and are consistent with the Magnuson-Stevens Act and other applicable law.

Under 5 U.S.C. 553(d)(1), the Assistant Administrator for Fisheries finds good cause to waive the 30-day delayed effectiveness of this action. These emergency measures were

undertaken to address overfishing, and if they expire before longer term measures are adopted, overfishing may occur during the lapse in regulation, contrary to the public interest in effective management of the stock and compliance with domestic and international legal obligations. As described more fully in the interim final emergency rule (March 2, 2018; 83 FR 8946), the reasons justifying promulgation of the rule on an emergency basis make a delay in effectiveness contrary to the public interest. The measures implemented for the shortfin mako shark fishery are needed to address overfishing of the stock.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from OMB review.

This rule is exempt from the otherwise applicable requirement of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment.

Dated: August 17, 2018.

Donna S. Wieting,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2018-18095 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170817779-8161-02]

RIN 0648-XG426

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian district (CAI) of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2018 total allowable catch (TAC) of Atka mackerel in this area allocated to vessels participating in the BSAI trawl limited access fishery.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 17, 2018, through 2400 hours, A.l.t., December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907-586-7228.

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

The 2018 TAC of Atka mackerel, in the CAI, allocated to vessels participating in the BSAI trawl limited access fishery was established as a directed fishing allowance of 1,868 metric tons by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the CAI by vessels participating in the BSAI trawl limited access fishery.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel directed fishery in the CAI for vessels participating in the BSAI trawl limited access fishery. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 16, 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: August 17, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018-18129 Filed 8-17-18; 4:15 pm]

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Proposed Rules

Federal Register

Vol. 83, No. 163

Wednesday, August 22, 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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 17–79; Report No. 3099]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration.

SUMMARY: The National Association of Telecommunications Officers and Advisors (NATOA) requests reconsideration of the Order's finding that deployments of small wireless facilities, as defined in the Order, are not subject to review under the National Historic Preservation Act ("NHPA") and the National Environmental Policy Act of 1969 ("NEPA"). PTA–FLA, Inc. requests that the Commission also determine that structures between 50 feet and 199 feet are not subject to review under NEPA and NHPA. PTA–FLA also requests changes to Commission's procedures for notifying tribal governments of proposed structures. Various petitioners seek reconsideration of the Order because they assert that small cell facilities must complete review under the NHPA and NEPA.

DATES: Oppositions to the Petition must be filed on or before September 6, 2018. Replies to an opposition must be filed on or before September 17, 2018.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Leon Jackler, Wireless Telecommunications Bureau, at: (202) 418–0946; email: Leon.Jackler@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3099, released July 24, 2018. The full text of the Petitions is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554.

It also may be accessed online via the Commission's Electronic Comment Filing System at: <http://apps.fcc.gov/ecfs/>. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5.U.S.C. because no rules are being adopted by the Commission.

Number of Petitions Filed: 54.

Petitions for Reconsideration (Petitions) have been filed in the Commission's Rulemaking proceeding by Elaine R Unger, Cynthia Baughman, Lisa Cline and Rebecca Carol Smith. William Kenny Now, on behalf of Friends of Merrymeeting Bay, Mary Beth Brangan, Laura Allred, Joann Fox, Chuch Matzker, John M. Unger, Sue Present, Jacqueline J Shrontz, Sue Present, John Dankowski, Molly P Hauck, Pacia J. Harper, Ronald A. Fisher, Donna Desanto Ott PT, DPT, MS, FMCHC, Evelyn Savarin, Thomas Maslar, Naveen Albert, Jaclyn and David Kramer, Lucy Hackett, Andrew Hackett, Sarah Kendall, Allan D. Sikorski, Michael Kendall, Gary Swittel, Mary Kay Swittel, Leah Spitzer, Susan L. Benson, Daniel Kleiber, Susan B. Flemming, Catherine Kleiber, Molly Perkins, Hauck, Debra Albus, Michele Hertz, Alexandra Ansell, Cynthia Franklin, Michael Lipa, Rita Lipa, Victoria Sievers. Kate Kheel, Jonathan Mirin, Susan Riedeman and Pamela J. Ericson. Matt Huck, on behalf of Truth & Facts Never Lie, Becky Huck and Olemara Peters. Nancy L. Werner, on behalf of NATOA. Donald J. Evans, on behalf of PTA–FLA, Inc., and B Golomb. Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–17299 Filed 8–21–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III

[Docket No. FMCSA–2018–0037]

Federal Motor Carrier Safety Regulations (FMCSRs) Which May Be a Barrier to the Safe Integration of Automated Driving Systems in Commercial Vehicle Operations; Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Announcement of public listening session.

SUMMARY: FMCSA announces a public listening session on Friday, August 24, 2018, to solicit information on issues relating to the design, development, testing, and integration of automated driving systems (ADS) equipped commercial motor vehicles (CMVs) on our Nation's roadways. The listening session is the third in a series held in 2018 with the first occurring on June 19 in Ann Arbor, MI, and the second occurring on July 12 in San Francisco, CA. The meeting will provide interested parties an opportunity to share their views on the FMCSRs as they relate to the development and safe integration of ADS. Attendees are also encouraged to share any data or analysis on this topic with Agency representatives.

DATES: The meeting will be held on Friday, August 24, 2018, from 1–2:30 p.m. Central Daylight Time (CDT) at the Great American Trucking Show (GATS), Kay Bailey Hutchison Convention Center, 650 S Griffin Street, Dallas, TX 75202. If all interested participants have had an opportunity to comment, the session may conclude early.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, at (202) 385–2395, or via email: shannon.watson@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 2017, the Department published the *Automated*

Driving Systems (ADS): A Vision for Safety 2.0. (Publication No. DOT HS 812 442) (the Voluntary Guidance). The Voluntary Guidance offers a path forward for the safe integration of automated vehicles by:

- Encouraging new entrants and ideas that deliver safer vehicles;
- Making the Departmental regulatory processes nimbler to help match the pace of private sector innovation; and
- Supporting industry innovation and encouraging open communication with the public and with stakeholders.

The Voluntary Guidance is rooted in the Department's view that ADS-equipped vehicles hold enormous potential benefits for safety, mobility, and the efficiency of our transportation system. The primary focus of the Voluntary Guidance is on levels of ADS that can take full control of the driving tasks in at least some circumstances. Portions of the Voluntary Guidance also apply to lower levels of automation, including some of the driver assistance systems already being deployed by automakers today. The full document can be found at: https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/13069a-ads2.0_090617_v9a_tag.pdf.

The Voluntary Guidance adopts the SAE International (SAE) J3016 standard's definitions for levels of automation. The SAE definitions divide vehicles into levels based on "who does what, when." Generally:

- *SAE Level 0, No Driving Automation*; the driver performs all driving tasks.
- *SAE Level 1, Driver Assistance*; the vehicle is controlled by the driver, but some driving assist features may be included in the vehicle design.
- *SAE Level 2, Partial Driving Automation*; the vehicle has combined automated functions, like acceleration and steering, but the driver must remain engaged with the driving task and monitor the environment at all times.
- *SAE Level 3, Conditional Driving Automation*; the driver is a necessity, but is not required to monitor the environment. The driver must be ready to take control of the vehicle at all times with notice.
- *SAE Level 4, High Driving Automation*; the vehicle is capable of performing all driving functions under certain conditions. The driver may have the option to control the vehicle.
- *SAE Level 5, Full Driving Automation*; the vehicle is capable of performing all driving functions under all conditions.

Using the SAE levels described above, the Department draws a distinction between Levels 0–2 and 3–5 based on whether the human driver or the automated system is primarily responsible for monitoring the driving environment. For the purposes of this **Federal Register** notice, the Agency's primary focus is SAE Levels 3–5 ADS.

FMCSA encourages the development of these advanced safety technologies for use on CMVs, and at the same time, recognizes the need to work with the States to ensure that, from an operations standpoint, all testing and use of these advanced safety systems is conducted in a manner that ensures the safe operation of ADS-equipped commercial vehicles.

FMCSA is responsible for the safety oversight of motor carriers operating CMVs in interstate commerce, the drivers of CMVs, and the vehicles. The Agency works with its State partners to deliver programs intended to prevent CMV crashes, and the associated injuries and fatalities.

The FMCSRs provide rules to ensure the safe operation of CMVs, as defined in 49 CFR 390.5, which includes vehicles with a gross vehicle weight/gross combination weight or gross vehicle weight rating/gross combination weight rating, whichever is greater, of 10,001 pounds or more; passenger-carrying vehicles designed or used to transport 9 to 15 passengers for direct compensation; passenger-carrying vehicles designed or used to transport 16 or more passengers; and any size vehicle transporting hazardous materials in a quantity requiring placards.

FMCSA's 2018 Request for Comments

On March 26, 2018, FMCSA published "Request for Comments Concerning Federal Motor Carrier Safety Regulations (FMCSRs) Which May Be a Barrier to the Safe Testing and Deployment of Automated Driving Systems-Equipped Commercial Motor Vehicles on Public Roads." (83 FR 12933) The document solicited public comments on existing Federal Motor Carrier Safety Regulations (FMCSRs) that may need to be updated, modified, or eliminated to facilitate the safe introduction of automated driving systems (ADS) equipped commercial motor vehicles (CMVs) onto our Nation's roadways. The Agency indicated that it had commissioned the U.S. Department of Transportation's John A. Volpe National Transportation Systems Center (Volpe) to conduct a preliminary review of the FMCSRs to

identify regulations that may relate to the development and safe introduction of ADS. The Agency requested comments on this report, including whether any of FMCSA's current safety regulations may hinder the testing and safe integration of ADS-equipped CMVs. Further, FMCSA requested comment on certain specific regulatory requirements that are likely to be affected by an increased integration of ADS-equipped CMVs.

In addition, to support FMCSA's effort to understand future impacts on the FMCSRs, FMCSA requested information, including from companies engaged in the design, development, testing, and integration of ADS-equipped CMVs into the fleet. Specifically, the Agency requested information about: (1) The scenarios and environments where entities expect that ADS will soon be tested and integrated into CMVs operating on public roads or in interstate commerce; (2) the operational design domains (ODD) in which these systems are being operated or would be tested and eventually deployed; and, (3) measures they believe are required to ensure the protection of any proprietary or confidential business information they intend to share with the Agency. The comment period ended on May 10, 2018. Interested parties may view the comments the Agency received at www.regulations.gov (docket number FMCSA-2018-0037).

Subsequent to the publication of the March 28 notice, FMCSA and other surface transportation agencies have begun planning for the initiation of rulemakings concerning ADS technology. The agencies have been assigned Regulation Identification Numbers (RINs) for their respective Advance Notices of Proposed Rulemakings (ANPRMs). To that end, the public listening session is intended to provide FMCSA the opportunity to engage stakeholders before the Agency begins drafting its ANPRM.

Meeting Participation

Oral comments from the public will be heard throughout the meeting. Members of the public may submit written comments to public docket referenced at the beginning of this notice using any of the following methods:

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

- *Fax:* 202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590.

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

Issued on: August 17, 2018.

Cathy F. Gautreaux,
Deputy Administrator.

[FR Doc. 2018-18127 Filed 8-21-18; 8:45 am]

BILLING CODE 4910-EX-P

Notices

Federal Register

Vol. 83, No. 163

Wednesday, August 22, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting; Board for International Food and Agricultural Development

Pursuant to the Federal Advisory Committee Act, notice is hereby given of the public meeting of the Board for International Food and Agricultural Development (BIFAD). The meeting will be held from 9:30 a.m. to 1:00 p.m. EDT on Wednesday, September 12, 2018, at the Murrow/White/Lisagor Room, 13th Floor, National Press Club, 529 14th Street NW, Washington, DC. Participants may attend in person or join via livestream. The link to the global live stream as well as registration information can be found on BIFAD's home page and online at <http://www.aplu.org/projects-and-initiatives/international-programs/bifad/bifad-meetings.html>.

The central theme of this public meeting will be the new *Feed the Future Learning Agenda* which builds on the first Feed the Future Learning Agenda launched in 2012. Dr. Mark Keenum, BIFAD Chair, will preside over the public business meeting, which will begin promptly at 9:30 a.m. EDT with opening remarks. At this meeting the Board will address old and new business. Old business will include an update on a study commissioned by BIFAD and USAID on U.S. benefits and capabilities leveraged from strategic USAID investments in developing country agriculture and food security by Dr. Joseph Glauber, Senior Research Fellow at the International Food Policy Research Institute (IFPRI). After this, the Board will then engage in a dialogue and provide feedback on the *Feed the Future Learning Agenda*.

Through the Learning Agenda, the U.S. Government seeks to improve the effectiveness and efficiency of the Feed the Future initiative by generating, synthesizing, communicating and

applying evidence related to key questions. Evidence from the Learning Agenda will inform the design of Feed the Future-related strategies, programs, projects and activities. The Learning Agenda will also serve to address requirements laid out in section 8(a)(14) of the Global Food Security Act on sharing lessons learned from implementation of the Global Food Security Strategy.

This Feed the Future Learning Agenda will focus on eight areas: (1) Gender and women's empowerment, (2) Market systems, (3) Policy systems, (4) Nutrition, (5) Risk and resilience, (6) Youth, (7) Water and Water Sanitation and Hygiene (WASH), and (8) Scaling technologies and practices. These areas reflect work and research being carried out under the Feed the Future initiative. Analytical outputs from the work in these areas will feed into the answering Learning Agenda questions. BIFAD is taking this opportunity to welcome public input on these focus areas, the types of questions to be examined, and research under way that might help contribute.

Beginning at 12:30 p.m. EDT, Chairman Keenum will moderate a half-hour public comment period. The public meeting will adjourn at 1:00 p.m. EDT with Dr. Keenum's closing remarks.

Those wishing to attend the meeting or obtain additional information about BIFAD should contact Clara Cohen, Designated Federal Officer for BIFAD in the Bureau for Food Security at USAID. Interested persons may write to her in care of the U.S. Agency for International Development, Ronald Reagan Building, Bureau for Food Security, 1300 Pennsylvania Avenue NW, Washington, DC 20523-2110 or telephone her at (202) 712-0119.

Clara Cohen,

Designated Federal Officer, BIFAD, Bureau for Food Security, U.S. Agency for International Development.

[FR Doc. 2018-18084 Filed 8-21-18; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2018-0052]

Notice of Request for an Extension of Approval of an Information Collection; Qualitative Feedback on Agency Service Delivery

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with qualitative customer and stakeholder feedback on service delivery by the Animal and Plant Health Inspection Service.

DATES: We will consider all comments that we receive on or before October 22, 2018.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov#!docketDetail;D=APHIS-2018-0052>.
- *Postal Mail/Commercial Delivery:*

Send your comment to Docket No. APHIS-2018-0052, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0052> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

FOR FURTHER INFORMATION CONTACT: For more detailed information on this information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, MRPBS, APHIS, 4700 River Road Unit 123, Riverdale, MD 20737; (301) 851-2483.

SUPPLEMENTARY INFORMATION:

Title: Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0579-0377.

Type of Request: Extension of approval of an information collection.

Abstract: This information collection activity provides a means for the Animal and Plant Health Inspection Service (APHIS) to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with APHIS' commitment to improving service delivery.

By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. This collection will allow for ongoing, generic collaborative and actionable communications between APHIS and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on APHIS' services will be unavailable.

APHIS will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden hours per respondent) and is low cost for both the respondents and the Federal Government;
- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

• Personally identifiable information is collected only to the extent necessary and is not retained;

• Information gathered is intended to be used only internally for general service improvement and program management purposes and is not intended for release outside of APHIS (if released, APHIS must indicate the qualitative nature of the information);

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information (*i.e.* the collection will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study).

As a general matter, this information collection will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.*, permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Individuals and households; businesses and organizations; State, local, or Tribal governments; and foreign federal governments.

Estimated annual number of respondents: 70,000.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 70,000.

Estimated total annual burden on respondents: 17,500 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

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

Done in Washington, DC, this 16th day of August 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018-18137 Filed 8-21-18; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE**Rural Utilities Service****Information Collection Activity; Comment Request**

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Rural Utilities Service, an agency of the U.S. Department of Agriculture (USDA), invites comments on this information collection for which approval from the Office of Management and Budget (OMB) will be requested.

DATES: Comments on this notice must be received by October 22, 2018.

FOR FURTHER INFORMATION CONTACT: Michele Brooks, Team Lead, Rural Development Innovation Center—Regulatory Team, USDA, 1400 Independence Ave., SW, STOP 1522, Room 5162 South Building, Washington, DC 20250-1522. Telephone: (202) 690-1078. Email: Michele.Brooks@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that will be submitted to OMB for approval.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele Brooks, Team Lead, Rural Development Innovation Center—Regulatory Team, USDA, STOP 1522, 1400 Independence Ave. SW, Washington, DC 20250–1522. Email: Michele.Brooks@wdc.usda.gov.

Title: 7 CFR part 1738, Rural Broadband Loans and Loan Guarantee Program.

OMB Control Number: 0572–0130.

Type of Request: Revision of a currently approved information collection.

Abstract: The Rural Utilities Service (RUS), is authorized by Title VI, Rural Broadband Access, of the Rural Electrification Act of 1936, as amended (RE Act), to provide loans and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural areas in the States and Territories of the United States. 7 CFR part 1738 prescribes the types of loans available, facilities financed, and eligible applicants, as well as minimum equity requirements to be considered for a loan. In addition, 7 CFR part 1738 outlines the process through which RUS will consider applicants under the priority consideration required in Title VI.

The term of the loan is based on the expected composite economic life based on the depreciation rates of the facilities financed. The term of the loan can be as high as 35 years. These loans are secured by a first lien on the borrower's broadband system. In the interest of protecting loan security and accomplishing the statutory objective of a sound program of rural broadband service access, Title VI of the RE Act further requires that RUS make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed.

Estimate of Burden: Public reporting burden for this collection of information is estimated as 100 hours per response.

Estimated Number of Respondents: 18.

Estimated Number of Responses per Respondent: 4.5.

Estimated Total Annual Burden on Respondents: 7,305 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Rural Development Innovation Center—Regulatory Team, at (202) 720–7853. Email: MaryPat.Daskal@wdc.usda.gov.

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

Dated: August 14, 2018.

Kenneth L. Johnson,

Administrator, Rural Utilities Service.

[FR Doc. 2018–17986 Filed 8–21–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2056]

Additional Production Authority Not Approved; The Coleman Company, Inc.; Subzone 119I (Textile-Based Personal Flotation Devices); Sauk Rapids, Minnesota

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for “. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,” and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, The Coleman Company, Inc., operator of Subzone 119I, has requested additional production authority for its facility in Sauk Rapids, Minnesota, (B–53–2015, docketed August 12, 2015);

Whereas, notice inviting public comment has been given in the **Federal Register** (80 FR 49986, August 18, 2015; 80 FR 61792, October 14, 2015; 80 FR 68504, November 5, 2015; 80 FR 74754–74755, November 30, 2015; 80 FR 79820, December 23, 2015; 81 FR 8173, February 18, 2016; 82 FR 27039, June 13, 2017; 82 FR 39982, August 23, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations have not been satisfied;

Now, therefore, the Board hereby does not approve the application requesting additional production authority under zone procedures within Subzone 119I at the facility of The Coleman Company, Inc., located in Sauk Rapids, Minnesota, as described in the application and **Federal Register** notice.

Dated: August 16, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2018–18094 Filed 8–21–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Review; 2017–2018

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on small diameter graphite electrodes from the People's Republic of China (China) for the period February 1, 2017, through January 31, 2018, based on the timely withdrawal of the requests for review.

DATES: Applicable August 22, 2018.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or John Anwesen, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–0131, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 26, 2009, Commerce published in the **Federal Register** the antidumping duty order on small diameter graphite electrodes from

China.¹ On February 1, 2018, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on small diameter graphite electrodes from China for the period of review February 1, 2017, through January 31, 2018.²

On February 28, 2018, Tokai Carbon GE LLC (the petitioner)³ requested an administrative review of the order for 192 producers and/or exporters of the subject merchandise, including Fushun Jinly Petrochemical Carbon Co., Ltd.⁴ In addition, on February 28, 2018, producer and exporter Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly) requested a review of itself.⁵ On April 16, 2018, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and, we initiated an administrative review of the order on small diameter graphite electrodes from China with respect to 193 companies.⁶ On May 4, 2018, the petitioner withdrew its administrative review request with respect to all companies except Fushun Jinly,⁷ and on June 26,

2018, we rescinded the administrative review request for all companies, except Fushun Jinly.⁸ On July 17, 2018, the petitioner withdrew its administrative review request for Fushun Jinly.⁹ Additionally, on July 17, 2018, Fushun Jinly withdrew its administrative review request of itself.¹⁰

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. In this case, the petitioner and Fushun Jinly timely withdrew their review requests by the 90-day deadline. No other parties requested an administrative review of the antidumping duty order on small diameter graphite electrodes from China. Therefore, we are rescinding the administrative review of the antidumping duty order on small diameter graphite electrodes from China for the period February 1, 2017, through January 31, 2018.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of the antidumping duties occurred and the subsequent

assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: August 17, 2018.

James Maeder,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2018-18093 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

U.S. Department of Commerce Trade Finance Advisory Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of renewal of the U.S. Department of Commerce Trade Finance Advisory Council and solicitation of nominations for membership.

SUMMARY: Pursuant to provisions of the Federal Advisory Committee Act, as amended, the Department of Commerce (the Department) announces the renewal of the U.S. Department of Commerce Trade Finance Advisory Council. This advisory committee advises the Secretary on the development of strategies and programs that would help expand access to finance for U.S. exporters. The renewal of this federal advisory committee is necessary to provide input to the Secretary regarding the challenges faced by U.S. exporters in accessing capital, innovative solutions that can address these challenges, and recommendations on strategies that can expand access to finance and educate U.S. exporters on available resources.

¹ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 83 FR 4639 (February 1, 2018).

³ Formerly, SGL Carbon LLC and Superior Graphite Co.

⁴ See the petitioner's submission, "Small Diameter Graphite Electrodes from the People's Republic of China—Request for Initiation of Antidumping Administrative Review," dated February 28, 2018. The petitioner's review request included Fushun Jinli Petrochemical Carbon Co., Ltd. (emphasis added).

⁵ See Fushun Jinly Petrochemical Carbon Co., Ltd.'s, "Small Diameter Graphite Electrodes from the People's Republic of China: Request for an Administrative Review," dated February 28, 2018. For purposes of this review, we are treating Fushun Jinli Petrochemical Carbon Co., Ltd. and Fushun Jinly Petrochemical Carbon Co., Ltd. as the same respondent company. In a prior administrative review of electrodes from China, we found that Fushun Jinly Petrochemical Carbon Co., Ltd. is the same entity as Fushun Jinli Petrochemical Carbon Co., Ltd. See, e.g., *Small Diameter Graphite Electrodes from the People's Republic of China: Final Results of the Antidumping Duty Administrative Review*, 77 FR 40854, 40856 n.3 (July 11, 2012). Consistent with this determination, and in the absence of contrary evidence, we are continuing to treat these companies as the same entity. See also Memorandum, "Antidumping Duty Administrative Review: Small Diameter Graphite Electrodes from the People's Republic of China—Respondent Selection," dated May 15, 2018.

⁶ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 83 FR 16298 (April 16, 2018). Because the petitioner requested a review for Fushun Jinli Petrochemical Carbon Co., Ltd. and Fushun Jinly requested a review of itself under the name Fushun Jinly Petrochemical Carbon Co., Ltd., we initiated a review with respect to 193 companies.

⁷ See the petitioner's submission, "Small Diameter Graphite Electrodes from the People's Republic of China: Petitioner's Withdrawal of Certain Requests for Review," dated May 4, 2018.

⁸ See *Small Diameter Graphite Electrodes From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review; 2017-2018*, 83 FR 29747 (June 26, 2018).

⁹ See the petitioner's submission, "Small Diameter Graphite Electrodes from the People's Republic of China—Petitioner's Withdrawal of Request for Review," dated July 17, 2018.

¹⁰ See Fushun Jinly's submission, "Small Diameter Graphite Electrodes from the People's Republic of China: Withdrawal of Administrative Review Request," dated July 17, 2018.

This notice also requests nominations for membership.

DATES: Nominations for members must be received on or before 5:00 p.m. Eastern Daylight Time (EDT) Monday, October 15, 2018. After that date, the Department will continue to accept applications under this notice for a period of up to two years from the deadline to fill any vacancies that may arise.

ADDRESSES: All nominations should be submitted by email to TFAC@trade.gov, attention: Ericka Ukrow, Office of Finance and Insurance Industries, U.S. Department of Commerce Trade Finance Advisory Council Executive Secretariat, Trade Finance Advisory Council.

FOR FURTHER INFORMATION CONTACT: Ericka Ukrow, Office of Finance and Insurance Industries, Room 18002, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0405, email: Ericka.Ukrow@trade.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

Pursuant to provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App., the Department of Commerce announces the renewal of the U.S. Department of Commerce Trade Finance Advisory Council (TFAC). The TFAC advises the Secretary on matters related to access to finance for U.S. exporters.

The Department of Commerce, International Trade Administration, Office of Finance and Insurance Industries, is accepting nominations for membership on the TFAC. The TFAC functions solely as an advisory committee. The TFAC shall advise the Secretary in identifying effective ways to help expand access to finance for U.S. exporters, including small- and medium-sized enterprises (SMEs), and their foreign buyers.

The TFAC shall provide a forum to facilitate the discussion between a diverse group of stakeholders such as banks, non-bank financial institutions, other trade finance related organizations, and exporters to gain a better understanding regarding current challenges facing U.S. exporters in accessing capital.

The TFAC shall draw upon the experience of its members to identify how new technologies and other innovative solutions can expand access to trade finance for U.S. exporters.

The TFAC shall develop recommendations on programs or activities that the Department of Commerce could incorporate as part of

its export promotion and trade finance education efforts.

The TFAC shall report to the Secretary on its activities and recommendations. In creating its reports, the TFAC shall: (1) Evaluate current credit conditions and specific financing challenges faced by U.S. exporters, including SMEs, and their foreign buyers, (2) identify emerging financing sources that would address these gaps, (3) examine how new financial technologies and other innovations could impact the availability and affordability of trade finance solutions, (4) highlight developments from international standard setting bodies that may affect the provision of trade finance, and (5) address any other noteworthy issues raised by stakeholders represented by the membership or the public.

II. Structure, Membership, and Operation

The TFAC shall consist of no more than twenty-five members appointed by the Secretary. Members may be drawn from:

- U.S. companies that are exporters of goods and services;
- U.S. commercial banks that provide trade finance products, cross-border payment services, or foreign exchange solutions;
- Non-bank U.S. financial institutions that provide trade finance products, cross-border payment services, or foreign exchange solutions;
- Associations that represent: (a) U.S. exporters; and (b) U.S. commercial banks or non-bank financial institutions or other professionals that facilitate international trade transactions;
- U.S. companies or entities whose business includes trade-finance-related activities or services;
- U.S. scholars, academic institutions, or public policy organizations with expertise in global business, trade finance, and international banking related subjects; and
- Economic development organizations and other U.S. regional, state and local governmental and non-governmental organizations whose missions or activities include the analysis, provision, or facilitation of trade finance products/services.

Membership shall include a broad range of companies and organizations in terms of products and services, company size, and geographic location of both the source and destination of trade finance. Members will be selected based on their ability to carry out the objectives of the TFAC, in accordance with applicable Department of

Commerce guidelines and in a manner that ensures that the TFAC is balanced in terms of points of view.

Members, with the exception of those that serve as experts from academia and public policy organizations, serve in a representative capacity and representing their own views and interests and those of their particular sector, not as special government employees. The members that serve as experts (rather than as representatives) from academia and public policy organizations are Special Government employees (SGEs), pursuant to 18 U.S.C. 202, are required to comply with certain ethics laws and rules, including filing a Confidential Financial Disclosure form. Additionally, a member serving as an expert must not be a Federally Registered Lobbyist. Prospective nominees should designate the capacity in which they are applying to serve and identify either their area of expertise or the U.S. industry sector they wish to represent. Each member shall be appointed for a term of two years and will serve at the pleasure of the Secretary. The Secretary may at his/her discretion reappoint any member to an additional term or terms, provided that the member proves to work effectively on the TFAC and his/her knowledge and advice is still needed.

In addition, the Chairman of the U.S. Export Import Bank (EXIM), and the Administrator of the Small Business Administration (SBA) (or their respective designees), will serve on the TFAC as *ex officio*, non-voting, members.

The members term of service will not exceed the duration of this charter and they may be reselected for additional periods should the charter be renewed and should they remain on the TFAC.

III. Compensation

Members will not be paid for their engagement in the performance of their duties as members of the Council. Members will not receive per diem and travel expenses.

IV. Nomination

The Department of Commerce will consider nominations of all qualified individuals to ensure that the TFAC includes representatives of the viewpoint areas of subject matter expertise noted above (see "Structure, Membership and Operation"). Individuals may nominate themselves or a company, institution, trade association, or organization may nominate a qualified representative for membership on the TFAC.

Applications for immediate consideration must be received by 5:00 p.m. EDT Monday, October 15, 2018.

All applicants must submit the following:

1. Name and title of the individual requesting consideration.
2. The applicant's personal resume and short biography (less than 300 words).
3. A brief statement describing how the applicant will contribute to the work of the TFAC based on his/her unique experience and perspective (not to exceed 100 words).
4. All relevant contact information, including mailing address, fax, email, phone number, and support staff information where relevant.
5. An affirmative statement that the applicant meets all eligibility criteria, including an affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.
6. For applicants to serve in a representative capacity, also submit:
 - a. A sponsor letter on the sponsoring entity's letterhead containing a brief statement of why the applicant should be considered for membership on the TFAC. This sponsor letter should also address the applicant's experience and leadership related to trade finance;
 - b. A brief description of the company, institution, trade association, or organization to be represented and its business activities and export market(s) served, if applicable;
 - c. Information regarding the ownership and control of the sponsoring entity, including the stock holdings as appropriate; and
 - d. The sponsoring entity's size (number of employees and annual sales), place of incorporation, product or service line, major markets in which the entity operates, and the entity's export or import experience.
7. For applicants to serve as experts (*i.e.*, not in a representative capacity), also submit:
 - a. A statement that the applicant is not a Federally registered lobbyist and that the applicant understands that, if appointed, the applicant will not be allowed to continue to serve as a Committee member if the applicant becomes a Federally registered lobbyist.

Ericka A. Ukrow,

Sr. International Trade Specialist, Designated Federal Officer, TFAC, Office of Finance and Insurance Industries.

[FR Doc. 2018-18082 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 10-4A001]

Export Trade Certificate of Review

ACTION: Notice of Application for an Amended Export Trade Certificate of Review by Alaska Longline Cod Commission, Application No. 10-4A001.

SUMMARY: The Secretary of Commerce, through the International Trade Administration, Office of Trade and Economic Analysis ("OTEA"), received an application for an amended Export Trade Certificate of Review ("Certificate") from Alaska Longline Cod Commission. This notice summarizes the proposed amendment and seeks public comments on whether the amended Certificate should be issued.

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. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later

than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 10-4A001."

A summary of the current application follows.

Summary of the Application

Applicant: Alaska Longline Cod Commission, c/o Mundt MacGregor L.L.P., 271 Wyatt Way NE, Suite 106, Bainbridge Island, WA, 98110.

Contact: Duncan R. McIntosh, Attorney, (206) 319-1105.

Application No.: 10-4A001.

Date Deemed Submitted: August 9, 2018.

Proposed Amendment: Alaska Longline Cod Commission seeks to amend its Certificate as follows:

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)):
 - Alaskan Leader Vessel LLC, Lynden, WA
 - Bristol Leader Fisheries LLC, Lynden, WA
 - Bering Leader Fisheries LLC, Lynden, WA
 - Northern Leader Fisheries LLC, Lynden, WA
 - Prowler Fisheries, LLC, Seattle, WA
2. Delete the following companies as Members of the Certificate:
 - Pathfinder Fisheries LLC, Seattle, WA
 - Bering Select Seafoods Company, Seattle, WA
 - Glacier Bay Fisheries LLC
3. Change/correct the name or location of the following Members of the Certificate:
 - Alaskan Leader Fisheries, Inc., Lynden, WA changes to Alaskan Leader Fisheries LLC, Lynden, WA
 - Coastal Villages Longline, LLC changes to Coastal Villages Longline LLC, Anchorage, AK
 - Romanzoff Fishing Company, Seattle, WA changes to Romanzof Fishing Company, L.L.C., Seattle, WA
 - Tatoosh Seafoods LLC, Seattle, WA changes to Tatoosh Seafoods, LLC, Edmonds, WA

- Beauty Bay Washington, LLC, Seattle, WA changes to Beauty Bay Washington, LLC, Edmonds, WA
- Blue North Fisheries, Inc., Seattle, WA changes to Blue North Fisheries, Inc., Seattle, WA
- Clipper Group, Ltd, Seattle, WA changes to Clipper Group, Ltd., Seattle, WA
- Liberator Fisheries, LLC, Seattle, WA changes to Liberator Fisheries LLC, Seattle, WA
- Siberian Sea Fisheries, LLC, Seattle, WA changes to Siberian Sea Fisheries LLC, Seattle, WA

Alaska Longline Cod Commission's proposed amendment of its Export Trade Certificate of Review would result in the following Membership list:

1. Akulurak LLC, Seattle, WA;
2. Alaskan Leader Fisheries LLC, Lynden, WA;
3. Alaskan Leader Seafoods LLC, Lynden, WA;
4. Alaskan Leader Vessel LLC, Lynden, WA;
5. Aleutian Spray Fisheries, Inc., Seattle, WA;
6. Beauty Bay Washington, LLC, Edmonds, WA;
7. Bering Leader Fisheries LLC, Lynden, WA;
8. Blue North Fisheries, Inc., Seattle, WA;
9. Blue North Trading Company, LLC, Seattle, WA;
10. Bristol Leader Fisheries LLC, Lynden, WA;
11. Clipper Group, Ltd., Seattle, WA;
12. Clipper Seafoods, Ltd., Seattle, WA;
13. Coastal Villages Longline LLC, Anchorage, AK;
14. Deep Sea Fisheries, Inc., Everett, WA;
15. Gulf Mist, Inc., Everett, WA;
16. Liberator Fisheries LLC, Seattle, WA;
17. Northern Leader Fisheries LLC, Lynden, WA;
18. Prowler Fisheries, LLC, Seattle, WA;
19. Romanzof Fishing Company, L.L.C., Seattle, WA;
20. Shelford's Boat, Ltd., Mill Creek, WA;
21. Siberian Sea Fisheries LLC, Seattle, WA;
22. Siu Alaska Corporation, Anchorage, AK;
23. Tatoosh Seafoods, LLC, Edmonds, WA.

Dated: August 16, 2018.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration.

[FR Doc. 2018-18051 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG105

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Mission Bay Ferry and Water Taxi Landing Project in San Francisco Bay, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Port of San Francisco for authorization to take marine mammals incidental to the Mission Bay Ferry and Water Taxi Landing Project in San Francisco Bay, California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in *Request for Public Comments* at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than September 21, 2018.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to ITP.redding@noaa.gov.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record

and will generally be posted online at <https://www.fisheries.noaa.gov/node/23111> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Gray Redding, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable [adverse] impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On November 2, 2017, NMFS received a request from the Port of San Francisco for an IHA to take marine mammals incidental to pile driving and drilling in San Francisco Bay. NMFS determined that a revised version of the Port's application was adequate and complete on June 22, 2018. The Port of San Francisco's request is for take of seven species of marine mammals by Level B harassment only. Neither the Port of San Francisco nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The port of San Francisco proposes to construct the Mission Bay Ferry Landing (MBFL) and Water Taxi Landing (WTL) on San Francisco Bay, within the Port of San Francisco's Southern Waterfront in the Mission Bay/Central Waterfront area (see Figure 1 of IHA Application). The project's proposed activities that have the potential to take marine mammals include vibratory and impact pile driving, vibratory pile removal, and down the hole drilling. In addition, the project will include dredging, however authorization of take from this activity

is neither requested nor proposed for authorization.

The Mission Bay Ferry Landing, a single-float, two-berth ferry landing will provide critical regional ferry service to and from the Mission Bay neighborhood, one of the fastest growing neighborhoods in San Francisco, as well as the Dogpatch, Potrero Hill, Pier 70, and the Central Waterfront neighborhoods. The separate single float, two-berth Water Taxi Landing will provide local water taxi access to the Mission Bay area and surrounding neighborhoods.

Dates and Duration

The Port of San Francisco's construction, including dredging, vibratory and impact pile driving, and drilling for installation of the pier and floating docks will occur from June through November of 2019 (environment working windows for dredging in this region of the San Francisco Bay established by the San Francisco Bay Long Term Management Strategy (LTMS Agencies, 2001). The maximum number of construction days possible, including dredging and all other activities, is 55 days. The maximum total number of days for pile installation and removal are 15 days.

Specific Geographic Region

As stated, the project is located in San Francisco Bay within the Port of San Francisco's Southern Waterfront in the Mission Bay/Central Waterfront area. The specific geographic location for the project is provided in Figures 1 and 2 of the IHA Application. The project site is approximately three kilometers south of the San Francisco-Oakland Bay Bridge, on the western side of San Francisco Bay in the Central Basin. The nearby waterfront is an active recreational and commercial port and shipyard.

Detailed Description of Specific Activity

Demolition

Based on preliminary bathymetric surveys and historic information, The Port anticipates that buried remnants of concrete and wood debris from Pier 64-66 apron may be encountered within the Ferry Landing dredge boundary. All debris encountered during dredging operations will be removed and disposed of at an approved upland location.

In addition, existing piles will be pulled with a cable choker or removed with a vibratory hammer and every effort will be made to remove the entire pile length. If it is necessary to utilize vibratory hammer to remove a pile the

process will consist of approximately 1-2 minutes of initial vibratory use while pulling the pile up to loosen it from the sediment. The barge/crane then moves to the next pile to loosen. The operator will do this for five to eight piles then remove the vibratory driver and go back to dead pull the loosened piles and place them on a debris barge for disposal at a permitted facility. The vibratory use is minimal to just loosen the pile. Noise generated from the operation of the vibratory hammer is expected to result in the behavioral disturbance of marine mammals and, therefore, take authorization is requested, and accounted for in the "Take Calculation and Estimation" section below.

Dredging

Dredging of approximately 129,374 cubic yards will be conducted to a depth of -15 feet (ft) MLLW +2 ft of overdepth within the Ferry Landing dredge boundary, and to a depth of -8ft MLLW +1 ft overdepth within the Water Taxi Landing dredge boundary.

Best Management Practices (BMPs) will be detailed in a Dredge Operations Plan (DOP) submitted to the regulatory agencies for approval before dredging begins, and implemented. Dredging will be performed from a barge-mounted crane with a clam shell bucket. Sediment will be transferred to adjacent barges for transport to permitted placement site(s). All debris encountered during dredging operations will be removed and disposed of at an approved upland location. Noise measurements of dredging activities are rare in the literature, but dredging is considered to be a low-impact activity for marine mammals, producing non-pulsed sound and being substantially quieter in terms of acoustic energy output than sources such as seismic airguns and impact pile driving. Noise produced by dredging operations has been compared to that produced by a commercial vessel travelling at modest speed (Robinson et al., 2011). Further discussion of dredging sound production may be found in the literature (*e.g.*, Richardson et al., 1995, Nedwell et al., 2008, Parvin et al., 2008, Ainslie et al., 2009). Generally, the effects of dredging on marine mammals are not expected to rise to the level of a take. As stated, take is highly unlikely and is not proposed to be authorized for dredging activities.

Pile Installation

A total of 28 permanent piles will be installed as part of this project. Four 24-inch concrete piles will be installed on land above the mean highwater (MHW)

line, and the remaining piles will all be installed in-water as outlined in Table 1.

Concrete piles used for in-water construction of the pier structure for the Mission Bay Ferry Landing will involve the temporary installation of a steel caisson sleeve followed by drilling of the rock socket, with this installation and drilling process outlined below. Four 14-inch steel H piles will be driven with a vibratory driver to provide support for a 30-inch steel caisson sleeve, a large tubular steel pile. The steel sleeve will also be installed using a vibratory driver until refusal. Once the caisson is in place, sediment/soil/rock within the caisson will be drilled out using a Bauer BG18 drill or similar. All drilled sediment/soil/rock will be collected for disposal and transported to an appropriate permitted facility. The concrete piles are then inserted after the hole has been drilled. The 24-inch concrete piles will then be placed/seated in bedrock for grouting then the outer caisson and four H-piles will be pulled. Figure 3 in the IHA Application

provides a depiction of this process. This method of construction creates less overall noise and turbidity during installation than driven piles. Drilling also is beneficial as it reduces the stress and therefore chance of breakage or damage to the pile during installation. Overall, ten 24-inch octagonal concrete piles will be driven using these methods, including down the hole drilling. Authorization of take by Level B harassment was requested and is proposed for authorization by NMFS for drilling activities associated with 24-inch concrete piles.

For the remaining piles, noise generated by vibratory and/or impact hammers is expected to result in the disturbance of marine mammals and, therefore, authorization of incidental take is proposed. Eight 36-inch steel piles for the MBFL guide piles and donut fenders and two 16-inch steel piles for the WTL platform will be installed with a combination of vibratory driver and/or impact hammer. The four remaining 20-inch square

concrete piles to be installed in-water will be installed with an impact hammer.

The Port estimates a production rate for pile driving of two to six piles per day, resulting in a 15 days of pile driving and removal as outlined in Table 1. Piles installed using an impact hammer will use a Delmag D36/D46/D62 or similar diesel hammer. An overview of the sound source levels for this pile installation can be found in Table 3. It should be noted that the contractor will be instructed to implement vibratory installation as much as possible.

All pile driving will be performed in compliance with the “U.S. Army Corps of Engineers Proposed Procedures for Permitting Projects that will Not Adversely Affect Selected Listed Species in California” and the associated USFWS and NMFS section 7 consultation documents associated with these procedures.

TABLE 1—SUMMARY OF IN WATER PILE INSTALLATION

| Locations | Project element | Pile diameter (inch) | Pile type | Number of piles | Method | Piles/day | Construction days |
|----------------|---------------------|----------------------|---------------------|-----------------|---|-----------|-------------------|
| Debris Removal | | 12 | Steel | 12 | If necessary, a vibratory hammer will be used to remove up to 12 piles 60–120 seconds/pile while pulling the pile up to loosen it from the sediment. | 12 | |
| MBFL | Pier | 14 | H-pile steel | 4 | Four 14-inch steel H beams will be driven with Vibratory Driver 600 seconds/pile to support 30-inch steel caisson sleeve driven with Vibratory Driver (900 sec/pile) to refusal, drill out hole removing soils, place and position concrete pile, grout pile in place while simultaneously pulling the caisson. | 4 | 10 |
| | | 30 | Steel caisson | 1 | | | |
| | | 24 | Octagonal concrete. | 10 | | | |
| | Float Guide Piles. | 36 | Steel | 6 | Vibratory Driver 1200 sec/pile then Impact Hammer last 15 ft (150 strikes/pile ~20 minutes); bubble curtain will be used during impact duration. | 5 | 2 |
| | Donut Fender Piles. | 36 | Steel | 2 | Vibratory Driver 1200 sec/pile then Impact Hammer last 15 ft (150 strikes/pile ~20 minutes); bubble curtain will be used during impact duration. | 5 | |
| WTL | Platform | 16 | Steel | 2 | Vibratory Driver 600 sec/pile then Impact Hammer last 15 ft (500 strikes/pile ~20 minutes); bubble curtain will be used during impact duration. | 2 | 1 |
| | Guide Piles | 20 | Square Concrete. | 4 | Impact Hammer 500 strikes/pile (max 20 minutes); if necessary bubble curtain will be used during impact duration. | 4 | 1 |

Installation of Ferry Landing Structural Elements

Installation of the pier deck, pier canopy, float, and gangway would be conducted from land and water-based vessels. This work would include the use of generators, cranes, and other heavy equipment but is not expected to

result in any harassment of marine mammals. Therefore, no take is requested or proposed for authorization for these activities.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see

Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior

and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS's website (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists all species with expected potential for occurrence in the Mission Bay/Central Waterfront area of San Francisco Bay and summarizes information related to the population or

stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow the Committee on Taxonomy (2017). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While NMFS neither anticipates nor proposes to authorize mortality here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS's U.S. 2017 SARs (Carretta *et al.*, 2017). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2017 SARs (Carretta *et al.*, 2017).

| Common name | Scientific name | Stock | ESA/MMPA status; strategic (Y/N) ¹ | Stock abundance (CV, N _{min} , most recent abundance survey) ² | PBR | Annual M/SI ³ |
|--|---------------------------------------|---------------------------------|---|--|--------|--------------------------|
| Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales) | | | | | | |
| Family Eschrichtiidae | | | | | | |
| Gray whale | <i>Eschrichtius robustus</i> | Eastern North Pacific | -/-; N | 20,990 (0.05, 20,125, 2011). | 624 | 132 |
| Family Balaenopteridae (rorquals) | | | | | | |
| Humpback whale | <i>Megaptera novaeangliae</i> | California/Oregon/Washington .. | E/D; Y | 1,918 (0.03, 1,876, 2014) | 11 | >6.5 |
| Superfamily Odontoceti (toothed whales, dolphins, and porpoises) | | | | | | |
| Family Delphinidae | | | | | | |
| Bottlenose dolphin | <i>Tursiops truncatus</i> | California Coastal | -/-; N | 453 (0.06, 346, 2011) | 2.7 | >2 |
| Family Phocoenidae (porpoises) | | | | | | |
| Harbor porpoise | <i>Phocoena phocoena</i> | San Francisco-Russian River ... | -/-; N | 9,886 (0.51, 6,625, 2011) | 66 | 0 |
| Order Carnivora—Superfamily Pinnipedia | | | | | | |
| Family Otariidae (eared seals and sea lions) | | | | | | |
| California sea lion | <i>Zalophus californianus</i> | U.S. | -/-; N | 296,750 (n/a, 153,337, 2011). | 9,200 | 389 |
| Northern fur seal | <i>Callorhinus ursinus</i> | California | -/-; N | 14,050 (n/a, 7,524, 2013) | 451 | 1.8 |
| | | Eastern North Pacific | -/-; N | 626,734 (n/a, 530,474, 2014). | 11,405 | 1.1 |
| Guadalupe fur seal | <i>Arctocephalus townsendi</i> | Mexico to California | T/D; Y | 20,000 (n/a, 15,830, 2010). | 542 | >3.2 |
| Family Phocidae (earless seals) | | | | | | |
| Pacific harbor seal | <i>Phoca vitulina richardii</i> | California | -/-; N | 30,968 (n/a, 27,348, 2012). | 1,641 | 43 |
| Northern elephant seal | <i>Mirounga angustirostris</i> | California Breeding | -/-; N | 179,000 (n/a, 81,368, 2010). | 4,882 | 8.8 |

¹ Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

³ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

Note: Italicized species are not expected to be taken or proposed for authorization.

All species that could potentially occur in the Port's proposed project area in San Francisco Bay are included in Table 2. However, the temporal and/or

spatial occurrence of humpback whale and Guadalupe fur seal is such that take is not expected to occur, and they are not discussed further beyond the

explanation provided here. Humpback whales are rare visitors to the interior of San Francisco Bay. A recent, seasonal influx of humpback whales inside San

San Francisco Bay near the Golden Gate was recorded from April to November in 2016 and 2017 (Keener 2017). The Golden Gate is outside of this project's action area and humpback whales are not expected to be present during the project. Guadalupe fur seals occasionally range into the waters of northern California and the Pacific Northwest. The Farallon Islands (off central California) and Channel Islands (off southern California) are used as haulouts during these movements (Simon 2016). Juvenile Guadalupe fur seals occasionally strand in the vicinity of San Francisco, especially during El Niño events. Most strandings along the California coast are animals younger than two years old, with evidence of malnutrition (NMFS 2017a). Because Guadalupe fur seals are highly rare in the area, and sightings are associated with abnormal weather conditions, such as El Niño events, NMFS has determined that no Guadalupe fur seals are likely to occur in the project vicinity and, therefore, no take is expected to occur.

Harbor Seal

Harbor seals are found from Baja California to the eastern Aleutian Islands of Alaska. The species primarily hauls out on remote mainland and island beaches and reefs, and estuary areas. Harbor seals tend to forage locally within 53 miles (mi) (85 kilometers (km)) of haul-out sites (Harvey and Goley 2011). Harbor seal is the most common marine mammal species observed in the Bay and individuals are commonly seen near the San Francisco-Oakland Bay Bridge east span (CalTrans 2013b, 2013c). Tagging studies have shown that most seals tagged in the Bay remain in the Bay (Harvey and Goley 2011; Manugian 2013). Foraging often occurs in the Bay, as noted by observations of seals exhibiting foraging behavior (short dives less than five minutes, moving back and forth in an area, and sometimes tearing up prey at the surface).

Gray Whale

Gray whales are large baleen whales. They grow to approximately 50 ft in length and weigh up to 40 tons. They are one of the most frequently seen whales along the California coast, easily recognized by their mottled gray color and lack of dorsal fin. Adult whales carry heavy loads of attached barnacles, which add to their mottled appearance. Gray whales are divided into the Eastern North Pacific and Western North Pacific stocks. Both stocks migrate each year along the west coast of continental North America and Alaska. The Eastern

North Pacific stock is much larger and is more likely to occur in the San Francisco Bay area. Western North Pacific Gray whales have summer and fall feeding grounds in the Okhotsk Sea off northeast Sakhalin Island, Russia, and off southeastern Kamchatka in the Bering Sea (NMFS 2017c), so they would not be expected to occur in San Francisco Bay during construction activity for this project. With the exception of an unusual mortality event in 1999 and 2000, the population of Eastern North Pacific stock has increased over the last 20 years and has been stable since the 1990s (NMFS 2015c).

Gray whales are the only baleen whale known to feed on the sea floor, where they scoop up bottom sediments to filter out benthic crustaceans, mollusks, and worms (NMFS 2015c). They feed in northern waters primarily off the Bering, Chukchi, and western Beaufort Seas during the summer. Between December and January, late-stage pregnant females, adult males, and immature females and males migrate southward to breeding areas around Mexico. The northward migration occurs between February and March. Coastal waters just outside San Francisco Bay are considered a migratory Biologically Important Area for the northward progression of gray whales (Calambokidis *et al.*, 2015). During this time, recently pregnant females, adult males, immature females, and females with calves move north to the feeding grounds (Calambokidis *et al.*, 2014). A few individuals enter into the San Francisco Bay during their northward migration.

Bottlenose Dolphins

Bottlenose dolphins are distributed world-wide in tropical and warm-temperate waters. In many regions, including California, separate coastal and offshore populations are known (Walker 1981; Ross and Cockcroft 1990; Van Waerebeek *et al.* 1990). The California coastal stock of bottlenose dolphins is distinct from the offshore stock, based on significant differences in genetics and cranial morphology (Perrin *et al.* 2011, Lowther-Thielking *et al.* 2015). California coastal bottlenose dolphins are found within about one km of shore (Hansen, 1990; Carretta *et al.* 1998; Defran and Weller 1999) with the range extending north over the last several decades related to El Niño events and increased ocean temperatures. As the range of bottlenose dolphins extended north, dolphins began entering the Bay in 2010 (Szczepaniak 2013). Until 2016, most bottlenose dolphins in San Francisco

Bay were observed in the western Bay, from the Golden Gate Bridge to Oyster Point and Redwood City (Perlman 2017).

Harbor Porpoise

Harbor porpoise are seldom found in waters warmer than 62.6 degrees Fahrenheit (17 degrees Celsius) (Read 1990) or south of Point Conception, and occurs as far north as the Bering Sea (Barlow and Hanan 1995; Carretta *et al.*, 2017). The San Francisco-Russian River stock is found from Pescadero, 18 mi (30 km) south of the Bay, to 99 mi (160 km) north of the Bay at Point Arena (Carretta *et al.*, 2017). In most areas, harbor porpoise occurs in small groups, consisting of just a few individuals.

Occasional sightings of harbor porpoises in the Bay, including near the Yerba Buena Island harbor seal haul-out site, were reported by the Caltrans marine mammal monitoring program beginning in 2008 (Caltrans 2018). Continued sightings from Caltrans and the Golden Gate Cetacean Research (GGCR) Organization suggests that the species is returning to San Francisco Bay after an absence of approximately 65 years (GGCR 2010). This re-immersion is not unique to San Francisco Bay, but rather indicative of the harbor porpoise in general along the west coast. GGCR has been issued a scientific research permit from NMFS for a multi-year assessment to document the population abundance and distribution in the Bay (82 FR 60374). Recent observations of harbor porpoises have been reported by GGCR researchers off Cavallo Point, outside Raccoon Strait between Tiburon and Angel Island, off Fort Point and as far into the Bay as Carquinez Strait (Perlman 2010). Based on the Caltrans and GGCR monitoring, over 100 porpoises were seen at one time entering San Francisco Bay; and over 600 individual animals have been documented in a photo-ID database. Reported sightings are concentrated in the vicinity of the Golden Gate Bridge and Angel Island, with lesser numbers sighted south of Alcatraz and west of Treasure Island (AECOM 2017).

California Sea Lion

California sea lions breed on the offshore islands of California from May through July (Heath and Perrin 2009). During the non-breeding season, adult and sub-adult males and juveniles migrate northward along the coast, to central and northern California, Oregon, Washington, and Vancouver Island (Jefferson *et al.*, 1993). They return south the following spring (Lowry and Forney 2005; Heath and Perrin 2009). Females and some juveniles tend to

remain closer to rookeries (Antonelis *et al.*, 1990; Melin *et al.*, 2008).

In San Francisco Bay, California sea lions have been observed at Angel Island and occupying the docks near Pier 39 which is the largest California sea lion haul-out in San Francisco Bay. A maximum of 1,706 sea lions were counted at Pier 39 in 2009. However, since then the population has averaged at about 50–300 depending upon the season (TMMC 2017). This group of sea lions has decreased in size in recent years, coincident with a fluctuating decrease in the herring population in the Bay. There are no known breeding sites within San Francisco Bay. Their primary breeding site is in the Channel Islands (USACE 2011). The sea lions appear at Pier 39 after returning from the Channel Islands at the beginning of August (Bauer 1999). No other sea lion haul-out sites have been identified in the Bay and no pupping has been observed at the Pier 39 site or any other site in San Francisco Bay under normal conditions (USACE 2011). Although there has been documentation of pupping on docks in the Bay, this event was during a domoic acid event. The Port does not anticipate that any domoic events will occur during the project construction activities.

The project site is approximately four miles away from Pier 39. Although there is little information regarding the foraging behavior of the California sea lion in southern San Francisco Bay, they have been observed foraging on a regular basis in the shipping channel south of Yerba Buena Island.

Foraging grounds have also been identified for pinnipeds, including sea lions, between Yerba Buena Island and Treasure Island, as well as off the Tiburon Peninsula (Caltrans, 2006). The California sea lions that use the Pier 39 haul-out site may be feeding on Pacific herring (*Clupea harengus*), northern anchovy, and other prey in the waters of San Francisco Bay (Caltrans, 2013a). In addition to the Pier 39 haul-out, California sea lions haul out on buoys and similar structures throughout San Francisco Bay. They mainly are seen swimming off the San Francisco and Marin shorelines within San Francisco Bay, but may occasionally enter the project area to forage.

Northern Elephant Seal

Northern elephant seal is common on California coastal mainland and island sites, where the species pups, breeds, rests, and molts. The largest rookeries are on San Nicolas and San Miguel islands in the northern Channel Islands. Near the Bay, elephant seals breed, molt, and haul out at Año Nuevo Island,

the Farallon Islands, and Point Reyes National Seashore.

Northern elephant seals haul out to give birth and breed from December through March. Pups remain onshore or in adjacent shallow water through May. Both sexes make two foraging migrations each year: One after breeding and the second after molting (Stewart 1989; Stewart and DeLong 1995). Adult females migrate to the central North Pacific to forage, and males migrate to the Gulf of Alaska to forage (Robinson *et al.* 2012). Pup mortality is high when they make the first trip to sea in May, and this period correlates with the time of most strandings. Pups of the year return in the late summer and fall, to haul out at breeding rookery and small haul out sites, but occasionally they may make brief stops in the Bay.

Generally, only juvenile elephant seals enter the Bay and do not remain long. The most recent sighting near the project area was in 2012, on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for approximately 1 day. Approximately 100 juvenile northern elephant seals strand in or near the Bay each year, including individual strandings at Yerba Buena Island (YBI) and Treasure Island (less than 10 strandings per year).

Northern Fur Seal

Northern fur seal breeds on the offshore islands of California and in the Bering Sea from May through July. Two stocks of Northern fur seals may occur near the Bay, the California and Eastern Pacific stocks. The California stock breeds, pups, and forages off the California coast. The Eastern Pacific stock breeds and pups on islands in the Bering Sea, but females and juveniles move south to California waters to forage in the fall and winter months.

Both the California and Eastern Pacific stocks forage in the offshore waters of California, but only sick, emaciated, or injured fur seals enter the Bay. The Marine Mammal Center (TMMC) occasionally picks up stranded fur seals around YBI and Treasure Island.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.*,

Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.*, low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

- Low-frequency cetaceans (mysticetes): Generalized hearing is estimated to occur between approximately 7 Hz and 35 kHz;
- Mid-frequency cetaceans (larger toothed whales, beaked whales, and most delphinids): Generalized hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (porpoises, river dolphins, and members of the genera *Kogia* and *Cephalorhynchus*; including two members of the genus *Lagenorhynchus*, on the basis of recent echolocation data and genetic data): Generalized hearing is estimated to occur between approximately 275 Hz and 160 kHz.
- Pinnipeds in water; Phocidae (true seals): Generalized hearing is estimated to occur between approximately 50 Hz to 86 kHz;
- Pinnipeds in water; Otariidae (eared seals): Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges,

please see NMFS (2018) for a review of available information. Seven marine mammal species (three cetacean and four pinniped (two otariid and two phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, the gray whale is classified as a low-frequency cetacean, the bottlenose dolphin is classified as a mid-frequency cetacean, and the harbor porpoise is classified as a high-frequency cetacean.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The “Estimated Take” section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The “Negligible Impact Analysis and Determination” section considers the content of this section, the “Estimated Take” section, and the “Proposed Mitigation” section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds. Amplitude is the height of the sound pressure wave or the ‘loudness’ of a sound and is typically measured using the dB scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to one microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter (m^2). The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1

μPa). The received level is the sound level at the listener’s position. Note that all underwater sound levels in this document are referenced to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa .

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urlick 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.*, 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.*, waves, earthquakes, ice, atmospheric sound), biological (*e.g.*, sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.*, vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.*, 1995):

- *Wind and waves:* The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kilohertz (kHz) (Mitson 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise

becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions.

- *Precipitation:* Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times.

- *Biological:* Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz.

- *Anthropogenic:* Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.*, 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.*, a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise “ambient” or “background” sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.*, 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Description of Sound Sources

In-water construction activities associated with the project would include impact pile driving, vibratory

pile driving, vibratory pile removal, and down the hole drilling. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.*, Ward 1997 in Southall *et al.*, 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Impulsive sound sources (*e.g.*, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI 1986; Harris 1998; NIOSH 1998; ISO 2003; ANSI 2005) and occur either as isolated events or repeated in some succession. Impulsive sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-impulsive sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (NIOSH 1998). Some of these non-impulsive sounds can be transient signals of short duration but without the essential properties of impulses (*e.g.*, rapid rise time). Examples of non-impulsive sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.*, 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of

time (Nedwell and Edwards 2002; Carlson *et al.*, 2005).

Acoustic Impacts

Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following direct impacts on marine mammals; temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2004; Nowacek *et al.*, 2007; Southall *et al.*, 2007; Gotz *et al.*, 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the Port of San Francisco's construction activities.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.*, when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.*, permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable

likelihood that the Port of San Francisco's activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.*, 1999; Schlundt *et al.*, 2000; Finneran *et al.*, 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.*, 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.*, tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.*, 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.*, Ward 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.*, 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several dB above a 40-dB threshold shift approximates PTS onset; *e.g.*, Kryter *et al.*, 1966; Miller, 1974 found that inducing mild TTS (a 6-dB threshold shift) approximates TTS onset (*e.g.*, Southall *et al.*, 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulsive sounds (such as impact pile driving sounds received close to the source) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.*, 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher

level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.*, recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present.

Alternatively, a larger amount and longer duration of TTS sustained during a time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaorientalis*) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.*, mostly tones and octave-band noise) in laboratory settings (*e.g.*, Finneran *et al.*, 2002; Nachtigall *et al.*, 2004; Kastak *et al.*, 2005; Lucke *et al.*, 2009; Popov *et al.*, 2011). In general, harbor seals (Kastak *et al.*, 2005; Kastelein *et al.*, 2012a) and harbor porpoises (Lucke *et al.*, 2009; Kastelein *et al.*, 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Finneran (2015).

In addition to PTS and TTS, there is a potential for non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.*, change in dive profile as a result of an avoidance reaction) caused by

exposure to sound. These impacts can include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.*, 2006; Southall *et al.*, 2007; Zimmer and Tyack 2007). The Port of San Francisco's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects. These impacts are not anticipated to occur as a result of the Port's work and are not discussed further.

When a live or dead marine mammal swims or floats onto shore and is incapable of returning to sea, the event is termed a "stranding" (16 U.S.C. 1421h(3)). Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxins, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series (*e.g.*, Geraci *et al.*, 1999). However, the cause or causes of most strandings are unknown (*e.g.*, Best 1982). Combinations of dissimilar stressors may combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other would not be expected to produce the same outcome (*e.g.*, Sih *et al.*, 2004). For further description of stranding events see, *e.g.*, Southall *et al.*, 2006; Jepson *et al.*, 2013; Wright *et al.*, 2013.

Behavioral Effects

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.*, minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.*, species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.*, Richardson *et al.*, 1995; Wartzok *et al.*, 2003; Southall *et al.*, 2007; Weilgart, 2007; Archer *et al.*, 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.*, 2012), and can vary depending on characteristics associated with the sound source (*e.g.*, whether it is moving or stationary, number of sources, distance from the source).

Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.*, 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a "progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial," rather than as, more generally, moderation in response to human disturbance (Bejder *et al.*, 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.*, 1995; NRC 2003; Wartzok *et al.*, 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.*, 1997; Finneran *et al.*, 2003). Observed responses of wild marine mammals to loud-impulsive sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds 2002; see also Richardson *et al.*, 1995; Nowacek *et al.*, 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.*, Lusseau and Bejder 2007; Weilgart 2007; NRC 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing,

interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely, and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (e.g., Frankel and Clark 2000; Costa *et al.*, 2003; Ng and Leung 2003; Nowacek *et al.*, 2004; Goldbogen *et al.*, 2013a,b). Variations in dive behavior may reflect interruptions in biologically significant activities (e.g., foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (e.g., bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (e.g., Croll *et al.*, 2001; Nowacek *et al.*; 2004; Madsen *et al.*, 2006; Yazvenko *et al.*, 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally occur with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (e.g., Kastelein *et al.*, 2001, 2005, 2006; Gailey *et al.*, 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing.

Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.*, 2000; Fristrup *et al.*, 2003; Foote *et al.*, 2004), while right whales (*Eubalaena glacialis*) have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.*, 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.*, 1994).

Avoidance is the displacement of an individual from an area or migration path because of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.*, 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.*, 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (e.g., Bowles *et al.*, 1994; Goold, 1996; Stone *et al.*, 2000; Morton and Symonds, 2002; Gailey *et al.*, 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (e.g., Blackwell *et al.*, 2004; Bejder *et al.*, 2006; Teilmann *et al.*, 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (e.g., directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves 2008), and whether individuals

are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (i.e., when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (e.g., Beauchamp and Livoreil 1997; Fritz *et al.*, 2002; Purser and Radford 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (e.g., decline in body condition) and subsequent reduction in reproductive success, survival, or both (e.g., Harrington and Veitch, 1992; Daan *et al.*, 1996; Bradshaw *et al.*, 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.*, 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.*, 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Behavioral Effects of the Port's Activities (Pile Driving and Drilling)

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.*, 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.*, 1973). Due to the nature of the pile driving sounds

in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.*, 2007). Based on the nature of the Port's activity and the anticipated effectiveness of the mitigation measures (*i.e.*, use of a bubble curtain, wood cushion, and shutdown—discussed in detail below in the Proposed Mitigation section), PTS is not anticipated. Therefore, the Port is not requesting and NMFS is not proposing to authorize take by Level A harassment related to this project.

The effects of sounds from pile driving, by impact or vibratory means, pile removal, and down the hole drilling might include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.*, 1995; Gordon *et al.*, 2003; Nowacek *et al.*, 2007; Southall *et al.*, 2007). The effects of pile driving and drilling on marine mammals are dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving and pile removal activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.*, sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.*, rock), which may reflect the acoustic wave.

Responses to continuous sound, such as vibratory pile installation or down the hole drilling, have not been documented as well as responses to impulsive sounds. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short-term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include, based on more general observations of behavioral responses to sound exposure (Richardson *et al.*,

1995): Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (*e.g.*, pinnipeds flushing into water from haulouts or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.*, through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.*, Lusseau and Bejder 2007; Weilgart 2007).

Natural and artificial sounds can disrupt behavior by masking. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving and removal is mostly concentrated at low-frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the Port's proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid impulsive sounds occurring for approximately 20 minutes per pile in this project. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low and if it occurred, it would be for a short duration. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately 20 minutes per pile in this project. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term

duration and limited affected area would result in insignificant impacts from masking.

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving and removal that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would likely previously have been 'taken' because of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals by airborne sound is already accounted for in the estimates of potential take from underwater exposure to pile driving sounds. Therefore, we do not believe that authorization of additional incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Stress Responses

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.*, Seyle 1950; Moberg 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (e.g., Moberg 1987; Blecha 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.*, 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and “distress” is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well studied through controlled experiments and for both laboratory and free-ranging animals (e.g., Holberton *et al.*, 1996; Hood *et al.*, 1998; Jessop *et al.*, 2003; Krausman *et al.*, 2004; Lankford *et al.*, 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker 2000; Romano *et al.*, 2002b) and, more rarely, studied in wild populations (e.g., Romano *et al.*, 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as “distress.” In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Anticipated Effects on Habitat

The proposed activities at the project area would not result in permanent

negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area during the construction window. The project area is located in an industrial and commercial shipping port. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving, drilling, and sediment removal in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible, although this will be minimal since construction is occurring in an already industrial and commercial shipping area.

In-Water Construction Effects on Potential Prey (Fish)

Construction activities would produce continuous (*i.e.*, vibratory pile driving, drilling) and impulsive (*i.e.*, impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (e.g., Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound impulsive sounds at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.*, 1992; Skalski *et al.*, 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving and pile removal activities at the Port’s project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are

expected to be minor and temporary due to the short timeframe (15 days) for the project.

Pile Driving Effects on Potential Foraging Habitat

The area likely impacted by the project is relatively small compared to the available habitat in the Mission Bay/Central Waterfront area of San Francisco Bay. Avoidance by potential prey (*i.e.*, fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity of the MBFL and WTL on San Francisco Bay.

The duration of the construction activities, including pile driving and dredging is relatively short, estimated at 55 days. The construction window for pile driving and drilling is a maximum of 15 days and each day, activities would only occur for a few hours during the day. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

In summary, given the short daily duration of sound associated with individual pile driving and removal events and the relatively small areas being affected, pile driving and pile removal activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS’ consideration of “small numbers” and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to,

migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to acoustic sources. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.*, use of a bubble curtain, wood cushion, and shutdown—discussed in detail below in the Proposed Mitigation section), Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we

describe these components in more detail and present the proposed take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed by varying degrees by other factors related to the source (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.*, 2007, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μ Pa (rms)

for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μ Pa (rms) for non-explosive impulsive (*e.g.*, impact pile driving) sources.

The Port of San Francisco's proposed activity includes the use of continuous (vibratory pile driving, down the hole drilling) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μ Pa (rms) thresholds are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Port of San Francisco's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in Table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS's 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

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Table 3. Thresholds identifying the onset of Permanent Threshold Shift

| Hearing Group | PTS Onset Acoustic Thresholds* (Received Level) | |
|--|--|---|
| | Impulsive | Non-impulsive |
| Low-Frequency (LF) Cetaceans | <i>Cell 1</i> $L_{pk,flat}$: 219 dB $L_{E,LF,24h}$: 183 dB | <i>Cell 2</i> $L_{E,LF,24h}$: 199 dB |
| Mid-Frequency (MF) Cetaceans | <i>Cell 3</i> $L_{pk,flat}$: 230 dB $L_{E,MF,24h}$: 185 dB | <i>Cell 4</i> $L_{E,MF,24h}$: 198 dB |
| High-Frequency (HF) Cetaceans | <i>Cell 5</i> $L_{pk,flat}$: 202 dB $L_{E,HF,24h}$: 155 dB | <i>Cell 6</i> $L_{E,HF,24h}$: 173 dB |
| Phocid Pinnipeds (PW) (Underwater) | <i>Cell 7</i> $L_{pk,flat}$: 218 dB $L_{E,PW,24h}$: 185 dB | <i>Cell 8</i> $L_{E,PW,24h}$: 201 dB |
| Otariid Pinnipeds (OW) (Underwater) | <i>Cell 9</i> $L_{pk,flat}$: 232 dB $L_{E,OW,24h}$: 203 dB | <i>Cell 10</i> $L_{E,OW,24h}$: 219 dB |

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa , and cumulative sound exposure level (L_E) has a reference value of 1 μPa^2s . In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

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Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficients.

Reference sound source levels used by the Port of San Francisco for all vibratory and impact piling/removal and drilling activities were derived from source level data from construction projects within Caltrans (2015) except for two cases noted below where Navy and Alaska Department of Transportation sources were used. To determine the ensonified areas for both the Level A and Level B harassment zones for vibratory piling of the 36-inch,

30-inch, and 16-inch steel piles and 14-inch steel H piles, the Port of San Francisco used SPLs of 170 dB re 1 μPa rms, 170 dB re 1 μPa rms, 158 dB re 1 μPa rms, and 158 dB re 1 μPa rms, respectively. These were derived from vibratory pile driving data of 36-inch (for 36-inch and 30-inch steel piles), 18-inch (for 16-inch steel piles) and 14-inch (for 14-inch steel H-pile) steel piles reported in the values listed in Table 1.2-2 and Table 1.2.3 of Caltrans (2015), and Table 6-1 of Navy (2017). For vibratory pile removal, the Port of San Francisco used an SPL of 155 dB re 1 μPa rms. This proxy source level was derived from vibratory pile driving data of 12-inch steel pipe piles in Caltrans (2015; Table 1.2-2). In addition, for down the hole drilling activities used to

place 24-inch octagonal concrete piles, an SPL of 168 dB was used, corresponding to the mean SPL reported in Table 72 of the Alaska Department of Transportation (2016) hydroacoustic report.

For impact pile driving, the Port of San Francisco used both SPLs and Sound Exposure Levels (SEL) derived from summary source level values reported in Caltrans (2015). These source levels were then reduced by 7 dB due to the Port of San Francisco’s use of a bubble curtain. NMFS used a reduction value of 7 dB as it was roughly the average sound reduction value derived from sound measurements of piles that used bubble curtains within Caltrans (2015). For piling of 36-inch steel piles, a source

level of 183 dB SEL was chosen as a proxy value for modeling Level A harassment zones (Caltrans 2015, Table 1.2–1). This source level was reduced to 176 dB SEL with the 7 dB reduction. For piling of 20-inch concrete piles, a source level of 167 dB SEL was chosen as a proxy value for modeling Level A harassment zones (Caltrans 2015, Table 1.5–4, reported from 24-inch concrete pile measurements at a project in the Port of Oakland). This source level was selected as a proxy because of the proximity of the Port of Oakland project to the proposed work and is more conservative than Caltrans (2015) summary value reported in Table 1.2–1. This source level was reduced to 160 dB SEL with the 7 dB reduction. In addition, for impact piling of 16-inch steel piles, a source level of 158 dB SEL was chosen as a proxy value for modeling Level A harassment zones (Joaquin River Project; Caltrans 2015, Table 1.2–3). This source level was reduced to 151 dB SEL with the 7 dB reduction. The stated source levels and their corresponding activity are presented in Table 4 below.

TABLE 4—PROJECT SOURCE LEVELS

| Activity | Source level at 10 meters (dB) |
|---|--------------------------------|
| Vibratory Pile Driving/Removal | |
| 36-inch steel pile installation | 170 SPL |
| 30-inch steel pile installation (Caisson) | 170 SPL |
| 14-inch steel H pile installation .. | 158 SPL |
| Removal of pre-existing piles | 155 SPL |
| 16-inch steel pile installation | 158 SPL |
| Impact Pile Driving* | |
| 36-inch steel pile installation | 176 SEL/186 SPL |
| 20-inch concrete pile installation | 160 SEL/172 SPL |
| 16-inch steel pile installation | 151 SEL/177 SPL |
| Down the Hole Drilling | |
| 24-inch Octagonal Concrete (drilling of 30-inch hole) | 168 SPL |

*The values in the cells reflect a 7dB reduction due to the Port of San Francisco's use of a bubble curtain.

Level B Harassment Zones

The practical spreading model was used by the Port of San Francisco to generate the Level B harassment zones for all piling/removal activities. Practical spreading is described in full detail below.

Pile driving and drilling generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10} (R1/R2),$$

Where:

- R1 = the distance of the modeled SPL from the driven pile, and
- R2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20 * log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10 * log[range]). A practical spreading value of 15 is often used under conditions where water increases

with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Utilizing the practical spreading loss model, the Port of San Francisco determined underwater noise will fall below the behavioral effects threshold of 120 dB rms for marine mammals at a maximum radial distance of 21,544 meters for vibratory piling and drilling (36 and 30-inch steel piles; drilling for 24-inch octagonal concrete pile). The maximum Level B harassment zone for this activity will therefore be set at 21,544 meters. However, previous sound monitoring for other projects in San Francisco Bay (i.e. Caltrans 2015; 2016) have shown background sound levels in the active portions of the Bay, near the project area, to range from 110 to 140 dB rms, with typical background levels in the range of 110 to 120 dB rms. This ambient noise may affect the ability to distinguish sound from vibratory pile driving in the region (Rodkin, 2009), but direct applicability of that finding to the Port's work is unknown, and therefore no reduction in Level B harassment zone is applied. The maximum radial distance of the Level B harassment zone for impact pile driving equaled 541.2 meters (impact driving 36-inch steel piles). At this radial distance, the entire Level B harassment zone for impact piling equaled 0.3699 km². This ensounded area is based on a GIS map of the area accounting for structures and landmasses which would block sound spreading (Please see Figure 9 of the Application). Table 5 below provides all Level B radial distances and their corresponding areas for each activity during the Port of San Francisco's project. Level B harassment zone areas are calculated using a GIS map (See Figure 9 of the Application).

TABLE 5—LEVEL B HARASSMENT ZONES CALCULATED USING THE PRACTICAL SPREADING MODEL

| Source | Calculated distance to Level B threshold (meters) | Level B harassment zone (square kilometers km ²) |
|---|---|--|
| Vibratory Pile Driving | | |
| 36-inch steel pile installation | 21,544 | 47.1608 |
| 30-inch steel pile installation | 21,544 | 47.1608 |
| 16-inch steel pile installation | 21,544 | 47.1608 |
| 14-inch steel H pile installation | 3,415 | 7.6431 |
| Removal of pre-existing concrete and wood piles | 2,154 | 3.1511 |

TABLE 5—LEVEL B HARASSMENT ZONES CALCULATED USING THE PRACTICAL SPREADING MODEL—Continued

| Source | Calculated distance to Level B threshold (meters) | Level B harassment zone (square kilometers km ²) |
|--|---|--|
| Impact Pile Driving | | |
| 36-inch steel pile installation | 541.2 | 0.36993 |
| 20-inch concrete pile installation | 63.1 | 0.006650 |
| 16-inch steel pile installation | 215 | 0.074044 |
| Down the Hole Drilling | | |
| | 21,544 | 47.1608 |

Level A Harassment Zones

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that the ensouified area could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the

methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some overestimate of Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary

sources (*i.e.* pile driving), NMFS's User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below. Daily ensouified areas for Level A harassment are approximated as a semi-circle because the pile driving and drilling are occurring close to shore and the coastline is approximately linear.

TABLE 6—PARAMETERS OF PILE DRIVING AND DRILLING ACTIVITY

| Equipment type | Vibratory pile driver (removal of concrete and wood piles) | Vibratory pile driver (installation of 36-inch steel piles) | Vibratory pile driver (installation of 30-inch steel piles) | Vibratory pile driver (installation of 16-inch steel piles) | Vibratory pile driver (installation of 14-inch steel H piles) | Impact pile driver (36-inch steel piles) | Impact pile driver (20-inch concrete piles) | Impact pile driver (16-inch steel piles) | Drilling (24-inch octagonal concrete pile) |
|---|--|---|---|---|---|--|---|--|--|
| Spreadsheet Tab Used | Non-impulsive, continuous. | Non-impulsive, continuous. | Non-impulsive, continuous. | Non-impulsive, continuous. | Non-impulsive, continuous. | Impulsive, Non-continuous. | Impulsive, Non-continuous. | Impulsive, Non-continuous. | Non-impulsive, continuous. |
| Source Level | 155 SPL | 170 SPL | 170 SPL | 158 SPL | 158 SPL | 176 SEL | 160 SEL | 151 SEL | 168 SPL |
| Weighting Factor Adjustment (kHz). | 2.5 | 2.5 | 2.5 | 2.5 | 2.5 | 2 | 2 | 2 | 2 |
| (a) Activity duration (hours) within 24 hours, (b) Number of strikes per pile, (c) Number of piles per day. | (a) 0.4 | (a) 0.33 | (a) 0.25 | (a) .33 | (a) 0.33 | (b) 150, (c) 4 | (b) 500, (c) 4 | (b) 500, (c) 2 | (a) 6. |
| Propagation (xLogR) | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15. |
| Distance of source level measurement (meters)+. | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10. |

TABLE 7—LEVEL A HARASSMENT ZONE ISOPLETH AND ENSONIFIED AREA FOR PILE DRIVING AND DRILLING

| Source type | PTS isopleth (meters) | | | | |
|---|-------------------------|-------------------------|--------------------------|------------------|-------------------|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| Vibratory Pile Driver (Removal of concrete and wood piles) | 1.5 | 0.1 | 2.2 | 0.9 | 0.1 |
| Vibratory Pile Driver (Installation of 36-inch steel piles) | 13.1 | 1.2 | 19.3 | 7.9 | 0.6 |
| Vibratory Pile Driver (Installation of 30-inch steel piles) | 10.8 | 1.0 | 16.0 | 6.6 | 0.5 |
| Vibratory Pile Driver (Installation of 14-inch steel H piles) | 2.1 | 0.2 | 3.0 | 1.3 | 0.1 |
| Vibratory Pile Driver (Installation of 16-inch steel H piles) | 2.1 | 0.2 | 3.0 | 1.3 | 0.1 |
| Impact Pile Driver (36-inch steel piles) | 242.6 | 8.6 | 288.9 | 129.8 | 9.5 |
| Impact Pile Driver (20-inch concrete piles) | 46.4 | 1.7 | 55.3 | 24.8 | 1.8 |
| Impact Pile Driver (16-inch steel piles) | 7.3 | 0.3 | 8.8 | 3.9 | 0.3 |
| Drilling (24-inch octagonal concrete pile) | 6.3 | 0.4 | 5.5 | 3.4 | 0.2 |
| Daily ensouified area (m²) | | | | | |
| Vibratory Pile Driver (Removal of concrete and wood piles) | 3.5 | 0.02 | 7.6 | 1.3 | 0.02 |
| Vibratory Pile Driver (Installation of 36-inch steel piles) | 270 | 2.3 | 585 | 98 | 0.6 |
| Vibratory Pile Driver (Installation of 30-inch steel piles) | 183 | 1.6 | 402 | 68 | 0.4 |

TABLE 7—LEVEL A HARASSMENT ZONE ISOPLETH AND ENSONIFIED AREA FOR PILE DRIVING AND DRILLING—Continued

| Source type | PTS isopleth (meters) | | | | |
|---|-------------------------|-------------------------|--------------------------|------------------|-------------------|
| | Low-frequency cetaceans | Mid-frequency cetaceans | High-frequency cetaceans | Phocid pinnipeds | Otariid pinnipeds |
| Vibratory Pile Driver (Installation of 14-inch steel H piles) | 6.9 | 0.06 | 14 | 2.7 | 0.02 |
| Vibratory Pile Driver (Installation of 16-inch steel H piles) | 6.9 | 0.06 | 14 | 2.7 | 0.02 |
| Impact Pile Driver (36-inch steel piles) | 92450 | 120 | 131100 | 26460 | 140 |
| Impact Pile Driver (20-inch concrete piles) | 3380 | 4.5 | 4800 | 966 | 5.1 |
| Impact Pile Driver (16-inch steel piles) | 84 | 0.1 | 120 | 24 | 0.1 |
| Drilling (24-inch octagonal concrete pile) | 62 | 0.3 | 48 | 18 | 0.06 |

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

No systematic line transect surveys of marine mammals have been performed in San Francisco Bay. Therefore, the in-water densities of harbor seals, California sea lions, and harbor porpoises were calculated based on 17 years of observations during monitoring for the San Francisco Bay-Oakland Bay Bridge (SFOBB) construction and demolition project (Caltrans 2018). Care was taken to eliminate multiple observations of the same animal, although this can be difficult and is likely that the same individual may have been counted multiple times on the same day. The amount of monitoring performed per year varied, depending on the frequency and duration of construction activities with the potential to affect marine mammals. During the 257 days of monitoring from 2000 through 2017 (including 15 days of baseline monitoring in 2003), 1,029 harbor seals, 83 California sea lions, and 24 harbor porpoises were observed in waters in the project vicinity in total. In 2015, 2016, and 2017, the number of harbor seals in the project area increased significantly. In 2017, the number of harbor porpoise in the project area also increased significantly. Therefore, a harbor seal density estimate was calculated using the 2015–2017 data, and a harbor porpoise density

estimate was calculated using the 2017 data, which may better reflect the current use of the project area by these animals. These observations included data from baseline, pre-, during, and post-pile driving, mechanical dismantling, on-shore blasting, and off-shore implosion activities.

Insufficient sighting data exist to estimate the density of bottlenose dolphins. However, a single bottlenose dolphin has been observed regularly near the project site. One individual was documented regularly, through photo ID, over several months off the coast of the former Alameda Air Station (Perlman 2017).

Insufficient sighting data exist to estimate elephant seal densities in the Bay. Generally, only juvenile elephant seals enter the Bay and do not remain long. The most recent sighting near the project area was in 2012, on the beach at Clipper Cove on Treasure Island, when a healthy yearling elephant seal hauled out for approximately 1 day. Approximately 100 juvenile northern elephant seals strand in or near the Bay each year, including individual strandings at YBI and Treasure Island (less than 10 strandings per year).

In addition, insufficient sighting data exist to estimate northern fur seal and gray whale densities in the Bay. Only two to four northern fur seals strand in the Bay each year, and they are unlikely to occur in the project area. Also, during the Caltrans Richmond-San Rafael Bridge project, monitors recorded 12

living and two dead gray whales in the surveys performed in 2012. All sightings were in either the Central or North Bay, and all but two sightings occurred during the months of April and May. One gray whale was sighted in June and one in October. The Oceanic Society has tracked gray whale sightings since they began returning to San Francisco Bay regularly in the late 1990s. Most sightings occurred just a mile or two inside of the Golden Gate, with some traveling into San Pablo Bay in the northern part of the San Francisco Bay (Self 2012). The Oceanic Society data show that all age classes of gray whales enter San Francisco Bay and they enter as singles or in groups of up to five individuals (Winning 2008). It is estimated that two to six gray whales enter San Francisco Bay in any given year.

Numbers used for density calculations are shown in Table 8. These numbers were calculated from observations in nearby waters of the San Francisco Bay during San Francisco-Oakland Bay Bridge construction conducted by Caltrans (Caltrans 2018). These observations occurred from 2000 to 2017 in a 2 km² monitoring zone for California sea lions, from 2015–2017 in a 2 km² monitoring zone for harbor seals, and in 2017 in a 15 km² zone for harbor porpoise. In the cases where densities were refined to capture a narrower range of years to be conservative, bold densities were used for take calculations.

TABLE 8—ESTIMATED IN-WATER DENSITY OF MARINE MAMMAL SPECIES IN SAN FRANCISCO BAY AREA [Caltrans 2017]

| Species observed | Area of monitoring zone (km ²) | Days of monitoring | Number of animals observed | Density animals/km ² |
|--------------------------------------|--|--------------------|----------------------------|--|
| Harbor Seals 2000–2017 | 2 | 257 | 1029 | 2.002. |
| Harbor Seals 2015–2017 | 2 | 47 | 372 | 3.957. |
| California Sea Lions 2000–2017 | 2 | 257 | 83 | 0.161. |
| Bottlenose Dolphins 2017 | 2 | 6 | 2 | Insufficient sighting data exists to estimate density. |
| Harbor Porpoise 2000–2017 | 3 | 257 | 24 | 0.031. |

TABLE 8—ESTIMATED IN-WATER DENSITY OF MARINE MAMMAL SPECIES IN SAN FRANCISCO BAY AREA—Continued
[Caltrans 2017]

| Species observed | Area of monitoring zone (km ²) | Days of monitoring | Number of animals observed | Density animals/km ² |
|-----------------------------------|--|--------------------|----------------------------|--|
| Harbor Porpoise 2017 | 15 | 6 | 15 | 0.167. |
| Elephant Seal 2000–2017 | 2 | 257 | 0 | Insufficient sighting data exists to estimate density. |
| Northern Fur Seal 2000–2017 | 2 | 257 | 0 | Insufficient sighting data exists to estimate density. |
| Gray Whale 2000–2017 | 2 | 257 | 0 | Insufficient sighting data exists to estimate density. |

Notes:

Densities for Pacific harbor seals, California sea lions, and harbor porpoises are based on monitoring for the east span of the SFOBB from 2000 to 2017.

A second set of Pacific harbor seal densities were calculated from the increase in sightings recorded from 2015 to 2017.

A second set of harbor porpoise densities were calculated for the increase in sightings that were recorded in 2017.

Bold densities were used for take calculations.

Sources: CalTrans 2001, 2004b, 2013b, 2013c, 2014, 2015b, 2016, 2017; Perlman 2017.

For species without enough sightings to construct a density estimate, we used information based on group size and frequency of sightings from previous years of work to inform the number of animals estimated to be taken, which is detailed in the Take Estimation section below.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

When density data was available, Level B take for the project was calculated by multiplying the density times the largest Level B harassment zone (km²) times the number of construction days. Since density data

was only available for harbor seals, harbor porpoises, and California sea lions, these were the only species whose take was calculated using this methodology. Table 9 shows the number of take calculated for species with density and without density estimates. For species without density information, information on average group size of the species was used. This is discussed below Table 9.

TABLE 9—TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

| Species | Density animals/km ² | Level B harassment zone (km ²) ¹ | Construction days ² | Proposed Level B take | Percentage of stock |
|----------------------------|--|---|--------------------------------|-----------------------|---------------------|
| Harbor Seal | 3.957 | 47.1608 | 15 | 2928 | 9.5 |
| California Sea Lions | 0.161 | 47.1608 | 15 | 120 | 0.040 |
| Harbor Porpoise | 0.167 | 47.1608 | 15 | 124 | 1.3 |
| Northern Elephant Seal .. | Insufficient sighting data exists to estimate density. | 47.1608 | 15 | 1 | 0.0006 |
| Northern Fur Seal | Insufficient sighting data exists to estimate density. | 47.1608 | 15 | 1 | 0.0002 |
| Gray Whale | Insufficient sighting data exists to estimate density. | 47.1608 | 15 | 3 | 0.014 |
| Bottlenose Dolphin | Insufficient sighting data exists to estimate density. | 47.1608 | 15 | 15 | 3.3 |

¹ Represents area of largest Level B zone during pile driving/removal and drilling activities.

² Total construction days for pile driving/removal and drilling.

Gray Whale

Gray whales occasionally enter San Francisco Bay during their northward migration period of February and March. Pile driving and drilling are not proposed to occur during this time and gray whales are not likely to be present at other times of the year. It is estimated that two to six gray whales enter the Bay in any given year, but they are unlikely to be present during the work period (June 1 through November 30). However, individual gray whales have occasionally been observed in San

Francisco Bay during the work period, and therefore it is conservatively estimated that, at most, 3 gray whales, or one average sized group, may be exposed to Level B harassment during the 15 days of pile driving/drilling.

Bottlenose Dolphin

When bottlenose dolphins are present in San Francisco Bay, they are more typically found close to the Golden Gate. Recently, beginning in 2015, two individuals have been observed frequently in the vicinity of Oyster Point

(GGCR 2016, 2017; Perlman 2017) and one individual has been observed near Alameda (GGCR 2016). Observations of bottlenose dolphins are primarily west of Treasure Island and concentrated along the nearshore areas of San Francisco south to Redwood City (Caltrans 2018). Bottlenose dolphins rarely occur in San Francisco Bay, but given the size of the Level B harassment zone NMFS is proposing to authorize take of 15 bottlenose dolphins by level B harassment.

Northern Fur Seal

Observations of northern fur seals are too few to establish a density for this species in San Francisco Bay. The Marine Mammal Center (TMMC) reported only two to four northern fur seal strandings in the Bay in 2015 and 2016 (in Marin, San Francisco, and Santa Clara counties) (TMMC 2017). To account for the possible rare presence of the species in the action area, NMFS proposes to authorize one level B take of northern fur seal.

Northern Elephant Seal

Elephant seals breed between December and March and have been rarely cited in San Francisco Bay. It is anticipated that if an elephant seal is encountered at all during pile driving or drilling it would be a juvenile. To account for the possible rare presence of the species in the action area, NMFS proposed to authorize one level B take of elephant seal.

Level A Harassment

High frequency cetaceans (including harbor porpoise) have the largest Level A harassment zone resulting from this project as shown in Table 7. Estimated take by Level A harassment for harbor porpoise, based on density reported in Table 8 and the Level A harassment zone, is less than one individual (Density * Days * Ensonified Area). Given the required mitigation measures, including shutdown zones which exceed the Level A harassment zone, NMFS proposes no authorization of Level A harassment for harbor porpoise or any marine mammal.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological)

of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations.

In addition to the specific measures described later in this section, the Port must conduct briefings for construction supervisors and crews, the monitoring team, and Port staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.

Timing Restrictions

All work will be conducted during daylight hours. If poor environmental conditions restrict full visibility of the shutdown zone, pile installation would be delayed.

Sound Attenuation

Sound attenuation methods will be implemented for the duration of impact pile driving to install 36-inch and 16-inch steel and 20-inch concrete piles (*i.e.*, cushion block, bubble curtain, sleeve etc.) and shall implement the following bubble curtain performance standards:

- The bubble curtain must distribute air bubbles around 100 percent of the

piling perimeter for the full depth of the water column.

- The lowest bubble ring shall be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact.

- The selected contractor will ensure that personnel are trained in the proper balancing of air flow to the bubblers and shall require that construction contractors submit an inspection/performance report for approval by the Port within 72 hours following the performance test. Corrections to the attenuation device to meet the performance standards shall occur prior to impact driving.

Shutdown Zone for In-Water Heavy Machinery Work

For in-water heavy machinery work (using, *e.g.*, standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), a minimum 10 meter shutdown zone shall be implemented. If a marine mammal comes within 10 meters of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include (but is not limited to) the following activities: (1) Vibratory pile driving; (2) movement of the barge to the pile location; (3) positioning of the pile on the substrate via a crane (*i.e.*, stabbing the pile); or (4) removal of the pile from the water column/substrate via a crane (*i.e.*, deadpull).

Additional Shutdown Zones

For all pile driving/removal and drilling activities, The Port of San Francisco will establish a shutdown zone for a marine mammal species that is greater than its corresponding Level A harassment zone. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). The shutdown zones for each of the pile driving and drilling activities are listed below in Table 10.

TABLE 10—SHUTDOWN ZONES

| Source | Shutdown zones (meters) | | | | |
|--|---|---|---|----------------------|-------------------|
| | Low-frequency cetaceans (humpback whale, minke whale) | Mid-frequency cetaceans (Pacific-white sided dolphin) | High-frequency cetaceans (Dall's porpoise, harbor porpoise) | Phocid (harbor seal) | Otarid (sea lion) |
| In-Water Construction Activities * | | | | | |
| In Water Heavy Construction (<i>i.e.</i> , Barge movements, pile positioning, deadpulling, and sound attenuation) | 10 | 10 | 10 | 10 | 10 |
| Vibratory Pile Driving | | | | | |
| Vibratory Pile Driver (Removal of concrete and wood piles) | 10 | 10 | 10 | 10 | 10 |
| Vibratory Pile Driver (Installation of 14-inch steel H piles) .. | 10 | 10 | 10 | 10 | 10 |
| Vibratory Pile Driver (Installation of 16-inch steel H piles) .. | 10 | 10 | 10 | 10 | 10 |
| Vibratory Pile Driver (Installation of 30-inch steel piles) | 25 | 10 | 25 | 10 | 10 |
| Vibratory Pile Driver (Installation of 36-inch steel piles) | 25 | 10 | 25 | 10 | 10 |
| Impact Pile Driving | | | | | |
| Impact Pile Driver (16-inch steel piles) | 125 | 10 | 150 | 75 | 10 |
| Impact Pile Driver (20-inch concrete piles) | 75 | 10 | 75 | 30 | 10 |
| Impact Pile Driver (36-inch steel piles) | 250 | 25 | 300 | 150 | 25 |
| Drilling | | | | | |
| 24-inch concrete pile (1 pile) (3 hours per day on 1 day) ... | 10 | 10 | 10 | 10 | 10 |

Monitoring Zones

The Port of San Francisco will establish and observe a monitoring zone. The monitoring zones for this project will differ based on activity. For vibratory pile driving and down the hole drilling, it may not be possible to observe the entire Level B harassment zones (areas where SPLs are equal to or exceed 120 dB rms) due to their size. The Port is expected to monitor and record observations in the largest reasonable portion of this Level B harassment zone based on the number

of observers and visibility, but conditions may require efforts to be focused in a smaller monitoring zone. For impact pile driving, the monitoring zones are areas where SPLs are equal to or exceed 160 dB rms. For vibratory pile driving/drilling and impact pile driving the Level B Harassment zones are presented in Table 11 below. For the vibratory pile driving and drilling activities, it is noted that Level B harassment zone radius and area will not necessarily equal the monitoring zone. These zones provide utility for monitoring conducted for mitigation

purposes (*i.e.*, shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area, but outside the shutdown zone, and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in detail later (see Monitoring and Reporting).

TABLE 11—MONITORING ZONES

| Source | Radial distance to Level B threshold (meters) | Level B harassment zone (km ²) |
|---|---|--|
| Vibratory Pile Driving | | |
| 36-inch steel pile installation | * 21,544 | * 47.1608 |
| 30-inch steel pile installation | * 21,544 | * 47.1608 |
| 16-inch steel pile installation | * 21,544 | * 47.1608 |
| 14-inch steel H pile installation | * 3,415 | * 7.6431 |
| Removal of pre-existing concrete and wood piles | * 21,544 | * 47.1608 |
| Impact Pile Driving | | |
| 36-inch steel pile installation | 541.2 | 0.3699 |
| 20-inch concrete pile installation | 63.1 | 0.006650 |

TABLE 11—MONITORING ZONES—Continued

| Source | Radial distance to Level B threshold (meters) | Level B harassment zone (km ²) |
|---------------------------------------|---|--|
| 16-inch steel pile installation | 215 | 0.074044 |
| Down the Hole Drilling | | |
| | *21,544 | *47.1608 |

* The monitored radius and area of the Level B harassment zone may vary based on visibility.

Non-Authorized Take Prohibited

If a species enters or approaches the Level B harassment zone and that species is either not authorized for take or its authorized takes are met, pile driving, pile removal, and drilling activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or an observation time period of 15 minutes has elapsed.

Soft Start

The use of a soft-start procedure is believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the impact hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at 40 percent energy, each strike followed by no less than a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. This soft start procedure must be implemented at the start of a day's impact pile driving and at any time following cessation of impact driving of 30 minutes or greater. Soft start is not required during vibratory pile driving/removal or drilling activities.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving or drilling of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.*, the entire shutdown zone and surrounding waters must be visible to the naked eye). If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the

animal has left the zone or has not been observed for 15 minutes. If the monitoring zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the monitoring zone. When a marine mammal permitted for Level B take is present in the monitoring zone, pile driving, pile removal, and drilling activities may begin and Level B take will be recorded. As stated above, if the entire Level B zone is not visible at the start of construction, piling or drilling activities can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the monitoring zone and shutdown zone will commence.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS

should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative) impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Hydroacoustic Monitoring

The Port recognizes in their application the need to implement a sound monitoring plan (SMP) as required by the Regional NMFS and U.S. Army Corps of Engineers programmatic review for pile driving activities in San Francisco Bay. The Port indicates that this SMP will recommend sound monitoring stations at 10 m, 100 m, and 300 m to monitor ambient noise conditions in the area. NMFS feels that ambient noise measurements are highly specific to the time and place they were taken, and therefore might have limited

use to future projects. However, there are few source level measurements for down the hole drilling activities, as shown by the use of Alaska DOT proxy data in this IHA. NMFS feels that rigorous hydroacoustic monitoring of source level for the down the hole drilling activity will be more beneficial for future projects in this region and others. While NMFS is not requiring these source level measurements, if the Port were already planning to conduct measurements, we recommend focusing on source level verification and could offer guidance on its implementation.

Visual Monitoring

Monitoring would be conducted 30 minutes before, during, and 30 minutes after all pile driving/removal and drilling activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven, removed, or pile holes being drilled. Pile driving and drilling activities include the time to install, remove, or drill a hole for a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

Monitoring will be conducted by NMFS approved Protected Species Observers (PSOs). There will be at least two PSOs, but this number could be higher, depending on the type of pile driving/drilling and size of pile, which determines the size of the harassment zones. At least two land-based PSOs will monitor during all pile driving/removal and drilling activities.

PSOs shall scan the waters using binoculars, and/or spotting scopes, and shall use a handheld GPS or range-finder device to verify the distance to each sighting from the project site. All PSOs shall be trained in marine mammal identification and behaviors and are required to have no other project-related tasks while conducting monitoring. In addition, monitoring shall be conducted by qualified observers, who shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. Qualified observers are trained and/or experienced professionals, with the following minimum qualifications:

i. At least one PSO must have prior experience working as a marine mammal observer during construction activities;

- Independent observers (*i.e.*, not construction personnel);
- ii. Other PSOs may substitute education (degree in biological science or related field) or training for experience;
- iii. Where a team of three or more PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction;
- iv. The Port of San Francisco shall submit PSO CVs for approval by NMFS; The Port of San Francisco shall ensure that observers have the following additional qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

- Ability to conduct field observations and collect data according to assigned protocols;

- Experience or training in the field identification of marine mammals, including the identification of behaviors;

- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior;

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary; and

- Sufficient training, orientation, or experience with the construction operations to provide for personal safety during observations.

The Port of San Francisco shall submit a draft report to NMFS not later than 90 days following the end of construction activities. The Port of San Francisco shall provide a final report within 30 days following resolution of NMFS' comments on the draft report. Reports shall contain, at minimum, the following:

- Date and time that monitored activity begins and ends for each day conducted (monitoring period);
- Construction activities occurring during each daily observation period, including how many and what type of piles driven;
- Deviation from initial proposal in pile numbers, pile types, average driving times, etc.;

- Weather parameters in each monitoring period (*e.g.*, wind speed, percent cloud cover, visibility);
- Water conditions in each monitoring period (*e.g.*, sea state, tide state);
- Extrapolated estimates of the total observed Level B harassment takes based on the percentage of the Level B harassment zone that was not visible or was not monitored
- For each marine mammal sighting:
 - Species, numbers, and, if possible, sex and age class of marine mammals;
 - Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
 - Location and distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
 - Estimated amount of time that the animals remained in the Level B harassment zone;
 - Description of implementation of mitigation measures within each monitoring period (*e.g.*, shutdown or delay);
 - Other human activity in the area within each monitoring period; and
 - A summary of the following:
 - Total number of individuals of each species detected within the monitoring zone, and estimated as taken if correction factor appropriate;
 - Total number of individuals of each species detected within the Level A harassment zone and the average amount of time that they remained in that zone; and
 - Daily average number of individuals of each species (differentiated by month as appropriate) detected within the monitoring zone, and estimated as taken, if appropriate.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.*, intensity,

duration), the context of any responses (e.g., critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (e.g., as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

As stated in the mitigation section, bubble curtains will be used and shutdown zones that encompass the area in which Level A harassment might be expected to occur will be implemented. As a result, no Level A take is expected nor authorized for this activity. Exposures to elevated sound levels produced during pile driving activities may cause behavioral responses by an animal, but they are expected to be mild and temporary. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (e.g., Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. These reactions and behavioral changes are expected to subside quickly when the exposures cease. Within the project area, there are no critical habitats or other biologically important areas (Calambokidis *et al.*, 2015). The area is an active commercial port, and while harbor seals, California sea lions, and other marine mammals may be present, the area is not an established rookery or breeding ground for local populations.

During all impact driving, implementation of soft start procedures, the use of a bubble curtain, and monitoring of established shutdown zones will be required. Given sufficient notice through use of soft start (for impact driving), marine mammals are expected to move away from an irritating sound source prior to it becoming potentially injurious. In

addition, PSOs will be stationed within the action area whenever pile driving/removal and drilling operations are underway. Depending on the activity, The Port of San Francisco will employ the use of at least two PSOs to ensure all monitoring and shutdown zones are properly observed.

Although the Mission Bay Ferry and Water Taxi Landing Project would have some permanent removal of habitat available to marine mammals, the area lost would be negligible. Construction of the MBFL and WTL structures and dredging for the project will result in the disturbance of up to approximately 8.4 acres of predominantly fine-grained sediment and the associated benthic infaunal community. Total habitat disturbed from the project activities is estimated at 0.000071 percent of the total South San Francisco Bay subtidal habitat available (NOAA 2007). This is a relatively small fraction of area relative to the total available habitat for foraging and transit for marine mammals. In addition, to minimize impacts, in-water construction will be limited to locally established environmental work windows between June and November.

Overall, impacts to marine mammals and prey species due to the Mission Bay Ferry and Water Taxi Landing Project are expected to be minor and temporary. The area impacted by the project is very small compared to the available habitat around San Francisco Bay. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving and drilling, it is expected that fish and marine mammals would temporarily move to nearby locations and return to the area following cessation of in-water construction activities. Therefore, indirect effects on marine mammal prey during the construction are not expected to be substantial.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- Mortality is not anticipated or authorized;
- Minimal impacts to marine mammal habitat are expected;
- Bubble curtain and other sound attenuating devices are used during impact pile driving will lessen the amount of behavioral disturbance and contribute to the alleviation of the likelihood of injury;
- Impacts are not occurring in rookeries, or known areas or features of

special significance for foraging or reproduction in the project area;

- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; and
- Required mitigation measures (*i.e.* shutdown zones) are expected to be effective in reducing the effects of the specified activity.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Take for all species authorized except harbor seal is less than five percent of their respective stock abundance. For harbor seal, the authorized take is less than 10 percent of the stock abundance. Based on this and the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to the Port of San Francisco for conducting pile driving/removal and drilling in San Francisco Bay from June 1, 2019 to May 31, 2020, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

1. This Incidental Harassment Authorization (IHA) is valid from June 1, 2019, to May 31, 2020.

2. This IHA is valid only for impact pile driving, vibratory pile driving, vibratory pile removal, and drilling activities associated with the construction of the Mission Bay Ferry and Water Taxi Landing Project in San Francisco Bay, California

3. General Conditions

(a) A copy of this IHA must be in the possession of the Port of San Francisco, its designees, and work crew personnel operating under the authority of this IHA;

(b) The species authorized for taking are gray whale (*Eschrichtius robustus*), bottlenose dolphin (*Tursiops truncatus*), harbor porpoise (*Phocoena phocoena*), California sea lion (*Zalophus californianus*), northern fur seal (*Callorhinus ursinus*), Pacific harbor seal (*Phoca vitulina richardii*), and northern elephant seal (*Mirounga angustirostris*);

(c) The taking, by Level B harassment only, is limited to the species listed in condition 3(b). See Table 9 for numbers of take authorized;

(d) The taking by serious injury or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA;

(e) The Port of San Francisco must conduct briefings between construction supervisors and crews and marine mammal monitoring team prior to the start of all pile driving, pile removal, and drilling, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures; and

(f) Pile driving and drilling activities authorized under this IHA may only occur during daylight hours.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving/removal, drilling, and in-water heavy machinery work, the Port of San Francisco must implement a shutdown zone around the pile or work zone. If a marine mammal comes within or approaches the shutdown zone, such operations must cease. See Table 10 for minimum radial distances required for shutdown zones;

(b) After a shutdown occurs, impact pile driving, vibratory piling driving/removal, and/or drilling can only begin after the animal is observed leaving the shutdown zone or has not been observed for 15 minutes;

(c) The Port of San Francisco must use sound attenuation devices (*i.e.* cushion block, and bubble curtain) during all impact pile driving and a caisson sleeve during drilling. The Port of San Francisco must implement the following bubble curtain performance standards:

(1) The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;

(2) The lowest bubble ring must be in contact with the mudline for the full circumference of the ring, and the weights attached to the bottom ring must ensure 100 percent mudline contact. No parts of the ring or other objects shall prevent full mudline contact; and

(3) The selected contractor must ensure that personnel are trained in the proper balancing of air flow to the bubblers and must require that construction contractors submit an inspection/performance report for approval by the Port within 72 hours following the performance test.

Corrections to the attenuation device to meet the performance standards must occur prior to impact driving;

(d) The Port of San Francisco must use a soft-start procedure for impact pile driving. During a soft start, The Port of San Francisco is required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a 30-second waiting period, then two subsequent 3-strike sets. This soft-start must be applied prior to beginning pile driving activities each day or when impact pile driving hammers have been idle for more than 30 minutes;

(e) If a species enters or approaches the Level B harassment zone and that species is either not authorized for take or its authorized takes are met, pile

driving and removal activities must shut down immediately using delay and shut-down procedures; and

(f) The Port of San Francisco must establish monitoring locations as described below.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during all pile driving/removal and drilling activities. Monitoring and reporting must be conducted in accordance with the Monitoring Plan as described below.

(a) The Port of San Francisco must monitor the Level B harassment zones and shutdown zones shown in Tables 10 and 11 during all pile driving/removal and drilling activities. Monitoring efforts in the Level B harassment zone can be concentrated in a subset of the zone if it is not feasible to observe the entire zone.

(b) If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal shutdown zone, pile installation/removal and drilling must cease. Pile driving and/or drilling must not be initiated or continue until the entire largest shutdown zone for the activity is visible.

(c) Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal and/or drilling of 30 minutes or longer occurs, the PSOs must observe the shutdown and monitoring zones for a period of 30 minutes before construction activities can begin.

(d) If the shutdown zones have been observed to be clear of marine mammals for 30 minutes, in-water construction can commence and work can continue even if visibility becomes impaired within the Level B harassment zone.

(e) Monitoring must be conducted by qualified PSOs, with minimum qualifications as described previously in the *Monitoring and Reporting* section of the proposed *Federal Notice*. PSO requirements include:

(i) At least two PSOs must be on site to actively observe the shutdown and disturbance zones during all pile driving, removal, and drilling;

(ii) Observers must use their naked eye with the aid of binoculars, and/or a spotting scope during all pile driving and extraction activities;

(iii) All PSOs must be positioned in the best vantage point to have an unobstructed view of all water within the shutdown zone and as much of the Level B harassment zone as possible for pile driving/removal and/or drilling;

(iv) Observers must be independent (*i.e.*, not construction personnel);

(v) At least one PSO must have prior experience working as a marine mammal observer during construction activities;

(vi) (Other PSOs may substitute education (degree in biological science or related field) or training for experience;

(vii) Where a team of three or more PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction;

(viii) The Port of San Francisco shall submit PSO CVs for approval by NMFS;

(f) Marine mammal location must be determined using a rangefinder and a GPS or compass;

(g) Post-construction monitoring must be conducted for 30 minutes beyond the cessation of piling and drilling activities at end of day.

6. Reporting

The holder of this Authorization is required to:

(a) Submit a draft report on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal monitoring. This report must detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed, including the total number extrapolated from observed animals across the entirety of relevant monitoring zones. Given that the entire Level B harassment zone may not be readily observable, takes must be recorded and extrapolated based upon the amount of total observed takes and the percentage of the Level B harassment zone that was not visible.

A final report must be prepared and submitted within 30 days following resolution of comments on the draft report from NMFS. This report must contain the following:

(i) Date and time a monitored activity begins or ends;

(ii) Construction activities occurring during each observation period;

(iii) Record of implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any;

(iv) An estimated total take extrapolated from the number of marine mammals observed during the course of construction activities, if necessary.

(v) Deviation from initial proposal in pile numbers, pile types, average driving times, etc.;

(vi) Weather parameters (e.g., percent cover, visibility);

(vii) Water conditions (e.g., sea state, tide state);

(viii) Species, numbers, and, if possible, sex and age class of marine mammals;

(ix) Description of any observable marine mammal behavior patterns,

(x) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

(x) Locations of all marine mammal observations; and

(xi) Other human activity in the area.

(b) Reporting injured or dead marine mammals:

(i) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury, or mortality, The Port of San Francisco must immediately cease the specified activities and report the incident to the Office of Protected Resources, NMFS, and the West Coast Stranding Coordinator, NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

3. Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;

5. Species identification or description of the animal(s) involved;

6. Fate of the animal(s); and

7. Photographs or video footage of the animal(s).

Activities must not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Port of San Francisco to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Port of San Francisco may not resume their activities until notified by NMFS;

(i) In the event that the Port of San Francisco discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (e.g., in less than a moderate state of decomposition), the Port of San Francisco must immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Stranding Coordinator, NMFS;

(ii) The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Port of San Francisco to determine whether

additional mitigation measures or modifications to the activities are appropriate;

(iii) In the event that the Port of San Francisco discovers an injured or dead marine mammal, and the lead observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Port of San Francisco must report the incident to the Office of Protected Resources, NMFS, and the West Coast Stranding Coordinator, NMFS, within 24 hours of the discovery. The Port of San Francisco must provide photographs or video footage or other documentation of the stranded animal sighting to NMFS;

7. This Authorization may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if NMFS determines the authorized taking is having more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

We request comment on our analyses, the proposed authorization, the Port's potential sound source verification efforts, and any other aspect of this Notice of Proposed IHA for the proposed action. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA;

- The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (e.g., reduction in pile size) that the changes do not affect the previous analyses, take estimates, or

mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized;

- Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Dated: August 16, 2018.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2018-18056 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG432

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of telephonic meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Observer Advisory Committee Subgroup will meet September 5, 2018.

DATES: The meeting will be held on Wednesday, September 5, 2018, from 1 p.m. to 2:30 p.m.

ADDRESSES: The meeting will be held telephonically. Teleconference line: (907) 271-2896.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501-2252; telephone: (907) 271-2809.

FOR FURTHER INFORMATION CONTACT: Elizabeth Figus, Council staff; telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION:

Agenda

The agenda will include: A discussion of the Observer Program Fee Analysis developments since June 2018, including an outline, alternatives, monitoring objectives, and discussion of analysis methods.

Public Comment

Public comment letters will be accepted and should be submitted either electronically to Elizabeth Figus, Council staff: Elizabeth.figus@noaa.gov or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501-2252. In-person oral public testimony will be accepted at the discretion of the chair.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271-2809 at least 7 working days prior to the meeting date.

Dated: August 17, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018-18118 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG003

Pacific Island Fisheries; Marine Conservation Plan for American Samoa; Western Pacific Sustainable Fisheries Fund

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a marine conservation plan (MCP) for American Samoa.

DATES: This agency decision is effective from July 25, 2018, through July 24, 2021.

ADDRESSES: You may obtain a copy of the MCP, identified by NOAA-NMFS-2018-0014, from the Federal e-Rulemaking Portal, <http://www.regulations.gov/#!> *docketDetail;D=NOAA-NMFS-2018-0014*, or from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8200, <http://www.wpcouncil.org>.

FOR FURTHER INFORMATION CONTACT: Gabriel Forrester, Sustainable Fisheries, NMFS Pacific Island Regional Office, 808-725-5179.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the Northern Mariana Islands. The Governor of the Pacific Insular Area to which the PIAFA applies must request the PIAFA. The Secretary of State may negotiate and enter the PIAFA after consultation with, and concurrence of, the applicable Governor.

Before entering the PIAFA, the applicable Governor, with concurrence of the Council, must develop and submit to the Secretary a 3-year MCP providing details on uses for and funds collected by the Secretary for MCP review and approval. NMFS is the designee of the Secretary for MCP review and approval. The Magnuson-Stevens Act requires payments received under a PIAFA to be deposited into the United States Treasury and then conveyed to the Treasury of the Pacific Insular Area for which funds were collected.

In the case of violations by foreign fishing vessels in the EEZ around any Pacific Insular Area, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act, including sums collected from the forfeiture and disposition or sale of property seized subject to its authority, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, after direct costs of the enforcement action are subtracted. The Pacific Insular Area government may use funds deposited into the treasury of the Pacific Insular Area for fisheries enforcement and for implementation of an MCP.

Federal regulations at 50 CFR 665.819 authorize NMFS to specify catch limits of longline-caught bigeye tuna for U.S. territories. NMFS may also authorize each territory to allocate a portion of that limit to U.S. longline fishing vessels that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Payments collected under specified fishing agreements are deposited into the Western Pacific Sustainable Fisheries Fund, and any funds attributable to a particular Fisheries Fund, and any funds attributable to a particular territory may be used only for implementation of that territory's MCP.

An MCP must be consistent with the Council's fishery ecosystem plans, must identify conservation and management objectives (including criteria for determining when such objectives are met), and must prioritize planned marine conservation projects.

The Council reviewed and concurred with the American Samoa MCP in June 2018. On July 9, 2018, the Governor of American Samoa submitted the MCP to NMFS for review and approval. The following briefly describes the objectives of the MCP. Please refer to the MCP for planned projects and activities designed to meet each objective, the evaluative criteria, and priority ranking. The MCP contains six conservation and management objectives, listed below.

1. Maximize social and economic benefits through sustainable fisheries;
2. Support quality scientific research to assess and manage fisheries;
3. Promote an ecosystem approach in fisheries management;
4. Recognize the importance of island culture and traditional fishing in managing fishery resources and foster opportunities for participation;
5. Promote education and outreach activities and regional collaboration regarding fisheries conservation;
6. Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea.

This notice announces that NMFS has reviewed the MCP, and has determined that it satisfies the requirements of the Magnuson-Stevens Act. Accordingly, NMFS has approved the MCP for the 3-year period from July 25, 2018, through July 24, 2021. This MCP supersedes the MCP previously approved for the period April 1, 2015, through March 31, 2018 (80 FR 18820, April 8, 2015).

Dated: August 17, 2018.

Alan D. Risenhoover,

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

[FR Doc. 2018-18132 Filed 8-21-18; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS-2018-0034; OMB Control Number 0704-0231]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 237, Service Contracting, Associated DFARS Clauses at DFARS 252.237, DD Form 2062, and DD Form 2063

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

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through December 31, 2018. DoD proposes that OMB extend its approval for three additional years.

DATES: DoD will consider all comments received by October 22, 2018.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704-0231, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* osd.dfars@mail.mil. Include OMB Control Number 0704-0231 in the subject line of the message.
- *Fax:* 571-372-6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Carrie Moore, OUSD(A&S)DPC(DARS), 3060 Defense Pentagon, Room 3B941, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

www.regulations.gov, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Carrie Moore, 571-372-6093.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 237, Service Contracting, associated DFARS Clauses at DFARS 252.237, DD Form 2062, and DD Form 2063; OMB Control Number 0704-0231.

Needs and Uses: This information collection is used for the following purposes—

The information collected under this clearance is used as follows:

a. The information collected pursuant to DFARS provision 252.237-7000(c) is used to verify that the offeror is properly licensed in the state or other political jurisdiction where the offeror operates its professional practice.

b. DFARS 252.237-7011, the DD Form 2062, Record of Preparation and Disposition of Remains (DoD Mortuary Facility), and the DD Form 2063, Record of Preparation and Disposition of Remains (Within CONUS), are used to verify that the deceased's remains have been properly cared by the mortuary contractor.

c. The written plan required by DFARS provision 252.237-7024, submitted by offerors concurrently with the proposal or offer, allows the contracting officer to assess the offeror's capability to continue providing contractually required services to support the DoD component's mission essential functions in an emergency.

d. The information collected pursuant to DFARS clause 252.237-7023 allows the contracting officer to provide approval of updates to the contractor's plan provided under DFARS clause 252.237-7024, to ensure that the contractor can continue to provide services in support of the DoD component's required mission essential functions in an emergency.

Affected Public: Businesses and other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 2,737.

Responses per Respondent: 1.5, approximately.

Annual Responses: 4,019.

Average Burden per Response: 1.5, approximately.

Annual Burden Hours: 6,051.

Frequency: On occasion.

Summary of Information Collection

DFARS 237.270 prescribes the use of the provision at DFARS 252.237-7000,

Notice of Special Standards, in solicitations for the acquisition of audit services. The provision requires the apparently successful offeror to submit evidence that it is properly licensed in the state or political jurisdiction it operates its professional practice.

DFARS 237.7003 prescribes the use of the clause at 252.237-7011, Preparation History, in all mortuary service solicitations and contracts. The information collected is used to verify that the remains have been properly cared for and the DD Forms 2062 and 2063 are generally used for this purpose.

DFARS 237.7603(b) prescribes the use of the provision at 252.237-7024, Notice of Continuation of Essential Contractor Services, in solicitations that require the acquisition of services to support a mission essential function. The provision requires the offeror to submit a written plan demonstrating its capability to continue to provide the contractually required services to support a DoD component's mission essential functions in an emergency.

DFARS 237.7603(a) prescribes the use of the clause at DFARS 252.237-7023, Continuation of Essential Contractor Services, in solicitations and contracts for services in support of mission essential functions. The clause requires the contractor to maintain and update its written plan as necessary to ensure that it can continue to provide services to support the DoD component's mission essential functions in an emergency.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2018-18126 Filed 8-21-18; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS-2018-0015; OMB Control Number 0704-0246]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Information Collection in Support of DFARS Part 245, Government Property

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

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information

under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by September 21, 2018.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 245, Government Property, related clauses in DFARS 252, and related forms in DFARS 253; OMB Control Number 0704-0246.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 1,745.

Responses per Respondent: 16.

Annual Responses: 27,920.

Average Burden per Response: 1 hour.

Annual Burden Hours: 27,920.

Frequency: On occasion.

Needs and Uses: This requirement provides for the collection of information related to providing Government property to contractors; contractor use and management of Government property; and reporting, redistribution, and disposal of property.

a. *DFARS 245.302(1)(i):* DFARS 245.302 concerns contracts with foreign governments or international organizations. Paragraph (1)(i) requires contractors to request and obtain contracting officer approval before using Government property on work for foreign governments and international organizations.

b. *DFARS 245.604-3(b) and (d):* DFARS 245.604-3 concerns the sale of surplus Government property. Under paragraph (b), a contractor may be directed by the plant clearance officer to issue informal invitations for bids. Under paragraph (d), a contractor may be authorized by the plant clearance officer to purchase or retain Government property at less than cost if the plant clearance officer determines this method is essential for expeditious plant clearance.

c. *DFARS 252.245-7003:* This clause, "Contractor Property Management System Administration," and DFARS 245.105, Contractor's Property Management System Compliance, address the requirement for contractors to respond in writing to initial and final determinations from the administrative contracting officer that identifies deficiencies in the contractor's property management system. The burden for this reporting requirement was previously approved under OMB 0704-0480 and is being incorporated into

0704-0246 in order to consolidate all DFARS part 245 requirements under one OMB clearance.

d. *DD Form 1348-1A*, DoD Single Line Item Release/Receipt Document, is prescribed at DFARS 245.7001-3 and the form is used when authorized by the plant clearance officer.

e. *DD Form 1639*, Scrap Warranty, is prescribed in the clause at DFARS 252.245-7004, Reporting, Reutilization, and Disposal. When scrap is sold by the contractor, after Government approval, the purchaser of the scrap material(s) may be required to certify, by signature on the DD Form 1639, that (i) the purchased material will be used only as scrap and (ii), if sold by the purchaser, the purchaser will obtain an identical warranty from the individual buying the scrap from the initial purchaser. The warranty contained in the DD Form 1639 expires by its terms five years from the date of the sale.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov*. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method:

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

DoD Clearance Officer: Mr. Frederick C. Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at: WHS/ESD Directives Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 03F09, Alexandria, VA 22350-3100.

Jennifer Lee Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2018-18123 Filed 8-21-18; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2018-ICCD-0087]

Agency Information Collection Activities; Comment Request; A Study of Reliability and Consequential Validity of a Mathematics Diagnostic Assessment System in Georgia

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 22, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2018–ICCD–0087. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9089, Washington, DC 20202–0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Felicia Sanders, 202–245–6264.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: A study of reliability and consequential validity of a mathematics diagnostic assessment system in Georgia.

OMB Control Number: 1850—NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 44.

Total Estimated Number of Annual Burden Hours: 606.

Abstract: Several school districts in Georgia (including Forsyth and Jefferson Counties) currently use the Individual Knowledge Assessment of Number (IKAN; New Zealand Ministry of Education, 2011) and the Global Strategy Stage (GloSS; New Zealand Ministry of Education, 2012) as part of a diagnostic assessment system within their multi-tiered systems of support. The IKAN and GloSS assessments were designed for use in Grades K–8 (GaDOE, 2015).

IKAN provides information on students' number knowledge (that is, magnitude comparisons, knowledge of base 10 system and meaning of decimals and fractions), and the GloSS provides information on strategies students use when solving mathematical problems. When used together, the IKAN and GloSS assessments furnish teachers with information on how students solve mathematics problems and students' understanding of whole and rational number concepts. Teachers can then use the information from the assessments to tailor their instruction to students' levels of understanding and address problems that underlie lack of success with grade-level curriculum.

The Georgia Department of Education (GaDOE) has received positive feedback through testimonials from district-level personnel and math coaches supporting the use of IKAN/GloSS. Yet, very limited psychometric data exists to support the use of these measures. GaDOE has not conducted reliability or validity studies using its student population. While many studies have been conducted in New Zealand by the Ministry of Education, participating Georgia school districts and the GaDOE are interested in psychometric data using teachers and students in their state in the context of their state system of standards, assessments, and accountability. Thus, through the Improving Mathematics Research Alliance, the GaDOE requested REL Southeast conduct a study to determine the reliability and validity of the IKAN/GloSS diagnostic assessments.

The three research questions guiding the project relate to the inter-assessor reliability of the GloSS and IKAN assessments when administered by two assessors within a one-week period and the consequential validity of using IKAN and GloSS diagnostic assessments (that is, teachers' perception of their instructional utility for providing intervention).

Student data from the IKAN and GloSS assessments administered by teachers and mathematics coaches will be used to answer the two research questions related to the inter-assessor reliability studies.

Dated: August 17, 2018.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–18102 Filed 8–21–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–34–000]

Enterprise TE Products Pipeline Company LLC; Notice of Petition for Declaratory Order

Take notice that on August 13, 2018, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2017), Enterprise TE Products Pipeline Company LLC (Petitioner), filed a petition for a declaratory order seeking approval of general rate structure, terms of service, and prorationing methodology for an incremental expansion project, between an existing origin point at a tank farm and terminal facility near Indianapolis, and a currently idled destination point at a third party tank farm and terminal facility in Griffith, Indiana, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion

to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the 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.

Comment Date: 5:00 p.m. Eastern time on September 13, 2018.

Dated: August 16, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-18099 Filed 8-21-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18-76-000.
Applicants: Enbridge Pipelines (Oklahoma Transmission) L.L.C.
Description: Tariff filing per 284.123(b),(e)+(g): ECOP name change to be effective 8/2/2018.
Filed Date: 8/13/18.
Accession Number: 20180813-5159.
Comments Due: 5 p.m. ET 9/4/18.
284.123(g) Protests Due: 5 p.m. ET 10/12/18.

Docket Number: PR18-77-000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH Rates effective July 31 2018.
Filed Date: 8/14/18.
Accession Number: 20180814-5047.
Comments/Protests Due: 5 p.m. ET 9/4/18.

Docket Number: PR18-78-000.
Applicants: Enbridge Pipelines (North Texas) L.P.

Description: Tariff filing per 284.123(b),(e)+(g): EPOT name change to be effective 8/3/2018.

Filed Date: 8/15/18.
Accession Number: 20180815-5082.
Comments Due: 5 p.m. ET 9/5/18.
284.123(g) Protests Due: 5 p.m. ET 10/15/18.

Docket Number: PR18-79-000.
Applicants: Enbridge Pipelines (East Texas) L.P.

Description: Tariff filing per 284.123(b),(e)+(g): EPET name change to be effective 8/3/2018.

Filed Date: 8/15/18.
Accession Number: 20180815-5083.
Comments Due: 5 p.m. ET 9/5/18.
284.123(g) Protests Due: 5 p.m. ET 10/15/18.

Docket Numbers: RP18-1056-000.
Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 2018 Carlton Flow Obligations to be effective 11/1/2018.

Filed Date: 8/13/18.
Accession Number: 20180813-5077.
Comments Due: 5 p.m. ET 8/27/18.

Docket Numbers: RP18-1057-000.
Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 081518 Negotiated Rates—Spotlight Energy, LLC R-7725-03 to be effective 10/1/2018.

Filed Date: 8/15/18.
Accession Number: 20180815-5018.
Comments Due: 5 p.m. ET 8/27/18.

Docket Numbers: RP18-1058-000.
Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 081518 Negotiated Rates—Spotlight Energy, LLC R-7725-04 to be effective 10/1/2018.

Filed Date: 8/15/18.
Accession Number: 20180815-5019.
Comments Due: 5 p.m. ET 8/27/18.

Docket Numbers: RP18-1059-000.
Applicants: Old Dominion Electric Cooperative, Inc.

Description: Petition for Temporary Waivers of Capacity Release Regulations, et al. of Old Dominion Electric Cooperative.

Filed Date: 8/13/18.
Accession Number: 20180813-5215.
Comments Due: 5 p.m. ET 8/27/18.

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 date(s). 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: August 16, 2018.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2018-18098 Filed 8-21-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2322-067]

Brookfield White Pine Hydro LLC; Notice of Application Accepted for Filing, Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of proceeding:* Extension of license term.

b. *Project No:* P-2322-067.

c. *Date Filed:* August 1, 2018.

d. *Licensee:* Brookfield White Pine Hydro LLC.

e. *Name and location of project:* Shawmut Hydroelectric Project, located on the Kennebec River in Somerset County, Maine.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

g. *Applicant Contact:* Kelly Maloney, Northeast Compliance Manager, Brookfield White Pine Hydro LLC, 150 Main Street, Lewiston, ME 04240; (207) 775-5606.

h. *FERC Contact:* B. Peter Yarrington at (202) 502-6129, or peter.yarrington@ferc.gov.

i. *Deadline for filing comments, motions to intervene, and protests:* 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system

at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include the docket number P-2322-067.

j. *Description of Proceeding:* Brookfield White Pine Hydro LLC, licensee for the Shawmut Project, requests a 1-year extension of the term of the project license, from January 31, 2021, to January 31, 2022. The extension would give the licensee an additional year to file its Final License Application (FLA) for the project, which would then be due January 31, 2020. The licensee indicates that the extension would not affect any other submittal deadlines under the existing relicensing schedule.

The licensee requests an extension of the license term so that it can complete, cooperatively with state and federal resource agencies and other entities, a feasibility assessment of options to provide multi-dam fish passage on the Kennebec River. The options would include, but not be limited to, alternative designs included in the approved Interim Species Protection Plan (Interim SPP) for the Shawmut Project, Weston Project (P-2325), and Lockwood Project (P-2574), as well as the approved Interim SPP for the Hydro-Kennebec Project (P-2611). These two Interim SPPs were developed for the projects to help ensure the protection of, and passage for, Atlantic salmon that use the Kennebec River and that are listed as endangered under the Endangered Species Act. The licensee proposes to develop, in consultation with the resource agencies, a single basin-wide Final SPP and draft Biological Assessment for the four projects together, which would be filed ahead of the December 31, 2019 expiration of the Interim SPPs, and concurrently with the Shawmut Project FLA. The licensee included with its request correspondence from the National Marine Fisheries Service, U.S. Fish and Wildlife Service, Maine Department of Marine Resources, and Maine Department of Inland Fisheries and Wildlife supporting the request.

k. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>.

Enter the Docket number (P-2322-067) excluding the last three digits in the docket number field to access the notice. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1-866-208-3676, or email FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on, or before, the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filing must: (1) Bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the request to extend the license term. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in

accordance with 18 CFR 4.34(b) and 385.2010.

Dated: August 16, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018-18100 Filed 8-21-18; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1520-004; ER10-1521-004; ER10-1522-003.

Applicants: Occidental Power Marketing, L.P., Occidental Power Services, Inc., Occidental Chemical Corporation.

Description: Supplement to June 29, 2018 Updated Market Power Analysis for the Central Region of the Occidental MBRA Entities.

Filed Date: 8/15/18.

Accession Number: 20180815-5138.

Comments Due: 5 p.m. ET 9/5/18.

Docket Numbers: ER16-2632-005.
Applicants: Trans Bay Cable LLC.
Description: Report Filing: Refund Report Filing to be effective N/A.

Filed Date: 8/16/18.

Accession Number: 20180816-5093.

Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER17-2327-002.
Applicants: New York Independent System Operator, Inc.

Description: Compliance filing: Compliance Regulated Transmission Cost Recovery to be effective 10/18/2017.

Filed Date: 8/16/18.

Accession Number: 20180816-5066.

Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER18-1859-001.
Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2018-08-16 SA 2840 Entergy Arkansas-Stuttgart Solar LLC Sub 1st Rev GIA (J348) to be effective 6/18/2018.

Filed Date: 8/16/18.

Accession Number: 20180816-5102.

Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER18-1990-000.
Applicants: Stonepeak Kestrel Energy Marketing LLC.

Description: Supplement to July 10, 2018 Stonepeak Kestrel Energy Marketing LLC tariff filing.

Filed Date: 8/13/18.

Accession Number: 20180813-5228.

Comments Due: 5 p.m. ET 8/27/18.

Docket Numbers: ER18–2157–001.
Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.
Description: Tariff Amendment: MAIT submits an Amendment to the ECSA SA No. 4974 to be effective 10/5/2018.
Filed Date: 8/15/18.
Accession Number: 20180815–5086.
Comments Due: 5 p.m. ET 9/5/18.
Docket Numbers: ER18–2222–000.
Applicants: PJM Interconnection, L.L.C.
Description: Request of PJM Interconnection, L.L.C. for Grant of Tariff Waiver.
Filed Date: 8/13/18.
Accession Number: 20180813–5227.
Comments Due: 5 p.m. ET 8/23/18.
Docket Numbers: ER18–2223–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, SA No. 5149; Queue No. Z1–110/AD1–108 to be effective 7/16/2018.
Filed Date: 8/15/18.
Accession Number: 20180815–5114.
Comments Due: 5 p.m. ET 9/5/18.
Docket Numbers: ER18–2224–000.
Applicants: Pegasus Wind, LLC.
Description: Baseline eTariff Filing: Pegasus Wind, LLC Application for Market-Based Rates to be effective 10/1/2018.
Filed Date: 8/15/18.
Accession Number: 20180815–5115.
Comments Due: 5 p.m. ET 9/5/18.
Docket Numbers: ER18–2225–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–08–16 Termination of SA 3019 OTP–MPC FCA (T16–03) to be effective 8/17/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5035.
Comments Due: 5 p.m. ET 9/6/18.
Docket Numbers: ER18–2226–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–08–16 Termination of SA 3029 Minnkota-OTP FCA (L16–02) to be effective 8/17/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5042.
Comments Due: 5 p.m. ET 9/6/18.
Docket Numbers: ER18–2227–000.
Applicants: Eagle’s View Partners, Ltd.
Description: Tariff Cancellation: Eagles View Partners, Ltd Cancellation of MBR to be effective 8/17/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5065.
Comments Due: 5 p.m. ET 9/6/18.

Docket Numbers: ER18–2228–000.
Applicants: Ohio Edison Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Ohio Edison Company submits IAs, SA Nos. 5032, 5033 and 5111 to be effective 10/16/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5086.
Comments Due: 5 p.m. ET 9/6/18.
Docket Numbers: ER18–2229–000.
Applicants: North American Energy Markets Association.
Description: Notice of cancellation, et al. of Energy and Capacity Tariff of North American Energy Markets Association.
Filed Date: 8/15/18.
Accession Number: 20180815–5144.
Comments Due: 5 p.m. ET 9/5/18.
Docket Numbers: ER18–2230–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, SA No. 5153; Queue No. AD1–157 to be effective 7/23/2018.
Filed Date: 8/16/18.
Accession Number: 20180816–5107.
Comments Due: 5 p.m. ET 9/6/18.

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: August 16, 2018.

Nathaniel J. Davis, Sr.,
 Deputy Secretary.

[FR Doc. 2018–18097 Filed 8–21–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10552–016]

Contractor’s Power Group, Inc.; American Falls Reservoir District No. 2; Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

On July 13, 2018, Contractor’s Power Group, Inc. (transferor) and American Falls Reservoir District No. 2 (transferee) filed an application for the transfer of license of the Mile 28 Hydroelectric Project No. 10552. The project is located on the Bureau of Reclamation’s Milner-Gooding Canal, in Jerome County, Idaho.

The applicants seek Commission approval to transfer the license for the Mile 28 Hydroelectric Project from the transferor to the transferee.

Applicants Contact: For transferor: Mr. Breck Glassinger, Contractor’s Power Group, Inc., 124 Bridon Way, Jerome, ID 83338, Phone: 208–324–5563.

For transferee: Mr. Ellis Gooch, President, American Falls Reservoir District No. 2, 409 North Apple Street, Shoshone, ID 83352, Phone: 208–886–2331 and Mr. Ted S. Sorenson, 1032 Grandview Drive, Ivins, UT 84738.

FERC Contact: Patricia W. Gillis, (202) 502–8735, patricia.gillis@ferc.gov.

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–10552–016.

Dated: August 16, 2018.

Nathaniel J. Davis, Sr.,
 Deputy Secretary.

[FR Doc. 2018–18101 Filed 8–21–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2014-0128; FRL-9981-88-OAR]

Release of Risk and Exposure Assessment Plan for the Secondary National Ambient Air Quality Standard for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is conducting a periodic review of the air quality criteria and the secondary National Ambient Air Quality Standards (NAAQS) for oxides of nitrogen, oxides of sulfur, and particulate matter (PM). On or about August 6, 2018, the EPA will make available for public review the document titled *Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter: Risk and Exposure Assessment Planning Document* (REA Planning Document). This plan presents considerations and the proposed approach for conducting quantitative analyses of oxides of nitrogen, oxides of sulfur, and PM exposures and welfare risks in this NAAQS review. This planning document is intended to facilitate consultation with the Clean Air Scientific Advisory Committee (CASAC) and public comment on plans for such quantitative analyses.

DATES: Comments should be received on or before October 22, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2014-0128, to the Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, Cloud, or other file sharing system). For additional submission methods, the full

EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>. The REA Planning Document will be available primarily via the internet at: <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-standards-planning-documents-current>.

FOR FURTHER INFORMATION CONTACT: Ginger Tennant, Office of Air Quality Planning and Standards (Mail Code C504-06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919-541-4072; fax number: 919-541-0237; or email address: tennant.ginger@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. What should I consider as I prepare my comments for the EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through <https://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media 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. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2014-0128.

2. *Tips for Preparing your Comments.* When submitting comments, remember to:

- Identify the notice by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions. The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

- Explain why you agree or disagree; suggest alternative and substitute language for your requested changes.

- Describe any assumption and provide any technical information and/or data that you used.

- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

- Provide specific examples to illustrate your concerns and suggest alternatives.

- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

- Make sure to submit your comments by the comment period deadline identified.

II. Information About the Document

Two sections of the Clean Air Act (CAA) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his “judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;” “the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;” and “for which . . . [the Administrator] plans to issue air quality criteria. . . .” Air quality criteria are intended to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .” 42 U.S.C. 7408(b). Under section 109 (42 U.S.C. 7409), the EPA establishes primary (health-based) and secondary (welfare-based) NAAQS for pollutants for which air quality criteria are issued. Section 109(d) requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and, if appropriate, revise the NAAQS based on the revised criteria. Section 109(d)(2) requires that an independent scientific review committee “shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of existing criteria and standards as may be appropriate. . . .” Since the early

1980's, this independent review function has been performed by CASAC.

Presently, the EPA is reviewing the secondary NAAQS for oxides of nitrogen, oxides of sulfur, and PM.¹ PM was added to this review after the draft Integrated Review Plan (80 FR 69220, November 9, 2015) was released to the public and reviewed by CASAC in recognition of linkages between these pollutants (oxides of nitrogen, oxides of sulfur, and PM) with respect to deposition and atmospheric chemistry, as well as from an environmental effects perspective. Additional welfare effects associated with PM, such as visibility, climate and materials effects, and the health effects of PM (including particulate transformation products of oxides of nitrogen and oxides of sulfur) are considered as part of the review of the NAAQS for PM (81 FR 87933, December 6, 2016). The health effects of oxides of nitrogen were considered in a separate assessment that was completed recently as part of the review of the primary (health-based) NAAQS for oxides of nitrogen (83 FR 17226, April 18, 2018). Similarly, the health effects of oxides of sulfur are currently being considered in a separate assessment as part of the review of the primary NAAQS for oxides of sulfur (83 FR 26752, June 8, 2018).

The EPA's overall plan for this review is presented in the *Integrated Review Plan for the Secondary NAAQS for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter*.² The REA Planning Document considers the degree to which important uncertainties identified in quantitative analyses from previous reviews have been addressed by newly available scientific evidence, tools, or information, including those in the second external review draft of the *Integrated Science Assessment for Oxides of Nitrogen, Oxides of Sulfur and Particulate Matter-Ecological Criteria* (83 FR 29786, June 26, 2018). Based on these considerations, the document reaches preliminary conclusions on the extent to which updated quantitative analyses of exposures or public welfare risks are warranted in the current review. For updated analyses that are supported, this planning document presents anticipated approaches to conducting such analyses. This document will be available on or about August 6, 2018, on

the EPA's Technology Transfer Network website at <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-standards-planning-documents-current>.

The REA Planning Document will be discussed at a public meeting for review by CASAC and the public. A separate **Federal Register** notice provides details about this meeting and the process for participation (83 FR 31755, July 9, 2018). The EPA will also consider public comments on the REA Planning Document that are submitted to the docket, as described above.

Dated: August 2, 2018.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2018-17041 Filed 8-21-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9982-69-OW]

Clean Water Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intended transfer of confidential business information to contractor and its subcontractors and consultants.

SUMMARY: The Environmental Protection Agency (EPA) intends to transfer confidential business information (CBI), collected from numerous industries, to ICF International (ICF) and its subcontractors and consultants, under an EPA contract newly awarded to ICF. Transfer of this information is necessary for ICF to assist the Office of Water in the preparation of economic analyses and environmental assessment activities conducted in support of Clean Water Act regulations and programs, such as effluent guidelines and associated planning and review activities, and water quality standards. Much of the information being transferred was or will be collected under the authority of section 308 of the Clean Water Act (CWA) to support effluent guidelines development in particular. Interested persons may submit comments on this intended transfer of information to the address noted below.

DATES: Comments on the transfer of data are due August 27, 2018.

ADDRESSES: Comments may be sent to M. Ahmar Siddiqui, Document Control Officer, Engineering and Analysis Division (4303T), U.S. EPA, 1200

Pennsylvania Ave. NW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: M. Ahmar Siddiqui, Document Control Officer, at (202) 566-1044, or via email at siddiqui.ahmar@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has transferred CBI to its contractors and subcontractors as part of the effluent guidelines program under 40 CFR 2.302(h). EPA determined that this transfer was necessary to enable the contractors, subcontractors, and consultants to perform their work in supporting EPA in planning, developing, and reviewing effluent guidelines and standards for certain industries.

Pursuant to 40 CFR 2.302(h)(2), EPA is giving notice that it has entered into a new contract with ICF, contract number 68HE0C18D0001, located in Fairfax, Virginia. The purpose of this contract is to secure economic and environmental assessment support for EPA in its development, review, implementation, and defense of water-related initiatives for a variety of industries or states. To obtain assistance in responding to this contract, ICF has entered into contracts with the following subcontractors and consultants: The Cadmus Group, LLC (located in Waltham, Massachusetts), CognistX (located in Pittsburgh, Pennsylvania), Great Lakes Environmental Center, Inc. (located in Traverse City, Michigan), Horizon Systems Corporation (located in White Stone, Virginia), Innovate! Inc. (located in Alexandria, Virginia), LimnoTech Inc. (located in Ann Arbor, Michigan), Resources for the Future (located in Washington, DC), RTI International (located in Research Triangle Park, North Carolina), Wayne Gray (located in Worcester, Massachusetts), Robert Johnston (located in Millville, Massachusetts), Klaus Moeltner (located in Blacksburg, Virginia), Kerry Smith (located in Cave Creek, Arizona), and Raghavan Srinivasan (located in College Station, Texas).

All EPA contractor, subcontractor, and consultant personnel are bound by the requirements and sanctions contained in their contracts with EPA and in EPA's CBI regulations found at 40 CFR part 2, subpart B. ICF will adhere to an EPA-approved security plan which describes procedures to protect CBI. ICF will apply the procedures in this plan to CBI previously gathered by EPA and to CBI that may be gathered in the future. The security plan specifies that contractor personnel are required to sign non-disclosure agreements and are briefed

¹ The EPA's call for information for the NO_x/SO_x secondary review was issued on August 29, 2013 (78 FR 53452), and the call for information on the PM review (both secondary and primary) was issued on December 3, 2014 (79 FR 71764).

² Available at <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-standards-planning-documents-current>.

on appropriate security procedures before they are permitted access to CBI. No person is automatically granted access to CBI: A need to know must exist.

The information that will be transferred to ICF consists of information previously collected by EPA to support the development and review of effluent limitations guidelines and standards under the CWA. In particular, information, including CBI, collected for the planning, development, and review of effluent limitations guidelines and standards for the following industries may be transferred to ICF under the new contract: Airport deicing; aquaculture; centralized waste treatment; coal bed methane; concentrated animal feeding operations; coal mining; construction and development; drinking water treatment; industrial container and drum cleaning; industrial laundries; industrial waste combustors; iron and steel manufacturing; landfills; meat and poultry products; metal finishing; metal products and machinery; nonferrous metals manufacturing; oil and gas extraction (including coalbed methane); ore mining and dressing; organic chemicals, plastics, and synthetic fibers; pesticide chemicals; petroleum refining; pharmaceutical manufacturing; pulp, paper, and paperboard manufacturing; shale gas extraction; steam electric power generation; textile mills; timber products processing; tobacco; transportation equipment cleaning; and other industrial categories that EPA has reviewed as part of its CWA required annual review activities.

EPA also intends to transfer to ICF all information listed in this notice, of the type described above (including CBI) that may be collected in the future under the authority of section 308 of the CWA or voluntarily submitted (e.g., in comments in response to a **Federal Register** notice), as is necessary to enable ICF to carry out the work required by its contract to support EPA's effluent guidelines planning and review process and the development of effluent limitations guidelines and standards.

Dated: August 10, 2018.

Deborah G. Nagle,

Acting Director, Office of Science and Technology, Office of Water.

[FR Doc. 2018-18116 Filed 8-21-18; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements

under the Shipping Act of 1984. Interested parties may submit comments on the 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.: 201259-001.

Agreement Name: Ocean Network Express Pte. Ltd. (ONE)/Kyowa Shipping Co., Ltd. Slot Charter Agreement.

Parties: Kyowa Shipping Co., Ltd. and Ocean Network Express Pte. Ltd.

Filing Party: Carrol Hand; Ocean Network Express.

Synopsis: The amendment removes the Agreement's expiration date.

Proposed Effective Date: 9/29/2018.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/13190>.

Agreement No.: 201260-001.

Agreement Name: Ocean Network Express Pte. Ltd. (ONE)/NYK Bulk & Projects Carriers Ltd. Slot Charter Agreement.

Parties: NYK Bulk & Project Carriers Ltd. and Ocean Network Express Pte. Ltd.

Filing Party: Carrol Hand; Ocean Network Express.

Synopsis: The amendment removes the Agreement's expiration date.

Proposed Effective Date: 9/29/2018.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/13191>.

Agreement No.: 201265.

Agreement Name: Crowley/Seaboard Costa Rica & Panama Space Charter Agreement.

Parties: Crowley Latin America Services, LLC and Seaboard Marine Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The agreement authorizes Crowley to charter space to Seaboard in the trade between Port Everglades, FL on the one hand and Costa Rica and Panama on the other hand. The parties request expedited review.

Proposed Effective Date: 9/24/2018.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/15263>.

Agreement No.: 201266.

Agreement Name: King Ocean/Seaboard Costa Rica & Panama Space Charter Agreement.

Parties: King Ocean Services Limited, Inc. and Seaboard Marine Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The agreement authorizes King Ocean to charter space to Seaboard in the trade between Port Everglades, FL on the one hand and Costa Rica and Panama on the other hand. The parties request expedited review.

Proposed Effective Date: 9/24/2018.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/15264>.

Dated: August 17, 2018.

Rachel Dickon,

Secretary.

[FR Doc. 2018-18108 Filed 8-21-18; 8:45 am]

BILLING CODE 6731-AA-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0262; Docket No. 2018-0001; Sequence No. 9]

Submission for OMB Review; General Services Administration Acquisition Regulation; Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding identification of products with environmental attributes.

DATES: Submit comments on or before: September 21, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "Information Collection 3090-0262, Identification of Products with Environmental Attributes", under the heading "Enter Keyword or ID" and selecting "Search". Select the link "Submit a Comment" that corresponds with "Information Collection 3090-0262, Identification of Products with

Environmental Attributes". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0262, Identification of Products with Environmental Attributes" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090-0262, Identification of Products with Environmental Attributes.

Instructions: Please submit comments only and cite Information Collection 3090-0262, Identification of Products with Environmental Attributes, in all correspondence related to this collection. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Program Analyst, General Services Acquisition Policy Division, GSA, at telephone 202-357-5805 or via email to kevin.funk@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) requires contractors holding Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes in accordance with GSAR clause 552.238-72. The identification of these products will enable Federal agencies to maximize the use of these products and meet the responsibilities expressed in statutes and executive order.

B. Annual Reporting Burden

Respondents: 795.
Responses per Respondent: 1.
Annual Responses: 795.
Hours per Response: 1.
Total Burden Hours: 795.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected. A 60-day notice was published in the **Federal Register** at 83 FR 22065 on May 11, 2018. No comments were received.

Obtaining Copies of Proposals: Requesters may obtain a copy of the

information collection documents from the Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0262, Identification of Products with Environmental Attributes, in all correspondence.

Dated: August 17, 2018.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018-18122 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-61-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0248; Docket No. 2018-0001; Sequence No. 5]

Submission for OMB Review; General Services Administration Acquisition Regulation; Solicitation Provisions and Contract Clauses; Placement of Orders Clause; and Ordering Information Clause

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding solicitation provisions and contract clauses, placement of orders clause, and ordering information clause.

DATES: Submit comments on or before: September 21, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Leah Price, Procurement Analyst, General Services Acquisition Policy Division, GSA, by phone at 202-714-9482 or by email at leah.price@gsa.gov.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for Information Collection 3090-0248. Select the link "Comment

Now" that corresponds with "Information Collection 3090-0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause". Follow the instructions on the screen. Please include your name, company name (if any), and "Information Collection 3090-0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090-0248, Solicitation Provisions and Contract Clauses; Placement of Orders Clause; and Ordering Information Clause.

Instructions: Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA has various mission responsibilities related to the acquisition and provision of the Federal Acquisition Service's (FAS's) Stock, Special Order, and Federal Supply Schedule (FSS) Programs. These mission responsibilities generate requirements that are realized through the solicitation and award of various types of FAS contracts. Individual solicitations and resulting contracts may impose unique information collection and reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

As such, the General Services Administration Acquisition Regulation (GSAR) 516.506, Solicitation provision and clauses, specifically directs contracting officers to insert 552.216-72, Placement of Orders, and 552.216-73, Ordering Information, when the contract authorizes FAS and other activities to issue delivery or task orders. These clauses include information reporting requirements for Offerors to receive electronic orders through computer-to-computer Electronic Data Interchange (EDI).

B. Annual Reporting Burden

Respondents: 18,590.

Responses per Respondent: 1.
Annual Responses: 18,590.
Hours per Response: .25.
Total Burden Hours: 4,648.

C. Public Comments

A notice was published in the **Federal Register** at 83 FR 24310 on May 25, 2018. No comments were received. Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0248, Solicitation Provisions and Contract Clauses, Placement of Orders Clause, and Ordering Information Clause, in all correspondence.

Dated: August 17, 2018.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018-18121 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-61-P

GENERAL SERVICES ADMINISTRATION

[Notice-MA-2018-07; Docket No. 2018-0002; Sequence No.16]

Maximum Per Diem Reimbursement Rates for the Continental United States (CONUS)

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of GSA Per Diem Bulletin FTR 19-01, Fiscal Year (FY) 2019 Continental United States (CONUS) per diem reimbursement rates.

SUMMARY: The General Services Administration's (GSA) Fiscal Year (FY) 2019 per diem reimbursement rates review has resulted in lodging and meal allowance changes for certain locations within CONUS to provide for reimbursement of Federal employees' subsistence expenses while on official travel.

DATES: *Applicability Date:* This notice applies to travel performed on or after

October 1, 2018, through September 30, 2019.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Jill Denning, Program Analyst, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202-208-7642, or by email at travelpolicy@gsa.gov. Please cite Notice of GSA Per Diem Bulletin FTR 19-01.

SUPPLEMENTARY INFORMATION:

Background: The CONUS per diem reimbursement rates prescribed in Bulletin 19-01 may be found at www.gsa.gov/perdiem. GSA bases the maximum lodging allowance rates on the average daily rate that the lodging industry reports to an independent organization. If a maximum lodging allowance rate and/or a meals and incidental expenses (M&IE) per diem reimbursement rate is insufficient to meet necessary expenses in any given location, Federal executive agencies can request that GSA review that location. Please review questions six and seven of GSA's per diem Frequently Asked Questions page at www.gsa.gov/perdiem for more information on the special review process. In addition, the Federal Travel Regulation (FTR) allows for actual expense reimbursement as provided in §§ 301-11.300 through 301-11.306.

For FY 2019, one new non-standard area (NSA) location was added for Cobb County, Georgia. Hancock and Knox Counties in Maine were combined into one NSA. The standard CONUS lodging allowance rate will increase from \$93 to \$94. The M&IE reimbursement rate tiers were revised for FY 2019; they were last revised in FY2016. The revised standard CONUS M&IE rate is now \$55, and the M&IE NSA tiers are revised from \$54-\$74 to \$56-\$76.

GSA issues and publishes the CONUS per diem rates, formerly published in Appendix A to 41 CFR Chapter 301, solely on the internet at www.gsa.gov/perdiem. GSA also has removed and now solely publishes the M&IE deduction table from Appendix B to 41 CFR Chapter 301, which is used when employees are required to deduct meals from their M&IE reimbursement pursuant to FTR § 301-11.18, at www.gsa.gov/mie. This process, implemented in 2003, for per diem reimbursement rates and in 2015 (internet publication) and 2018 (removal from the FTR) for the M&IE deduction table, ensures more timely changes in per diem reimbursement rates established by GSA for Federal employees on official travel within CONUS.

Notices published periodically in the **Federal Register** now constitute the only notification of revisions in CONUS per diem reimbursement rates to agencies other than the changes posted on the GSA website.

Dated: August 14, 2018.

Jessica Salmoiraghi,

Associate Administrator, Office of Government-wide Policy.

[FR Doc. 2018-18040 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-14-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0027; Docket No. 2018-0001; Sequence No. 2]

Submission for OMB Review; General Services Administration Acquisition Regulation; Contract Administration, Quality Assurance (GSA Forms 1678 and 308)

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contract administration and quality assurance.

DATES: Submit comments on or before: September 21, 2018.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Program Analyst, General Services Acquisition Policy Division, at 202-357-5805 or via email to kevin.funk@gsa.gov.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching the OMB Control number 3090-0027. Select the link "Comment Now" that corresponds with "Information Collection 3090-0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308)". Follow the instructions on the screen.

Please include your name, company name (if any), and “Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308)”, on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20406. ATTN: Ms. Mandell/IC 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308).

Instructions: Please submit comments only and cite Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308), in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov*, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov*, approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

Under certain contracts, because of reliance on contractor inspection in lieu of Government inspection, GSA’s Federal Acquisition Service requires documentation from its contractors to effectively monitor contractor performance and ensure that it will be able to take timely action should that performance be deficient.

B. Annual Reporting Burden

Response Time (Hours)—GSA Form 1678: 1,875.

Response Time (Hours)—GSA Form 308: 200.

Total Burden Hours: 2,075.

C. Public Comments

A 60-day notice published in the **Federal Register** at 83 FR 22064 on May 11, 2018. No comments were received. Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals:

Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC

20406, telephone 202–501–4755. Please cite OMB Control No. 3090–0027, Contract Administration, Quality Assurance (GSA Forms 1678 and 308), in all correspondence.

Dated: August 17, 2018.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018–18120 Filed 8–21–18; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–1102; Docket No. CDC–2018–0049]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Information Collection for Tuberculosis Data from Panel Physicians, which collects TB data gathered during overseas immigration medical exams.

DATES: CDC must receive written comments on or before October 22, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0049 by any of the following methods:

- *Federal eRulemaking Portal:* *Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.
5. Assess information collection costs.

Proposed Project

Information Collection for Tuberculosis Data from Panel Physicians—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention’s (CDC), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Global Migration and Quarantine (DGMQ), Immigrant, Refugee, and Migrant Health Branch (IRMH), requests approval for a revision of an existing information collection. This project pertains to collecting annual reports on certain tuberculosis data from U.S. panel physicians.

The respondents are panel physicians. More than 760 panel physicians from 336 panel sites perform overseas pre-departure medical examinations in accordance with requirements, referred to as technical instructions, provided by DGMQs Quality Assessment Program (QAP). The role of QAP is to assist and guide panel physicians in the implementation of the Technical Instructions; evaluate the quality of the overseas medical examination for U.S.-bound immigrants and refugees; assess potential panel physician sites; and provide recommendations to the U.S. Department of State in matters of immigrant medical screening.

To achieve DGMQ’s mission, the Immigrant, Refugee and Migrant Health

branch (IRMH) works with domestic and international programs to improve the health of U.S.-bound immigrants and refugees to protect the U.S. public by preventing the importation of infectious disease. These goals are accomplished through IRMH’s oversight of medical exams required for all U.S.-bound immigrants and refugees who seek permanent residence in the U.S. IRMH is responsible for assisting and training the international panel physicians with the implementation of medical exam Technical Instructions (TI). Technical Instructions are detailed requirements and national policies regarding the medical screening and treatment of all U.S.-bound immigrants and refugees.

Screening for tuberculosis (TB) is a particularly important component of the immigration medical exam and allows panel physicians to diagnose active TB disease prior to arrival in the United States. As part of the Technical Instructions requirements, panel physicians perform chest x-rays and laboratory tests that aid in the identification of tuberculosis infection (Class B1 applicants) and diagnosis of active tuberculosis disease (Class A, inadmissible applicants). CDC uses

these classifications to report new immigrant and refugee arrivals with a higher risk of developing TB disease to U.S. state and local health departments for further follow-up. Some information that panel physicians collect as part of the medical exam is not reported on the standard Department of State forms (DS-forms), thereby preventing CDC from evaluating TB trends in globally mobile populations and monitoring program effectiveness.

Currently, CDC is requesting this data be sent by panel physicians once per year. The consequences of reducing this frequency would be the loss of monitoring program impact and TB burdens in mobile populations and immigrants and refugees coming to the United States on an annual basis. The total hours requested is 1,008. There is no cost to the respondents other than their time.

Estimated annual burden is being reduced by 1,640 hours per year. The number of respondents is being reduced by 17. Reductions are due to revised estimates on burden time per response, and the removal of four variables from the data collection form and improved IT capacity at most panel sites.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|--------------------------------------|--------------------------------------|-----------------------|------------------------------------|--|-------------------------|
| International panel physicians | TB Indicators Excel Spreadsheet | 336 | 1 | 3 | 1,008 |
| Total | | | | | 1,008 |

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–18054 Filed 8–21–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0338; Docket No. CDC–2018–0076]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Notice with comment period

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed work and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a continuing information collection project titled Annual Submission of the Ingredients Added to, and the Quantity of Nicotine Contained in, Smokeless Tobacco Manufactured, Imported, or Packaged in the U.S.

DATES: CDC must receive written comments on or before October 22, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0076 by any of the following methods:

- **Federal eRulemaking Portal:** *Regulations.gov.* Follow the instructions for submitting comments.

- **Mail:** Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and

instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: omb@cdc.gov.

SUPPLEMENTARY INFORMATION:

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

5. Assess information collection costs.

Proposed Project

Annual Submission of the Ingredients Added to, and the Quantity of Nicotine Contained in, Smokeless Tobacco Manufactured, Imported, or Packaged in the U. S.—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Smokeless tobacco products (SLT) are associated with many health problems. Using smokeless tobacco: Can lead to nicotine addiction; causes cancer of the mouth, esophagus, and pancreas; is associated with diseases of the mouth; can increase risks for early delivery and stillbirth when used during pregnancy; can cause nicotine poisoning in children; and, may increase the risk for death from heart disease and stroke.

The CDC's Office on Smoking and Health (OSH) has the primary responsibility for the HHS smoking and health program. As required by the Comprehensive Smokeless Tobacco Health Education Act of 1986 (CSTHEA, 15 U.S.C. 4401 *et seq.*, Pub. L. 99-252), CDC collects a list of ingredients added to tobacco in the manufacture of smokeless tobacco products and a specification of the quantity of nicotine contained in each product. HHS has delegated responsibility for implementing the required information collection to CDC's OSH. Respondents are manufacturers, packagers, or importers (or their representatives) of smokeless tobacco products. Respondents are not required to submit specific forms; however, they are required to meet reporting guidelines and to submit the ingredient report by chemical name and Chemical Abstract

Service (CAS) Registration Number, consistent with accepted reporting practices for other companies that are required to report ingredients added to other consumer products. Typically, respondents submit a summary report to CDC with the ingredient information for multiple products, or a statement that there are no changes to their previously submitted ingredient report. Respondents may submit the required information to CDC through a designated representative. The information collection is subject to strict confidentiality provisions.

Ingredient reports for new SLT products are due at the time of first importation. Thereafter, ingredient reports are due annually on March 31. Information is submitted to CDC by mailing a written report on the respondent's letterhead, by CD, three-inch floppy disk, or thumb drive. Electronic mail submissions are not accepted. Annual submission reports are mailed to Attention: FCLAA Program Manager, Office on Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS S107-7, Atlanta, GA 30341-3717.

Upon receipt and verification of the annual nicotine and ingredient report, CDC issues a Certificate of Compliance to the respondent. As deemed appropriate by the Secretary of HHS, HHS is authorized to use the information to report to Congress the health effects of ingredients, research activities related to the health effects of ingredients, and other information that the Secretary determines to be of public interest. The estimated annual Burden Hours are 18,843. There are no costs to respondents other than their time. OMB approval is requested for three years.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|--|---|-----------------------|------------------------------------|--|-------------------------|
| Smokeless Tobacco Manufacturers, Packagers, and Importers. | SLT Nicotine and Ingredient and Report. | 11 | 1 | 1,713 | 18,843 |

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018-18053 Filed 8-21-18; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Administration for Native Americans; Notice of Meeting

AGENCY: Administration for Children and Families, Department of Health and Human Services.

ACTION: Notice of Tribal Consultation.

SUMMARY: The Department of Health and Human Services, Administration for Children and Families (ACF) will host a Tribal Consultation to consult on ACF programs and tribal priorities.

DATES: September 13, 2018.

ADDRESSES: Capital Skyline Hotel, 10 "I" (eye) Street SW, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Jeannie Hovland, Commissioner, Administration for Native Americans and Deputy Assistant Secretary for Native American Affairs at 202-401-5156, by email at anacommissioner@acf.hhs.gov or by mail at 330 C Street SW, MS-4126, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: In accordance with the ACF Tribal Consultation Policy, ACF announces tribal consultation with tribal leaders operating ACF programs.

The consultation will be conducted with elected or appointed leaders of tribal governments and their designated representatives. Designees must have a letter from the tribal government authorizing them to represent the tribe. Tribal governments must submit the designee letter at least 3 days in advance of the consultation session to the Administration for Native Americans at anacommissioner@acf.hhs.gov. Other representatives of tribal organizations and Native non-profit organizations are welcome to attend as observers. A report of the consultation session will be prepared and made available at the following website address within 45 days after the closing of the consultation session. Tribes wishing to submit written testimony should send it to anacommissioner@acf.hhs.gov either prior to the consultation session or within 30 days after the meeting. ACF

will summarize oral testimony and comments from the consultation session along with topics of concern and recommendations.

ACF has identified the following topics for consultation:

Family First Services Act

Title IV-E Planning Grants—What barriers are preventing Tribes from applying for the grant

Office of Head Start annual consultation TANF and Welfare reform

The ACF Tribal Consultation Session will begin at 9:00 a.m. on September 13 and continue throughout the day until all discussions have been completed. To help both you and the ACF Principals prepare for this consultation, planning teleconference calls will be held:

Wednesday, August 22, 2018 @4:00 p.m.–4:30 p.m. (EST)

Thursday, August 23, 2018 @4:00 p.m.–4:30 p.m. (EST)

Tuesday, August 28, 2018 @4:00 p.m.–4:30 p.m. (EST)

The call-in number and passcode are: 866-769-9393 passcode: 4449449#.

The purpose of the planning calls will be to identify individuals who will provide oral testimony to ACF, solicit for tribal moderators and identify specific topics of interest so we can ensure that all appropriate individuals are present.

For any tribe unable to attend in person, ACF will provide a webinar link. Please contact our 1-877-922-9ANA (1-877-922-9262) for the webinar information.

We have set up a registration for all participants whether attending in person or by webinar. The registration address is: www.regonline.com/2018acftribalconsultation. If you plan on providing testimony, please include the name of the office(s) you wish to address.

Jeannie Hovland,

Deputy Assistant Secretary for Native American Affairs.

[FR Doc. 2018-18113 Filed 8-21-18; 8:45 am]

BILLING CODE 4184-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of Intent To Issue one OPDIV-Initiated Supplement to BCFS Health and Human Services Under the Standing Announcement for Residential (Shelter) Services for Unaccompanied Children, HHS-2017-ACF-ORR-ZU-1132

AGENCY: Unaccompanied Alien Children's (UAC) Program, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S Department of Health and Human Services (HHS).

ACTION: Notice of intent to issue one OPDIV-Initiated Supplement to BCFS Health and Human Services, San Antonio, TX under the UAC Program.

SUMMARY: ACF, ORR, announces the intent to issue one OPDIV-Initiated Supplement to BCFS Health and Human Services, San Antonio, TX in the amount of \$28,003,926. ORR has been identifying additional capacity to provide shelter for potential increases in apprehensions of Unaccompanied Children at the U.S. Southern Border. Planning for increased shelter capacity is a prudent step to ensure that ORR is able to meet its responsibility, by law, to provide shelter for Unaccompanied Alien Children referred to its care by the Department of Homeland Security (DHS). To ensure sufficient capacity to provide shelter to unaccompanied children referred to HHS, BCFS proposed to provide ORR with 850 beds in an expedited manner.

DATES: Supplemental award funds will support activities through September 13, 2018.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement, 330 C Street SW, Washington, DC 20447. Phone: 202-401-4997. Email: DCSProgram@acf.hhs.gov.

SUPPLEMENTARY INFORMATION: ORR is continuously monitoring its capacity to shelter the unaccompanied children referred to HHS, as well as the information received from interagency partners, to inform any future decisions or actions.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing program and its services through this

supplemental award is a key strategy for ORR to be prepared to meet its responsibility to provide shelter for Unaccompanied Children referred to its care by DHS and so that the U.S. Border Patrol can continue its vital national security mission to prevent illegal migration, trafficking, and protect the borders of the United States.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C. D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Elizabeth Leo,

Grants Policy Specialist, Division of Grants Policy, Office of Administration.

[FR Doc. 2018–18152 Filed 8–21–18; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2608]

Standardized Data for Pharmaceutical Quality/Chemistry Manufacturing and Control; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the following public meeting entitled “Standardized Data for Pharmaceutical Quality/Chemistry Manufacturing and Control (PQ/CMC).” This public meeting is intended to provide members of the pharmaceutical industry and other interested stakeholders an opportunity to discuss with FDA, and provide input on, topics and issues related to standardized data for electronic submission of PQ/CMC data, as detailed in the 2017 **Federal**

Register notice (FRN), “Draft Standardization of Pharmaceutical Quality/Chemistry Manufacturing and Control Data Elements and Terminologies.” FDA will use the information from the public meeting to improve the usability of the proposed data standards.

DATES: The public meeting will be held on October 19, 2018, from 9 a.m. to 4 p.m. Submit either electronic or written comments on this public meeting by November 16, 2018.

ADDRESSES: The public meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503, Section A), Silver Spring, MD 20993–0002. Entrance for the public meeting 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>.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before November 16, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of November 16, 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. Docket comments previously submitted to the FRN (Docket No. FDA–2017–N–2166, <https://www.federalregister.gov/a/2017-14456>) noted in the **SUMMARY** section, should not be resubmitted, as these are already under consideration.

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–2608 for “Standardized Data for Pharmaceutical Quality/Chemistry Manufacturing and Control; Public Meeting.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as

“confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Bryan Spells, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1117, Silver Spring, MD 20993–0002, Bryan.Spells@fda.hhs.gov, 240–402–6511; Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911; Norman Gregory, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl. (HFV–143), Rockville, MD 20855, Norman.Gregory@fda.hhs.gov, 240–402–0684; or Michael Kerrigan, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl. (HFV–143), Rockville, MD 20855, 240–402–0644, Michael.Kerrigan@fda.hhs.gov. Alternatively, send questions to the PQ–CMC mailbox: PQ-CMC@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

PQ/CMC is a term used to describe manufacturing and quality control information submitted to FDA in support of submissions. PQ/CMC plays an integral part in the regulatory review process and life cycle management of pharmaceutical products. This information is primarily submitted in Module 3 of the Electronic Common Technical Document. The standardization of PQ/CMC data elements and terminologies will facilitate the Agency’s transition to a streamlined electronic review environment.

FDA intends to identify and standardize data elements and terminologies for information commonly used and submitted in support of drug product applications.

The impetus for this standardization effort was the provisions from the Food and Drug Administration Safety and Innovation Act (21 U.S.C. 301 note) (Pub. L. 112–144), which authorized the Agency to require certain submissions to be submitted in a specified electronic format. The development of a structured format for PQ/CMC data will enable consistency in the content and format of PQ/CMC data submitted, thus providing a consistent look and feel for every application, and, in general, contributing to a more efficient and effective regulatory decision-making process by creating standardized data dictionaries.

As part of this effort, in 2017, FDA released a FRN presenting a “Draft Standardization of Pharmaceutical Quality/Chemistry Manufacturing and Control Data Elements and Terminologies” for public comment (<https://www.federalregister.gov/a/2017-14456>). FDA has subsequently utilized the comments received to revise and improve the data elements, terminologies, and definitions for PQ/CMC standardization. FDA intends to continue public engagement regarding PQ/CMC data standards development by holding the public meeting announced in this notice. After the public meeting, the Agency intends to issue a draft guidance on the standardization of PQ/CMC data elements and terminologies for electronic submissions.

II. Purpose of the Public Meeting

The purpose of the October 19, 2018, public meeting is to provide members of the pharmaceutical industry and other interested stakeholders an opportunity to discuss with FDA, and provide input on, topics and issues related to standardized data for electronic submission of PQ/CMC data, as detailed in the FRN, “Draft Standardization of Pharmaceutical Quality/Chemistry Manufacturing and Control Data Elements and Terminologies,” released in 2017 for public comment (<https://www.federalregister.gov/a/2017-14456>). FDA will use the information from the public meeting to improve the usability of the proposed data standards. The public meeting will focus on the current state of PQ/CMC standardization and its future development, to which the output and comments from this meeting will contribute. Topics of discussion may include:

- Ongoing development of PQ/CMC data elements and terminologies, including revisions informed by public response to the “Draft Standardization” FRN, developing the technical specifications for PQ/CMC data submissions, and upcoming

development and testing of PQ/CMC data exchange mechanisms.

- Ongoing efforts to maximize harmonization of PQ/CMC standardization with other national and international data standardization activities sharing the same domain space as PQ/CMC (e.g., International Organization for Standardization Identification of Medicinal Products (ISO IDMP) standards development, the European Medicines Agency’s Substance, Product, Organisation and Referential (SPOR) Master Data initiative).

- An understanding of industry business practices regarding submission of PQ/CMC data which will help to inform development of PQ/CMC standardization.

FDA will consider all comments made at this meeting or received through the docket (see **ADDRESSES**).

III. Participating in the Public Meeting

Registration: To register to attend “Standardized Data for Pharmaceutical Quality/Chemistry Manufacturing and Control; Public Meeting” please register at: <https://www.eventbrite.com/e/standardized-data-for-pqcmc-public-meeting-registration-47224509780> by September 21, 2018. 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 meeting must register by September 21, 2018, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when they have been accepted.

If you need special accommodations due to a disability, please contact Bryan Spells, 240–402–6511, email Bryan.Spells@fda.hhs.gov at least 7 days before the meeting.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at <https://www.regulations.gov>. It may be viewed at the Dockets Management Staff (see **ADDRESSES**).

Dated: August 16, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–18080 Filed 8–21–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-N-2904]

Expanding Access to Effective Treatment for Opioid Use Disorder: Provider Perspectives on Reducing Barriers to Evidence-Based Care; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the following public meeting entitled “Expanding Access to Effective Treatment for Opioid Use Disorder: Provider Perspectives on Reducing Barriers to Evidence-Based Care.” Convened by the Duke-Robert J. Margolis, MD, Center for Health Policy at Duke University and supported by a cooperative agreement with FDA, the public meeting is intended to generate a discussion with providers and health system stakeholders on the armamentarium of medications to treat opioid use disorder (OUD), current barriers to appropriate use of these medications, opportunities to further reduce stigma, and methods to expand access to effective pharmacotherapies as part of an evidence-based approach to OUD treatment.

DATES: The public meeting will be held on September 20, 2018, from 9 a.m. to 4 p.m. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at the National Press Club, 529 14th St. NW, Washington, DC 20045. For additional travel and hotel information, please refer to the following web page: <https://healthpolicy.duke.edu/events/expanding-access-to-treatment-for-OUD>. There will also be a live webcast for those unable to attend the meeting in person (see *Streaming Webcast of the Public Meeting*).

FOR FURTHER INFORMATION CONTACT: Mitra Ahadpour, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 4546, Silver Spring, MD 20993-0002, 301-796-8469, Mitra.Ahadpour@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The opioid epidemic remains a growing public health crisis. FDA efforts

to address the opioid crisis have included, among other things, revision of the document entitled “FDA Education Blueprint for Health Care Providers Involved in the Management or Support of Patients with Pain” (<https://www.fda.gov/Drugs/NewsEvents/ucm553931.htm>), to support rational prescribing, packaging, storage, and disposal of opioids; stemming illegal opioid sales; expanding the Risk Evaluation and Mitigation Strategy to cover immediate-release opioid formulations; monitoring the abuse potential of marketed opioids and taking regulatory action as needed; and addressing barriers to new drug development for non-opioid alternative treatment of pain. Despite these efforts and those of others, opioid misuse, OUD, and overdose remain major public health challenges (Refs. 1 and 2).

Over 2.1 million persons aged 12 or older suffer from opioid use disorders related to prescription opioid analgesics or heroin (Ref. 2), and the majority of those suffering from OUD still lack access to evidence-based treatment. Although there is no one-size-fits-all approach to OUD treatment, there is strong evidence demonstrating the effectiveness of FDA-approved medications, combined with counseling and behavioral therapies, for these patients. Promoting the wider use of these safe and effective therapies is a key priority of FDA. However, substantial challenges remain in patient access and provider use of medications for OUD treatment.

This public meeting is intended to serve as a platform to engage in and generate an active discussion with provider communities and health system stakeholders on the armamentarium of medications to treat OUD, barriers to appropriate use of these medications, opportunities to further reduce stigma, and methods to expand access to effective OUD treatment.

II. Topics for Discussion at the Public Meeting

During the public meeting, speakers and participants will cover issues related to expanding access to effective treatment for OUD, specifically in regard to provider perspectives on reducing barriers to evidence-based care. Topics will include, but are not limited to, the following:

- The role of FDA and the Department of Health and Human Services in confronting and combatting the opioid epidemic;
- The current state of knowledge on addiction, clinical approaches for

identifying and assessing OUD, and use of medication-assisted treatment;

- Gaps in the pharmacological armamentarium for treating OUD, including shortfalls or unmet needs that should be considered in developing new therapies;

- Innovative and evidence-based approaches to OUD treatment delivery, lessons learned, and challenges to broader implementation;

- Legal, regulatory, and cultural barriers to access for treatment for OUD and potential opportunities to reduce stigma and expand access to effective OUD treatment;

- Care models and challenges for increasing access to OUD treatment for vulnerable and medically underserved populations; and

- Clinical, health system, and economic perspectives on defining successful outcomes for OUD treatment, including how establishing outcome measures may facilitate quality improvement, innovative payment approaches, and access to effective care.

During meeting sessions, audience and webcast participants will be invited to actively participate in the discussion regarding provider and clinical expert perspectives on treatment for OUD and barriers to care.

III. Participating in the Public Meeting

Registration: Persons interested in attending this public meeting must register online at <https://healthpolicy.duke.edu/expanding-access-to-treatment-for-OUD> by September 19, 2018, by 5 p.m. Eastern Time. Please provide complete contact information for each attendee, including name, title, affiliation, address, email address, and telephone number.

Registration is free and based on space availability, with priority given to early registrants. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation when the registration has been accepted. If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 8 a.m. We will let registrants know if registration closes before the day of the public meeting.

If you need special accommodations due to a disability, please contact Sarah Supsiri at the Duke-Margolis Center for Health Policy (202-791-9561, sarah.supsiri@duke.edu) no later than September 13, 2018.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast, and archived video footage will be available at the Duke-Margolis

Center's website following the meeting: <https://healthpolicy.duke.edu/events/expanding-access-to-treatment-for-OD>. Webcast participants will be able to submit questions and comments via the webcast portal. Persons interested in participating in the live webcast must register online by September 19, 2018, by 5 p.m. Eastern Time (see *Registration* section above). Early registration is recommended because webcast connections are limited. Organizations are required to register all participants; however, we request that organizations view the meeting using one connection per location whenever possible.

Other Issues for Consideration: All event materials will be provided to registered attendees via email prior to the meeting and will be made publicly available at the Duke-Margolis Center's website: <https://healthpolicy.duke.edu/events/expanding-access-to-treatment-for-OD>. A 1-hour lunch break is scheduled, but food will not be provided. There are multiple restaurants within walking distance of the Conference Center.

IV. References

The following references are on display in the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Hedegaard, H., M. Warner, and A.M. Miniño, "Drug Overdose Deaths in the United States, 1999–2016," NCHS Data Brief, no. 294, Hyattsville, MD: National Center for Health Statistics. 2017 (available at <https://www.cdc.gov/nchs/products/databriefs/db294.htm>), accessed June 27, 2018.
2. Substance Abuse and Mental Health Services Administration, Center for Behavioral Health Statistics and Quality, "Results from the 2016 National Survey on Drug Use and Health: Detailed Tables." September 8, 2016 (available at <https://www.samhsa.gov/data/sites/default/files/NSDUH-DET-Tabs-2016/NSDUH-DET-Tabs-2016.htm>), accessed June 27, 2018.

Dated: August 16, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018-18071 Filed 8-21-18; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0449]

Agency Information Collection Activities; Proposed Collection; Comment Request; Sun Protection Factor Labeling and Testing Requirements for Over-the-Counter Sunscreen Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on sun protection factor (SPF) labeling and testing requirements for over-the-counter (OTC) sunscreen products containing specified ingredients and marketed without approved applications, and comments on compliance with Drug Facts labeling requirements for all OTC sunscreen products.

DATES: Submit either electronic or written comments on the collection of information by October 22, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 22, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of October 22, 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.

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-2011-N-0449 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Sun Protection Factor Labeling and Testing Requirements and Drug Facts Labeling for Over-the-Counter Sunscreen Drug Products." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The

second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information

is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

SPF Labeling and Testing Requirements for OTC Sunscreen Products—21 CFR 201.327(a)(1) and (i), 21 CFR 201.66(c) and (d)

OMB Control Number 0910–0717—Extension

I. Background

In the **Federal Register** of June 17, 2011 (76 FR 35620), we published a final rule establishing labeling and effectiveness testing requirements for certain OTC sunscreen products containing specified active ingredients without approved applications (2011 sunscreen final rule; § 201.327 (21 CFR 201.327)). In addition to establishing testing requirements, the 2011 sunscreen final rule lifted the delay of implementing the prior 1999 sunscreen final rule (published in the **Federal Register** of May 21, 1999 (64 FR 27666) and stayed in the **Federal Register** of December 31, 2001 (66 FR 67485) from complying with the 1999 Drug Facts labeling final rule (published in the **Federal Register** of March 17, 1999 (64 FR 13254)), in which we amended our regulations governing requirements for human drug products to establish standardized format and content requirements for the labeling of all marketed OTC drug products in part 201 (21 CFR part 201). Specifically, the 1999 Drug Facts labeling final rule added new § 201.66 to part 201. Section 201.66 establishes content and format requirements for the Drug Facts portion of OTC drug product labels. We specifically exempted OTC sunscreen products from complying with the 1999 Drug Facts labeling final rule until we lifted the stay of the 1999 sunscreen final rule. The 2011 sunscreen final rule became effective December 17, 2012, for sunscreen products with annual sales of \$25,000 or more and December 17, 2013, for sunscreen products with annual sales of less than \$25,000 when we published an extension date notice in the **Federal Register** of May 11, 2012

(77 FR 27591) (2012 extension date notice).

II. SPF Labeling and Testing for OTC Sunscreens Containing Specified Active Ingredients and Marketed Without Approved Applications

In the **Federal Register** of June 17, 2011 (76 FR 35678), we published a 60-day notice requesting public comment on the proposed collection of information regarding SPF labeling and testing requirements for OTC sunscreen products containing specified ingredients and marketed without approved applications (2011 60-day notice). In that notice, we stated that § 201.327(a)(1) requires the principal display panel (PDP) labeling of a sunscreen covered by the 2011 sunscreen final rule to include the SPF value determined by conducting the SPF test outlined in § 201.327(i). Therefore, that provision resulted in an information collection with a third-party disclosure burden for manufacturers of OTC sunscreens covered by the 2011 sunscreen rule. We determined that products need only complete the testing and labeling required by the 2011 sunscreen rule once and then continue to use the resultant labeling (third-party disclosure) going forward without additional burden. This one-time testing would need to be conducted within the first 3 years after publication of the 2011 sunscreen final rule for all OTC sunscreens covered by that rule.

We determined that the third-party disclosure burden by manufacturers of OTC sunscreens covered by the 2011 sunscreen rule was based on: (1) An estimate of the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information; (2) the conduct of SPF testing based on the estimated number of existing formulations; (3) an estimate of the time to relabel currently marketed OTC sunscreens containing specified ingredients and marketed without approved applications; and (4) testing and labeling of new products introduced each year. The estimate for this burden in the 2011 60-day notice was a total of 30,066 hours in years 1 and 2, and a total of 966 in each subsequent year.

All currently marketed OTC sunscreen drug products are already required to comply with the SPF labeling requirements specified by the 2011 sunscreen final rule. However, our original estimate also included the burden of new products introduced each year. We estimated that as many as

60 new OTC sunscreen products stock keeping units (SKUs) may be introduced each year, which must be tested and labeled with the SPF value determined in the test. We estimated that the 60 new sunscreen SKUs represent 39 new formulations. The burden for testing and labeling these formulations was estimated at 30 hours per year.

We received only two comments on our estimated information collection

burden (FDA-2011-N-0449-0002 and FDA-2011-N-0449-0003). These comments were already addressed in FDA’s notice entitled “Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Sun Protection Factor Labeling and Testing Requirements and Drug Facts Labeling for Over-the Counter Sunscreen Drug Products” published in

the **Federal Register** of May 9, 2012 (77 FR 27230).

In the **Federal Register** of April 16, 2015 (80 FR 20499), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

| Activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|-----------------------|--------------------------------------|--------------------------|-------------------------------|-------------|
| Conduct SPF testing in accordance with §201.327(i) for new sunscreens. | 20 | 1.95 | 39 | 24 | 936 |
| Create PDP labeling in accordance with §201.327(a)(1) for new sunscreen SKUs. | 20 | 3 | 60 | 0.5 (30 minutes) | 30 |
| Total | | | | | 966 |

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Drug Facts Labeling for OTC Sunscreens

Because the 2011 sunscreen final rule also lifted the delay of implementing the Drug Facts regulations (§ 201.66) for OTC sunscreens, the rule also modified the information collection associated with § 201.66 (currently approved under OMB control number 0910-0340) and added a third-party disclosure burden resulting from requiring OTC sunscreen products to comply with Drug Facts regulations. In the 1999 Drug Facts labeling final rule, we amended our regulations governing requirements for human drug products to establish standardized format and content requirements for the labeling of all marketed OTC drug products, codified in § 201.66. This section establishes requirements for the Drug Facts portion of labels on OTC drug products requiring such labeling, to include uniform headings and subheadings, presented in a standardized order with minimum standards for type size and other graphical features. Therefore, OTC sunscreen products already on the market at that time incurred a one-time burden to comply with the requirements

in § 201.66(c) and (d). In the 60-day notice, the burden was estimated as 43,200 hours for existing sunscreen SKUs and 720 hours for new sunscreen SKUs.

The compliance dates for the 2011 sunscreen final rule that lifted the delay of the § 201.66 labeling implementation data for OTC sunscreen products were December 17, 2012, for sunscreen products with annual sales of \$25,000 or more and December 17, 2013, for sunscreen products with annual sales of less than \$25,000, respectively, when we published the 2012 extension date notice. All currently marketed sunscreen products are, therefore, already required to comply with the Drug Facts labeling requirements in § 201.66 and will incur no further burden in the 1999 Drug Facts labeling final rule. However, new OTC sunscreen drug products will be subject to a one-time burden to comply with Drug Facts labeling requirements in § 201.66. In the 2011 60-day notice, we estimated that as many as 60 new product SKUs marketed each year must comply with Drug Facts regulations. We estimated that these 60 SKUs would be marketed by 30

manufacturers, which will spend approximately 12 hours on each label based on the most recent estimate used for other OTC drug products to comply with the 1999 Drug Facts labeling final rule, including public comments received on this estimate in 2010 that addressed sunscreens. This is equal to 720 hours annually (60 SKUs, 12 hours per SKU). We stated that we do not expect any OTC sunscreens to apply for exemptions or deferrals of the Drug Facts regulations in § 201.66(e). However, we considered this in 2013 and estimated the burden for an exemption or deferral by considering the number of exemptions or deferrals we have received since publication of the 1999 Drug Facts labeling final rule (one response) and estimating that a request for deferral or exemption would require 24 hours to complete. Multiplying the annual frequency of response (0.125) by the number of hours per response (24) gives a total response time for requesting an exemption or deferral equal to 3 hours.

FDA estimates the burden of this collection of information as follows:

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

| Activity | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|--|-----------------------|--------------------------------------|--------------------------|-------------------------------|-------------|
| Format labeling in accordance with §201.66(c) and (d) for new sunscreen SKUs | 20 | 3 | 60 | 12 | 720 |
| Request for Drug Facts exemption or deferral §201.66(e) | 1 | 0.125 | 0.125 | 24 | 3 |
| Total | | | | | 723 |

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

We note that these estimates may be adjusted in the future development of an upcoming rulemaking on over-the-counter sunscreen products (RIN 0910-AA01). FDA intends to amend this information collection and/or seek approval of additional information collections, as appropriate, concurrent with this rulemaking.

Dated: August 16, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018-18073 Filed 8-21-18; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA-2018-P-1335 and FDA-2018-P-1361]

Determination That DITROPAN XL (Oxybutynin Chloride) Extended Release Tablets, 15 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 milligrams (mg), were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Glen Cheng, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6210, Silver Spring, MD 20993-0002, 301-796-1494.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price

Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 5 mg, 10 mg, and 15 mg, are the subject of NDA 020897, held by Janssen Pharmaceuticals Inc., and initially approved on December 16, 1998. DITROPAN XL is indicated for the treatment of overactive bladder with symptoms of urge urinary incontinence,

urgency, and frequency, and for the treatment of pediatric patients aged 6 years and older with symptoms of detrusor overactivity associated with a neurological condition (e.g., spina bifida).

In a letter dated December 14, 2017, Janssen Pharmaceuticals Inc. notified FDA that DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, were being discontinued, and FDA moved the drug product to the “Discontinued Drug Product List” section of the Orange Book. Although DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 5 mg and 10 mg, were also previously listed in the “Discontinued Drug Product List” section of the Orange Book, they are now listed in the “Prescription Drug Product List” section of the Orange Book.

Hyman, Phelps & McNamara, P.C., submitted a citizen petition dated March 30, 2018 (Docket No. FDA-2018-P-1335), and Ajanta Pharma Limited submitted a citizen petition dated April 2, 2018 (Docket No. FDA-2018-P-1361), under 21 CFR 10.30, requesting that the Agency determine whether DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 5 mg, 10 mg, and 15 mg, were withdrawn from sale for reasons of safety or effectiveness.

As noted, DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 5 mg and 10 mg, are no longer listed in the “Discontinued Drug Product List” section of the Orange Book, and therefore we need not determine whether they were withdrawn from sale for reasons of safety or effectiveness.

With regard to DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, after considering the citizen petition and reviewing Agency records, and based on the information we have at this time, FDA has determined under § 314.161 that DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, were not withdrawn from sale for reasons of safety or effectiveness. The petitioners have identified no data or other information suggesting that this drug

product was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, in the “Discontinued Drug Product List” section of the Orange Book. The “Discontinued Drug Product List” delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to DITROPAN XL (oxybutynin chloride) Extended Release Tablets, 15 mg, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 15, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–18045 Filed 8–21–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–2381]

The Food and Drug Administration’s Comprehensive, Multi-Year Nutrition Innovation Strategy; Extension of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; extension of the comment period.

SUMMARY: The Food and Drug Administration (FDA or we) is extending the comment period for the notice of a public meeting and request for comments, published in the **Federal Register** of June 27, 2018. The notice announced a public meeting entitled “FDA’s Comprehensive, Multi-Year Nutrition Innovation Strategy” and invited interested parties to provide information on specific topics related to

FDA’s Nutrition Innovation Strategy. We are extending the comment period to give interested parties more time to comment.

DATES: FDA is extending the comment period on the notice and its request for comment, published in the **Federal Register** of June 27, 2018 (83 FR 30180). Submit either electronic or written comments by October 11, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 11, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time, October 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.

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–2381 for “The Food and Drug Administration’s Comprehensive, Multi-Year Nutrition Innovation Strategy; Public Meeting; 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.” We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Claudine Kavanaugh, Food and Drug Administration, Office of Foods and Veterinary Medicine, 10903 New Hampshire Ave., Bldg. 1, Rm. 3218, Silver Spring, MD 20993, 301-796-4647.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 27, 2018 (83 FR 30180), FDA announced that it would hold a public meeting entitled “FDA’s Comprehensive, Multi-Year Nutrition Innovation Strategy.” The public meeting, which we held on July 26, 2018, was intended to give interested persons an opportunity to discuss FDA’s Nutrition Innovation Strategy and to provide input on ways to modernize FDA’s approach to better protect public health while removing barriers to industry innovation. We stated that the topics to be addressed at the meeting would include the following:

- Considering using a standard icon to denote the claim “healthy” on food labels.
- Creating a more efficient review strategy for evaluating qualified health claims on food labels.
- Discussing new or enhanced labeling statements or claims that could facilitate innovation to produce more healthful foods and more healthful consumer food choices.
- Modernizing the standards of identity to provide more flexibility for the development of healthier products, while making sure consumers have accurate information about these food products.
- Providing opportunities to make ingredient information more helpful to consumers.
- FDA’s educational campaign for consumers about the updated Nutrition Facts label.

See 83 FR 30180 at 30181 to 30182.

The notice invited interested parties to provide information on these and other topics related to FDA’s Nutrition Innovation Strategy. We asked that comments be submitted on or before August 27, 2018.

After the public meeting, we received several requests to extend the comment period. The requesters asserted that the time period of 32 days was insufficient to respond fully to FDA’s specific request for comments and to ensure comprehensive public input and allow potential respondents to thoroughly evaluate and address pertinent issues.

We have considered the requests and are extending the comment period for another 45 days, until October 11, 2018. We believe that a 45-day extension allows adequate time for interested persons to submit comments while

ensuring the continued forward progress of FDA’s Nutrition Innovation Strategy.

Dated: August 16, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018-18072 Filed 8-21-18; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-N-2999]

Determination That DANOCRINE (Danazol) Capsules, 50 Milligrams, 100 Milligrams, and 200 Milligrams, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness Except the Indication of Fibrocystic Breast Disease, Which Was Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that DANOCRINE (danazol) Capsules, 50 milligrams (mg), 100 mg, and 200 mg, were not withdrawn from sale for reasons of safety or effectiveness, except with respect to the indication of fibrocystic breast disease that was withdrawn for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to suspend approval of abbreviated new drug applications (ANDAs) that refer to this drug product and have removed the indication for fibrocystic breast disease. This determination also will allow FDA to continue to approve ANDAs that refer to this drug as long as they meet relevant legal and regulatory requirements. However, the Agency will not accept or approve ANDAs for DANOCRINE (danazol) Capsules, 50 mg, 100 mg, and 200 mg that include fibrocystic breast disease as an indication.

FOR FURTHER INFORMATION CONTACT:

Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993-0002, 301-796-8363.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants

must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the “listed drug,” which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the “Approved Drug Products With Therapeutic Equivalence Evaluations,” which is known generally as the “Orange Book.” Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug’s NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

Under § 314.161(a)(2), the Agency must also determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness if ANDAs that referred to the listed drug have already been approved prior to its market withdrawal. If the Agency determines that a listed drug was withdrawn from sale for reasons of safety or effectiveness, and there are approved ANDAs that reference that listed drug, FDA will initiate a proceeding to determine whether the suspension of the ANDAs is also required (§ 314.161(d)).

DANOCRINE (danazol) Capsules, 50 mg, 100 mg, and 200 mg, is the subject of NDA 017557 held by Sanofi-Aventis, and initially approved on June 21, 1976. DANOCRINE is indicated for the treatment of endometriosis amenable to hormonal management, prevention of attacks of angioedema of all types (cutaneous, abdominal, and laryngeal) in males and females, and fibrocystic breast disease. Specifically, with respect to fibrocystic breast disease, the labeling states “Most cases of fibrocystic breast disease may be treated by simple

measures (e.g., padded brassieres and analgesics). In infrequent patients, symptoms of pain and tenderness may be severe enough to warrant treatment by suppression of ovarian function. DANOCRINE is usually effective in decreasing nodularity, pain, and tenderness. It should be stressed to the patient that this treatment is not innocuous in that it involves considerable alterations of hormone levels and that recurrence of symptoms is very common after cessation of therapy.”

DANOCRINE (danazol) Capsules, 50 mg, 100 mg, and 200 mg, were discontinued from sale in December 2004. FDA moved the product to the “Discontinued Drug Product List” section of the Orange Book at that time. In a letter dated October 17, 2011, Sanofi-Aventis requested the withdrawal of the DANOCRINE application. On July 19, 2013, the Agency issued a **Federal Register** notice withdrawing NDA 017557, the application for DANOCRINE, effective August 19, 2013.

After reviewing our records and based on the information we have at this time, FDA has determined that under § 314.161 DANOCRINE (danazol) Capsules, 50 mg, 100 mg, and 200 mg, were not withdrawn from sale for reasons of safety or effectiveness, except with respect to the indication for fibrocystic breast disease. Fibrocystic breast disease refers to mastalgia or breast pain caused by benign proliferative breast tissue. The term fibrocystic breast disease is no longer used, in part because it is not accurate to describe the condition as a disease when it is in fact the result of normal physiologic changes.

DANOCRINE (danazol) has been associated with two serious adverse reactions: hepatocellular injury (i.e., hepatocellular injury, hepatocellular jaundice, and hepatic failure) and an increased risk of rhabdomyolysis in patients taking danazol and statins. These two adverse reactions were not yet recognized when DANOCRINE (danazol) was originally approved for fibrocystic breast disease in 1980. Both of these adverse reactions were added to the safety labeling for the product several years after the product was initially approved. In addition, androgenic adverse effects and a contraindication for use in women who are pregnant or attempting to become pregnant limit the utility of DANOCRINE (danazol) for the fibrocystic breast disease indication.

The Agency conducted a review of the benefit-risk profile for each indication of DANOCRINE (danazol). For the

treatment of fibrocystic breast disease, the Agency concluded that the benefit-risk profile of the product is unfavorable given the risk of potentially serious adverse reactions and that the condition is a benign, non-disease state. In addition, many other treatment options exist for this condition, including dietary measures, use of supportive undergarments and pain relievers such as acetaminophen or non-steroidal anti-inflammatory drug products. Many of these treatment options present a very low risk of adverse reactions. For the indications of treatment of endometriosis amenable to hormone management and prevention of attacks of angioedema of all types (cutaneous, abdominal, and laryngeal) in males and females, the Agency has determined that DANOCRINE (danazol) continues to have a favorable benefit-risk profile.

Accordingly, the Agency will continue to list DANOCRINE (danazol) Capsules, 50 mg, 100 mg, and 200 mg, in the “Discontinued Drug Product List” section of the Orange Book. All approved ANDAs have removed the fibrocystic breast disease indication from their labeling. In addition, FDA will continue to approve ANDAs that refer to DANOCRINE (danazol) Capsules as long as they meet relevant legal and regulatory requirements, but FDA will not accept or approve ANDAs that refer to this drug product and propose to include the fibrocystic breast disease indication.

Dated: August 16, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018-18081 Filed 8-21-18; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Training in Primary Care Medicine and Dentistry

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD) will hold a public meeting. Information about ACTPCMD and the agenda for this meeting can be found on the ACTPCMD website at: <https://www.hrsa.gov/advisory-committees/primarycare-dentist/index.html>.

DATES: September 10, 2018, 9:00 a.m.–5:00 p.m. ET, and September 11, 2018, 8:30 a.m.–2:30 p.m. ET.

ADDRESSES: This meeting will be held in person and offer virtual access through teleconference and webinar. The address for the meeting is 5600 Fishers Lane, Rockville, Maryland 20857.

- *Conference call-in number:* 1-800-238-9007; Passcode: 532320.
- *Webinar link:* <https://hrsa.connectsolutions.com/actpcmd>.

FOR FURTHER INFORMATION CONTACT: Dr. Kennita Carter, Designated Federal Official (DFO), Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, 15N-116, Rockville, Maryland 20857; 301-945-3505; or KCarter@hrsa.gov.

SUPPLEMENTARY INFORMATION:

ACTPCMD provides advice and recommendations to the Secretary of HHS (Secretary) on policy, program development, and other matters of significance concerning the activities under section 747 of Title VII of the Public Health Service (PHS) Act, as it existed upon the enactment of Section 749 of the PHS Act in 1998. ACTPCMD prepares an annual report describing the activities of the Committee, including findings and recommendations made by the Committee concerning the activities under section 747, as well as training programs in oral health and dentistry. The annual report is submitted to the Secretary and Chairman and ranking members of the Senate Committee on Health, Education, Labor and Pensions, and the House of Representatives Committee on Energy and Commerce. The Committee also develops, publishes, and implements performance measures and guidelines for longitudinal evaluations of programs authorized under Title VII, Part C, of the PHS Act, and recommends appropriation levels for programs under this Part.

During the September 10–11, 2018, meeting, ACTPCMD will have follow-up discussions on PHS Act section 747 and oral health training programs, and finalize its recommendations on funding and appropriation levels to be included in its 16th report. In addition, the Committee will complete the 16th report and a pending report on promoting clinical trainee and faculty well-being and mitigating burnout. Agenda items are subject to change as priorities dictate.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested

and may be limited as time allows. Requests to make oral comments or submit a written statement to ACTPCMD should be sent to Dr. Kennita R. Carter, DFO, using the contact information above at least 3 business days prior to the meeting.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Dr. Kennita R. Carter at the address and phone number listed above at least 10 business days prior to the meeting. Since this meeting occurs in a federal government building, attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at least 10 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018-18074 Filed 8-21-18; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HRSA is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by the Public Health Service (PHS) Act, as amended. While the Secretary of HHS is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact Lisa L. Reyes, 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 Health and Human Services, 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 July 1, 2018, through July 31, 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: August 16, 2018.

George Sigounas,
Administrator.

List of Petitions Filed

1. Gregory Jackson, Stevensville, Maryland, Court of Federal Claims No: 18-0949V
2. Debra D. Nicholson, West Baden, Indiana, Court of Federal Claims No: 18-0953V
3. Deborah Spivey, Carthage, Tennessee, Court of Federal Claims No: 18-0959V
4. Shauna Rhyne and Cody Rhyne on behalf of C. R., Grand Junction, Colorado, Court of Federal Claims No: 18-0961V
5. Chris Skye and Lesley Skye on behalf of D. S., Novato, California, Court of Federal Claims No: 18-0962V

6. Dorothy Garone, Columbia, South Carolina, Court of Federal Claims No: 18-0964V
7. Karen Quinn, Hines, Illinois, Court of Federal Claims No: 18-0965V
8. Anna Matriss, Grandview, Utah, Court of Federal Claims No: 18-0966V
9. Kim Ediss, Anaheim, California, Court of Federal Claims No: 18-0969V
10. Nora Dempsey, Boone, Texas, Court of Federal Claims No: 18-0970V
11. Diane Gearhart, Langhorne, Pennsylvania, Court of Federal Claims No: 18-0973V
12. Paula D. Tyson, Waycross, Georgia, Court of Federal Claims No: 18-0975V
13. Kayla Stradling, Idaho Falls, Idaho, Court of Federal Claims No: 18-0976V
14. Mary Lepper, Perrysburg, Ohio, Court of Federal Claims No: 18-0984V
15. Barbara Vincent-Howe, Phoenixville, Pennsylvania, Court of Federal Claims No: 18-0987V
16. Renee Knepp, Matthews, North Carolina, Court of Federal Claims No: 18-0989V
17. Kiley D. Lizama, San Diego, California, Court of Federal Claims No: 18-0990V
18. William Minsterman, Jr., Uniontown, Pennsylvania, Court of Federal Claims No: 18-0991V
19. Afshin Arian, Las Vegas, Nevada, Court of Federal Claims No: 18-0992V
20. Vanessa Muniz on behalf of M. M., Camp Pendleton, California, Court of Federal Claims No: 18-0994V
21. Lukas Bundonis, Washington, District of Columbia, Court of Federal Claims No: 18-0995V
22. Donald Winter, Deer Park, New York, Court of Federal Claims No: 18-0996V
23. Phuong Dung Thi Huynh, Clear Lake Shores, Texas, Court of Federal Claims No: 18-0997V
24. Stacy J. Perez, Sugarloaf, Pennsylvania, Court of Federal Claims No: 18-0999V
25. Donna Hines, Olive Branch, Mississippi, Court of Federal Claims No: 18-1000V
26. Merylynne Delio, Haslet, Texas, Court of Federal Claims No: 18-1001V
27. Walter Thornton, Holloman Air Force Base, New Mexico, Court of Federal Claims No: 18-1002V
28. Ernest Knapp, Vallejo, California, Court of Federal Claims No: 18-1003V
29. David Ramos, Rialto, California, Court of Federal Claims No: 18-1005V
30. Danessa Smith, Peekskill, New York, Court of Federal Claims No: 18-1008V
31. Bangalore Muniraju, Memphis, Tennessee, Court of Federal Claims No: 18-1010V
32. Glender Downer, Greenville, South Carolina, Court of Federal Claims No: 18-1011V
33. Ana Sanchez, San Antonio, Texas, Court of Federal Claims No: 18-1012V
34. Mendy Tatro, Pittsfield, Massachusetts, Court of Federal Claims No: 18-1013V
35. Licelot Mendoza, Brooklyn, New York, Court of Federal Claims No: 18-1014V
36. Jessica Brown, White Plains, New York, Court of Federal Claims No: 18-1015V
37. Lori Knudson, Chesterfield, Missouri, Court of Federal Claims No: 18-1016V
38. Stacy Ratzlaff, Newton, Kansas, Court of Federal Claims No: 18-1017V
39. Wayne Butler, Manassas, Virginia, Court of Federal Claims No: 18-1018V
40. Ashley Barnett, Houston, Texas, Court of Federal Claims No: 18-1019V
41. Jennifer Mann, Lovington, New Jersey, Court of Federal Claims No: 18-1020V
42. Sherri Christy, Encinitas, California, Court of Federal Claims No: 18-1021V
43. Martha Patricia Mendez, Webster, Texas, Court of Federal Claims No: 18-1022V
44. Christine Pappas, Haskell, New Jersey, Court of Federal Claims No: 18-1024V
45. Velma Redic, Las Vegas, Nevada, Court of Federal Claims No: 18-1026V
46. Eric W. Goering, Trustee, Blue Ash, Ohio, Court of Federal Claims No: 18-1031V
47. Barbara Black, Culver City, California, Court of Federal Claims No: 18-1033V
48. Meredith Oliver, Lawrenceville, Georgia, Court of Federal Claims No: 18-1034V
49. Ronald D. Matestic, Mankato, Minnesota, Court of Federal Claims No: 18-1035V
50. Robert Woodman, Portland, Maine, Court of Federal Claims No: 18-1038V
51. Duane Verhasselt, Whitefish, Montana, Court of Federal Claims No: 18-1039V
52. Lory Mahan, Gardner, Massachusetts, Court of Federal Claims No: 18-1041V
53. Renee Handjis, King of Prussia, Pennsylvania, Court of Federal Claims No: 18-1044V
54. Daniel Johnson, West Columbia, South Carolina, Court of Federal Claims No: 18-1045V
55. Vickie Brashear, Mason, Ohio, Court of Federal Claims No: 18-1048V
56. Nacole Troupe-Roberts, Apex, North Carolina, Court of Federal Claims No: 18-1049V
57. Ramonita Estrella, Hazelton, Pennsylvania, Court of Federal Claims No: 18-1050V
58. Richard McConnell, Springfield, Illinois, Court of Federal Claims No: 18-1051V
59. Susan Cavallaro, Winston-Salem, North Carolina, Court of Federal Claims No: 18-1053V
60. Yvonne Wilson, Philadelphia, Pennsylvania, Court of Federal Claims No: 18-1054V
61. Jamie Burdick, DuBois, Pennsylvania, Court of Federal Claims No: 18-1056V
62. Alcida Ortiz, Brooklyn, New York, Court of Federal Claims No: 18-1057V
63. Devon Nicole Ingber, Panorama City, California, Court of Federal Claims No: 18-1061V
64. Rafael Francisco Ojeda Colon, San Juan, Puerto Rico, Court of Federal Claims No: 18-1065V
65. Nooshin Gastineau, Seattle, Washington, Court of Federal Claims No: 18-1066V
66. Salvatore R. Bombara, Dayville, Connecticut, Court of Federal Claims No: 18-1067V
67. Bridie Friel, Newtown Square, Pennsylvania, Court of Federal Claims No: 18-1071V
68. Michelle Johnson, Waukesha, Wisconsin, Court of Federal Claims No: 18-1072V
69. Christopher Brown, San Clemente, California, Court of Federal Claims No: 18-1074V
70. Marian J. Zielinski and Mathew E Zielinski on behalf of E. E. Z., Arlington Heights, Illinois, Court of Federal Claims No: 18-1075V
71. Terry Pedri, Roseville, California, Court of Federal Claims No: 18-1077V
72. Michal Aaronson, Phoenix, Arizona, Court of Federal Claims No: 18-1078V
73. Amanda Dallabetta, Greensburg, Pennsylvania, Court of Federal Claims No: 18-1079V
74. Lisa Anthony, Colorado Springs, Colorado, Court of Federal Claims No: 18-1080V
75. Amy Wood, Bandon, Oregon, Court of Federal Claims No: 18-1084V

76. Caitlin M. Doyle, Feasterville, Pennsylvania, Court of Federal Claims No: 18-1085V
77. Tammy DeBoer, Chicago, Illinois, Court of Federal Claims No: 18-1086V
78. Marin Tully, Covington, Louisiana, Court of Federal Claims No: 18-1087V
79. Yvonne Richert, Fairfield, California, Court of Federal Claims No: 18-1090V
80. Helen Briggs, Centre, Alabama, Court of Federal Claims No: 18-1091V
81. David Choi, St. Louis, Missouri, Court of Federal Claims No: 18-1095V
82. Richard LeAndro, Wellington, Florida, Court of Federal Claims No: 18-1097V
83. Deanna Gould, Troy, Michigan, Court of Federal Claims No: 18-1098V
84. Chiaquitta Purnell-Reid, Marietta, Georgia, Court of Federal Claims No: 18-1101V
85. Louie Worthy, Huntingtown, Maryland, Court of Federal Claims No: 18-1104V
86. James Mahoney, Esq., Los Angeles, California, Court of Federal Claims No: 18-1105V
87. Sarah L. Ickes, Burlington, North Carolina, Court of Federal Claims No: 18-1106V
88. Sharon Pickens, Mesquite, Texas, Court of Federal Claims No: 18-1107V
89. Patricia Raduziner, Northridge, California, Court of Federal Claims No: 18-1108V
90. John Veselovsky, Gardena, California, Court of Federal Claims No: 18-1109V
91. Salvador Monarrez, Bakersfield, California, Court of Federal Claims No: 18-1111V
92. Amanda Swint-Moore and Michael Moore on behalf of M. A. M., Wartburg, Tennessee, Court of Federal Claims No: 18-1112V
93. Sophia Peer, Brooklyn, New York, Court of Federal Claims No: 18-1114V
94. Heather Harvard, Clearwater, Florida, Court of Federal Claims No: 18-1120V

[FR Doc. 2018-18144 Filed 8-21-18; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Commission on Childhood Vaccines; Notice of Meeting

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Advisory Commission on Childhood Vaccines (ACCV) has scheduled a public meeting. Information about ACCV and the agenda for this meeting can be found on the ACCV website at <http://www.hrsa.gov/advisorycommittees/childhoodvaccines/index.html>.

DATES: September 6, 2018, from 11:00 a.m. ET to 3:00 p.m. ET.

ADDRESSES: This meeting will be held in-person, by teleconference, and via webinar. The address for the meeting is 5600 Fishers Lane, Rockville, Maryland, 20857 in conference room 5W07. The public can join the meeting by:

1. (In Person) Persons interested in attending the meeting in person are encouraged to submit a written notification to: Annie Herzog, Division of Injury Compensation Programs (DICP), Healthcare Systems Bureau (HSB), HRSA, Room 08N146B, 5600 Fishers Lane, Rockville, Maryland 20857 or email: aherzog@hrsa.gov. Since this meeting occurs in a Federal government building, attendees must go through a security check to enter the building. Non-U.S. Citizen attendees must notify HRSA of their planned attendance at least 10 business days prior to the meeting in order to facilitate their entry into the building. All attendees are required to present government-issued identification prior to entry.

2. (Audio Portion) Calling the conference phone number 800-988-0218 and providing the following information:

Leader Name: Dr. Narayan Nair
Password: 9302948

3. (Visual Portion) Connecting to the ACCV Adobe Connect Meeting using the following URL: <https://hrsa.connectsolutions.com/accv/>. Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm and get a quick overview by following URL: http://www.adobe.com/go/connectpro_overview.

FOR FURTHER INFORMATION CONTACT:

Annie Herzog, Program Analyst at DICP, HRSA, 5600 Fishers Lane, 08N146B, Rockville, Maryland 20857; 301-443-6593; or aherzog@hrsa.gov. Meeting times and locations could change. For the latest information regarding the meeting, including start time and location, please check the ACCV website: <http://www.hrsa.gov/advisorycommittees/childhoodvaccines/index.html>.

SUPPLEMENTARY INFORMATION: The ACCV was established by section 2119 of the Public Health Service Act (the Act) (42 U.S.C. 300aa-19), as enacted by Public Law (Pub. L.) 99-660, and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

During the September 6, 2018, meeting, the ACCV will discuss updates from DICP, Department of Justice (DOJ), National Vaccine Program Office (NVPO), Immunization Safety Office (Centers for Disease Control and Prevention), National Institute of Allergy and Infectious Diseases (National Institutes of Health) and Center for Biologics, Evaluation and Research (Food and Drug Administration). Agenda items are subject to change as priorities dictate.

Members of the public will have the opportunity to provide comments. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to make oral comments or provide written statements to the ACCV should be sent to Annie Herzog, using the contact information above by Thursday, August 30, 2018.

Individuals who plan to attend and need special assistance or another reasonable accommodation should notify Annie Herzog at the address and phone number listed above at least 10 days prior to the meeting.

Amy P. McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2018-18106 Filed 8-21-18; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0313]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before October 22, 2018.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795-7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-0313 and project title for reference, to *Sherrette.funn@hhs.gov*, or call the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the

following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: National Blood Collection & Utilization Survey (NBCUS).

Type of Collection: Reinstatement without change. OMB No. 0990-0313 [OS/OASH/OHAIDP].

Abstract: Length of request: 3 years. Respondents include hospitals that perform blood transfusions (approximately 2,900); hospitals that additionally perform blood donor collections (approximately 100), and large scale community-based blood collection centers (approximately 150).

The NBCUS is performed once every two years. The NBCUS is a biennial survey of the blood collection and utilization community to produce reliable and accurate estimates of national and regional collections, utilization and safety of all blood products. The 2019 NBCUS is funded by Department of Health and Human Services (DHHS/OASH) and performed by the Centers for Disease Control and Prevention (CDC). The survey includes a core of standard questions on blood collection, processing, and utilization practices to allow for comparison with data from previous surveys. Additionally, questions to specifically address emerging and developing issues and technologies in blood collection and utilization are included. Questions on transfusion transmitted infections, transfusion associated circulatory overload, acute hemolysis, delayed hemolysis, and severe allergic reactions are included in the survey.

ANNUALIZED BURDEN HOUR TABLE

| Forms (if necessary) | Respondents (if necessary) | Number of respondents | Number of responses per respondents | Average burden per response | Total burden hours (every other year) |
|----------------------|--------------------------------|-----------------------|-------------------------------------|-----------------------------|---------------------------------------|
| NBCUS | Hospitals | 3,000 | 1 | 1 | 3,000 |
| NBCUS | Blood collection centers | 150 | 1 | 1 | 150 |
| Total | | | 1 | | 3,150 |

Date: August 17, 2018.

Terry Clark,

Office of the Secretary, Asst Paperwork Reduction Act Reports Clearance Officer.
[FR Doc. 2018-18130 Filed 8-21-18; 8:45 am]

BILLING CODE 4150-41-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Tobacco Regulatory Science—Behavioral.

Date: September 24, 2018.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301-435-0681, *liangw3@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Lung Cellular, Molecular, and Immunobiology Study Section.

Date: September 25-26, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bahia Resort Hotel, 998 West Mission Bay Drive, San Diego, CA 92109.

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180,

MSC 7818, Bethesda, MD 20892, 301-435-0696, *barnasg@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 16, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-18049 Filed 8-21-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Tinnitus Clinical Trial Review.

Date: September 27, 2018.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301-496-8683, yangshi@nidcd.nih.gov.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Trial (U01) Review Meeting.

Date: October 10, 2018.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301-402-3587, rayk@nidcd.nih.gov.

Name of Committee: Communication Disorders Review Committee.

Date: October 18-19, 2018.

Time: 8:00 a.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: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute on Deafness and other Communication Disorders/NIH, 6001 Executive Blvd., MSC 9670, Bethesda, MD 20892-8401, 301-496-8683, elbr@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 16, 2018 .

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-18048 Filed 8-21-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; ESTEEMED (R25) Review Meeting (2019/01).

Date: October 10, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Biomedical Imaging and Bioengineering, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dennis Hlasta, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, 301-451-4794, dennis.hlasta@nih.gov.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Training T32 Review Meeting (2019/01).

Date: October 30-31, 2018.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute of Biomedical Imaging and Bioengineering, Two Democracy Plaza, Suite 920, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Blvd., Suite 959, Bethesda, MD 20892, (301) 451-3398, hayesj@nih.gov.

Dated: August 15, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-18047 Filed 8-21-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Environmental Health Sciences Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will 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 Advisory Environmental Health Sciences Council.

Date: September 11-12, 2018.

Closed: September 11, 2018, 8:30 a.m. to 10:15 a.m.

Agenda: To review and evaluate grant applications.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: September 11, 2018, 10:30 a.m. to 4:45 p.m.

Agenda: Discussion of Program and Issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Open: September 12, 2018, 8:30 a.m. to 10:30 a.m.

Agenda: Discussion of Program and Issues.

Place: Nat. Inst. of Environmental Health Sciences, Building 101, Rodbell Auditorium, 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Contact Person: Gwen W. Collman, Ph.D., Interim Director, Division of Extramural Research & Training, National Institutes of Health, Nat. Inst. of Environmental Health Sciences, 615 Davis Dr., KEY615/3112, Research Triangle Park, NC 27709, (919) 541-4980, collman@niehs.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when

applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: www.niehs.nih.gov/dert/c-agenda.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: August 16, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018-18046 Filed 8-21-18; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2018-0786]

National Offshore Safety Advisory Committee

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The National Offshore Safety Advisory will meet in Houston, Texas to discuss committee matters relating to the safety of operations and other matters affecting the offshore oil and gas industry. All meetings will be open to the public.

DATES:

Meetings: The National Offshore Safety Advisory Committee and its subcommittees will meet Monday, September 10, 2018, and Tuesday, September 11, 2018. The Regulatory Reform Subcommittees will meet on Monday, September 10, 2018, from 1 p.m. to 2 p.m. and the Lessons Learned Subcommittee will meet from 2 p.m. to 4 p.m. (All times are Central Time). The full Committee will meet on Tuesday,

September 11, 2018, from 8 a.m. to 6 p.m. Please note that these meetings may close early if the committee has completed its business.

Comments and Supporting Documentation: To ensure your comments are received by Committee members before the meetings, submit your written comments no later than August 31, 2018.

ADDRESSES: All meetings will be held at United States Coast Guard Sector Houston-Galveston, 13411 Hillard Street, Houston, Texas 77034.

Pre-Registration Information: Foreign nationals participating will be required to pre-register no later than August 27, 2018, to be admitted to the meeting. To pre-register, contact Mr. Patrick W. Clark, (202) 372-1358, patrick.w.clark@uscg.mil with the National Offshore Safety Advisory Committee in the subject line and provide your name, company, and telephone number; if a foreign national, also provide your country citizenship, passport country, country of residence, place of birth as well as your passport number and expiration date. All attendees will be required to provide a REAL-ID Act-compliant government-issued picture identification card in order to gain admittance to the building. For more information on REAL-ID and to check the compliance status of your state/territory please see <https://www.dhs.gov/real-id> and <https://www.dhs.gov/real-id-public-faqs>.

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible.

Written comments must be submitted using the Federal eRulemaking Portal at <http://www.regulations.gov>. If you encounter technical difficulties with comments submission, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below.

Instructions: You are free to submit comments at any time, including orally at the meetings, but if you want Committee members to review your comment before the meetings, please submit your comments no later than August 31, 2018. We are particularly interested in the comments on the issues in the "Agenda" section below. You must include "Department of Homeland Security" and docket number USCG-2018-0786. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. For more about privacy and the docket, review the Privacy and Security Notice

for the Federal Docket Management System at <https://www.regulations.gov/privacyNotice>.

Docket Search: For access to the docket to read documents or comments related to this notice, go to <http://www.regulations.gov>, and use "USCG-2018-0786" in the "Search" box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William Nabach, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, Commandant (CG-OES-2), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, Stop 7509, Washington, DC 20593-7509; telephone (202) 372-1410, fax (202) 372-8382 or email william.a.nabach@uscg.mil, or Mr. Patrick Clark, telephone (202) 372-1358, fax (202) 372-8382 or email patrick.w.clark@uscg.mil.

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the Federal Advisory Committee Act, (Title 5 U.S.C. Appendix). The National Offshore Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources insofar as they relate to matters within Coast Guard jurisdiction.

Agenda

Day 1

The National Offshore Safety Advisory Committee's subcommittees on Regulatory Review will meet on September 10, 2018 from 1:00 p.m. to 2:00 p.m. (Central Time) to review, discuss and formulate addendums to the recommendations presented to the full Committee during the March 27, 2018 public meeting. This will be followed by a meeting of the Lessons Learned Subcommittee from 2:00 p.m. to 4:00 p.m. (Central Time) where they will review, discuss and formulate recommendations for presentation to the Committee on September 11, 2018.

Day 2

The National Offshore Safety Advisory Committee will hold a public meeting on September 11, 2018 from 8 a.m. to 6 p.m. (Central Time) to review and discuss the progress of, and any reports and recommendations received from the above listed subcommittees from their deliberations. The Committee will then use this information and consider public comments in discussing and formulating recommendations to the United States Coast Guard. Public comments or questions will be taken at

the discretion of the Designated Federal Officer during the discussion and recommendation portions of the meeting and during the public comment period, see Agenda item (5).

A complete agenda for the September 11, 2018 full Committee meeting is as follows:

- (1) Welcoming remarks.
- (2) General Administration and acceptance of minutes from March 28, 2018 National Offshore Safety Advisory Committee public meeting.
- (3) Current Business—Presentation and discussion of progress from the Regulatory Review Subcommittee and from the Lessons Learned Subcommittee.
- (4) New Business—
 - (a) Panel on Recognized Organizations.
 - (b) Panel discussion on Ballast Water Management and issues relating to Mobile Offshore Drilling Units.
 - (c) Bureau of Safety and Environmental Enforcement Operational Update.
 - (d) Maritime Administration Update.
 - (e) International Association of Drilling Contractors Presentation
 - (f) Introduction of new task statements:
 - (i) Use of Offshore Supply Vessels and other non-purpose built vessels for Restoration/Recovery Activities.
 - (ii) Standards for Letters of Non-Availability.
- (5) Public comment period.

A copy of all meeting documentation will be available at <https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/nosac/meetings> no later than August 31, 2018. Alternatively, you may contact Lieutenant Commander William Nabach or Mr. Patrick Clark as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Public comments or questions will be taken throughout the meeting as the committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: August 14, 2018.

Jeffery G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2018–18070 Filed 8–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0497]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0015

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0015, Bridge Permit Application Guide, without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before October 22, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0497] to the Coast Guard using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public participation and request for comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at <http://www.regulations.gov>. Additionally, copies are available from: COMMANDANT (CG–612), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains

information describing the Collection’s purpose, the Collection’s likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2018–0497], and must be received by October 22, 2018.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that website’s instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Information Collection Request

Title: Bridge Permit Application Guide.

OMB Control Number: 1625–0015.

Summary: The collection of information is a request for a bridge permit submitted as an application for approval by the Coast Guard of any proposed bridge project. An applicant must submit to the Coast Guard a letter of application along with letter-size drawings (plans) and maps showing the proposed project and its location.

Need: 33 U.S.C. 401, 491, and 525 authorize the Coast Guard to approve plans and locations for all bridges and causeways that go over navigable waters of the United States.

Forms: None.

Respondents: Public and private owners of bridges over navigable waters of the United States.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 12,354 hours to 17,607 hours a year due to the increase in the annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: July 31, 2018.

James D. Roppel,

U.S. Coast Guard, Acting Chief, Office of Information Management.

[FR Doc. 2018–18075 Filed 8–21–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Saybolt LP (Linden, NJ) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt LP (Linden, NJ), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt LP (Linden, NJ), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of February 6, 2018.

DATES: Saybolt LP (Linden, NJ) was approved and accredited as a commercial gauger and laboratory as of February 6, 2018. The next triennial inspection date will be scheduled for February 2021.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Saybolt LP, 1026 E Elizabeth Ave., #10, Linden, NJ 07036, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

Saybolt LP (Linden, NJ) is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

| API chapters | Title |
|--------------|----------------------------|
| 1 | Vocabulary. |
| 3 | Tank Gauging. |
| 7 | Temperature Determination. |
| 8 | Sampling. |
| 12 | Calculations. |
| 17 | Maritime Measurement. |

Saybolt LP (Linden, NJ) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---------------|-------|---|
| 27–01 | D287 | Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method). |
| 27–08 | D86 | Standard Test Method for Distillation of Petroleum Products. |
| 27–11 | D445 | Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids. |
| 27–13 | D4294 | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27–46 | D5002 | Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer. |
| 27–48 | D4052 | Standard Test Method for Density and Relative Density of Liquids by Digital Density Meter. |
| 27–50 | D93 | Standard Test Methods for Flash-Point by Pensky-Martens Closed Cup Tester. |
| 27–58 | D5191 | Standard Test Method For Vapor Pressure of Petroleum Products (Mini Method). |
| Pending | D1160 | Standard Test Method for Distillation of Petroleum Products and Reduced Pressure. |
| Pending | D2699 | Octane Number of Spark-Ignition Engine Fuel. |
| Pending | D2700 | Motor Octane Number of Spark-Ignition Engine Fuel. |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a

complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>.

Dated: August 6, 2018.

Dave Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2018–18110 Filed 8–21–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of AmSpec LLC (Mobile, AL) as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec LLC (Mobile, AL), as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec LLC (Mobile, AL), has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of April 4, 2018.

DATES: AmSpec LLC (Mobile, AL) was approved and accredited as a commercial gauger and laboratory as of April 4, 2018. The next triennial inspection date will be scheduled for April 2021.

FOR FURTHER INFORMATION CONTACT: Christopher J. Mocella, Laboratories and Scientific Services, U.S. Customs and

Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec LLC, 5237 Halls Mill Rd., Building U, Mobile, AL 36619, has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13.

AmSpec LLC (Mobile, AL) is approved for the following gauging procedures for petroleum and certain

petroleum products from the American Petroleum Institute (API):

| API chapters | Title |
|--------------|----------------------------|
| 3 | Tank gauging. |
| 7 | Temperature determination. |
| 8 | Sampling. |
| 12 | Calculations. |
| 17 | Maritime measurement. |

AmSpec LLC (Mobile, AL) is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

| CBPL No. | ASTM | Title |
|---------------|-------|--|
| 27–01 | D287 | Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method). |
| 27–02 | D1298 | Standard Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products by Hydrometer Method. |
| 27–04 | D95 | Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation. |
| 27–05 | D4928 | Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration. |
| 27–06 | D473 | Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method. |
| 27–11 | D445 | Standard Test Method for Kinematic Viscosity of Transparent and Opaque Liquids. |
| 27–13 | D4294 | Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy-Dispersive X-ray Fluorescence Spectrometry. |
| 27–46 | D5002 | Standard Test Method for Density and Relative Density of Crude Oils by Digital Density Analyzer. |
| Pending | D3230 | Standard Test Method for Salts in Crude Oil (Electrometric Method). |
| Pending | D4007 | Standard Test Method for Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure). |

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to CBPGaugersLabs@cbp.dhs.gov. Please reference the website listed below for a complete listing of CBP approved gaugers and accredited laboratories. <http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories>

Dated: August 14, 2018.

Dave Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2018–18111 Filed 8–21–18; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–WSFR–2018–N098; FVWF94100900000–XXX–FF09W23000; FVWF51100900000–XXX–FF09W23000; OMB Control Number 1018–0007]

Agency Information Collection Activities; Annual Certification of Hunting and Sport Fishing Licenses Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 22, 2018.

ADDRESSES: Send your comments on the information collection request (ICR) by mail to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803; or by email to Info_Coll@fws.gov. Please reference OMB Control Number

1018–0007 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, by telephone at 703–358–2503, or via the Federal Relay Service at 800–877–8339.

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.

We are 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 Service; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how

might the Service enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Service 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. We will include or summarize each comment in our request to OMB to approve this ICR. 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: The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*, except 777e–1) provide authority for Federal assistance to the States for management and restoration of fish and wildlife. These Acts and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 80, subpart D, require that States, territories, and the District of Columbia annually certify their hunting and fishing license sales. States, territories, and the District of Columbia that receive grants under these Acts use FWS Forms 3–154 (Certification and Summary of Hunting and Sport Fishing Licenses Issued) to certify the number of hunting and fishing licenses sold and the amount of sales. We use the information collected to apportion and distribute funds according to the formula specified in each Act.

With this renewal request, the Service plans to consolidate two forms previously approved by OMB into a single form. FWS Forms 3–154a (Part I—Certification) and 3–154b (Part II—Summary of Hunting and Sport Fishing Licenses Issued), will be combined into a single Form 3–154, Certification and Summary of Hunting and Sport Fishing Licenses Issued. We made no substantive changes to the questions on the final consolidated form. This change will streamline the submission process on the public.

Title of Collection: Annual Certification of Hunting and Sport Fishing Licenses Issued, 50 CFR 80, subpart D.

OMB Control Number: 1018–0007.

Form Number: Forms 3–154.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: States, territories (Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, U.S. Virgin Islands, and American Samoa), and District of Columbia.

Total Estimated Number of Annual Responses: 112.

Total Estimated Number of Annual Responses: 112.

Estimated Completion Time per Response: 32 hours.

Total Estimated Number of Annual Burden Hours: 1,792.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Annually.

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.*).

Dated: August 17, 2018.

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2018–18085 Filed 8–21–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The meeting will be held on Wednesday, September 5, 2018, from 8:30 a.m. to 5 p.m., and on Thursday, September 6, 2018, from 8:30 a.m. to 4 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held at the National Conservation Training Center, 698 Conservation Way, Shepherdstown, WV 25443. Send your comments to the Group Federal Officer by email to gs-faca-mail@usgs.gov.

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data

Committee (FGDC), U.S. Geological Survey (USGS), 909 First Avenue, Suite 800, Seattle, WA 98104; by email at jmahoney@usgs.gov; or by telephone at (206) 220–4621.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552B, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The National Geospatial Advisory Committee (NGAC) provides advice and recommendations related to management of Federal and national geospatial programs, the development of the National Spatial Data Infrastructure, and the implementation of Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC meeting is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the NGAC meeting is available at: www.fgdc.gov/ngac.

Agenda Topics:

- FGDC Update
- Geospatial Data as Services
- Cultural and Historical Geospatial Resources
- Geospatial Infrastructure
- Geospatial Platform
- NSDI Strategic Plan
- Landsat Advisory Group

Meeting Accessibility/Special Accommodations: The meeting is open to the public from 8:30 a.m. to 5:00 p.m. on September 5 and from 8:30 a.m. to 4:00 p.m. on September 6. Members of the public wishing to attend the meeting should contact Ms. Lucia Foulkes by email at lfoulkes@usgs.gov to register no later than five (5) business days prior to the meeting. Seating may be limited due to room capacity. Individuals requiring special accommodations to access the public meeting should contact Ms. Lucia Foulkes at the email stated above or by telephone at 703–648–4142 at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Public Disclosure of Comments: Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the committee members at the meeting, written comments must be provided to Ms. Lucia Foulkes, Federal Geographic

Data Committee (FGDC), U.S. Geological Survey, 12201 Sunrise Valley Drive, MS-590, Reston, VA 20192; by email at lfoulkes@usgs.gov; or by telephone at 703-648-4142, at least five (5) business days prior to the meeting. Any written comments received will be provided to the committee members.

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.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2018-18124 Filed 8-21-18; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Bureau of Safety and Environmental Enforcement

Notice of Availability of Draft Programmatic Environmental Assessment for BSEE Permitted Activities in the Southern California Planning Area 189E1700D2, ET1EE0000.PSB000, EEJJ000000

AGENCIES: Bureau of Ocean Energy Management (BOEM), Interior; and Bureau of Safety and Environmental Enforcement (BSEE), Interior.

ACTION: Notice of Availability

SUMMARY: The Bureau of Ocean Energy Management (BOEM) and Bureau of Safety and Environmental Enforcement (BSEE) have prepared a Draft Programmatic Environmental Assessment (PEA) to evaluate the potential environmental effects of reviewing and approving new applications for well drilling, conductor installation, temporary well abandonment, and other permitted downhole activities at platforms on existing leases on the Pacific OCS.

DATES: Comments on this Draft PEA will be accepted until September 21, 2018.

FOR FURTHER INFORMATION CONTACT: For more information on the Draft PEA, you may contact Mr. Rick Yarde, Regional Supervisor, Office of Environment Pacific Region, BOEM, (805) 384-6379 or Mr. David Fish, Chief Environmental

Compliance Division, BSEE, (703) 787-1567.

SUPPLEMENTARY INFORMATION: This Notice of Availability is published pursuant to the regulations (40 CFR part 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended, (42 U.S.C. 4321 *et seq.* (1988)). To obtain a copy of the Draft PEA:

1. You may download or view the Draft PEA on the following website: <http://pocspemittingpea.evs.anl.gov>
2. Hard copies of the Draft PEA may be obtained by contacting either Mr. Rick Yarde or Mr. David Fish.

COMMENTS: Government agencies and other interested parties are requested to send their written comments on the Draft PEA in one of the following ways:

1. Preferred: Submit your comment on the project's public review website at: <http://pocspemittingpea.evs.anl.gov>

2. In an envelope labeled "Comments on the Draft PEA for BSEE Permitted Activities in the Southern California Planning Area" and mailed (or hand carried) to Mr. Rick Yarde, Regional Supervisor, Office of Environment Pacific Region, Bureau of Ocean Energy Management, 760 Paseo Camarillo, Suite 102 (CM102), Camarillo, CA 93010; or Mr. David Fish, Chief Environmental Compliance Division, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, VAE-ECD, Sterling, VA 20166.

Comments must be submitted by September 21, 2018.

Public Disclosure of Names and Addresses

Before including your address, phone number, email address or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so. The Bureaus will not consider anonymous comments, and the Bureaus will make available for inspection, in their entirety, all comments submitted by organizations or businesses or by individuals identifying themselves as representatives of organizations or businesses.

Dated: August 9, 2018.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

Dated: August 9, 2018.

Scott A. Angelle

Director, Bureau of Safety and Environmental Enforcement.

[FR Doc. 2018-18107 Filed 8-21-18; 8:45 am]

BILLING CODE 4310-VH-P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, September 11, 2018.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW, Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

58355 Safety Report on *Select Risk Factors Associated with Injury-Producing Motorcycle Crashes in the United States*, DCA18SS001

NEWS MEDIA CONTACT: Telephone: (202) 314-6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314-6305 or by email at Rochelle.McCallister@ntsb.gov by Wednesday, September 5, 2018.

The public may view the meeting via a live or archived webcast by accessing a link under "News & Events" on the NTSB home page at www.nts.gov.

Schedule updates, including weather-related cancellations, are also available at www.nts.gov.

FOR MORE INFORMATION CONTACT: Candi Bing at (202) 314-6403 or by email at bingc@ntsb.gov.

FOR MEDIA INFORMATION CONTACT: Christopher O'Neil at (202) 314-6100 or by email at christopher.oneil@ntsb.gov.

Dated: Monday, August 20, 2018.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2018-18284 Filed 8-20-18; 4:15 pm]

BILLING CODE 7533-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–11; NRC–2018–0147]

Sacramento Municipal Utility District; Rancho Seco Independent Spent Fuel Storage Installation; Renewal of Special Nuclear Materials License**AGENCY:** Nuclear Regulatory Commission.**ACTION:** License renewal application; notice of opportunity to request a hearing and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Special Nuclear Materials (SNM) License No. SNM–2510, which currently authorizes Sacramento Municipal Utility District (SMUD) to receive, possess, transfer, and store spent fuel from Rancho Seco Nuclear Generating Station in the Rancho Seco Independent Spent Fuel Storage Installation (ISFSI). The renewed license would authorize SMUD to continue to store spent fuel in the Rancho Seco ISFSI for an additional 40 years beyond the current license expiration date of June 30, 2020. For this license renewal application, the NRC proposes to determine that it involves no significant hazards consideration. Because this license renewal application contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Requests for a hearing or petition for leave to intervene must be filed by October 22, 2018. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by September 4, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0147 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–2018–0147. 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 "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Wendy Reed, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7213; email: Wendy.Reed@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Introduction**

The NRC has received, by letter dated March 19, 2018 (ADAMS Accession No. ML18101A020), an application from SMUD for renewal of SNM License No. SNM–2510 for the Rancho Seco ISFSI for an additional 40 years (ADAMS Accession No. ML18221A281), supplemented June 25, 2018 (ADAMS Accession No. ML18221A295). The license authorizes SMUD to receive, possess, transfer, and store spent fuel from Rancho Seco Nuclear Generating Station. This license renewal, if approved, would authorize SMUD to continue to store spent fuel at the Rancho Seco ISFSI, under the provisions of 10 CFR part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste."

Following an NRC administrative completeness review, documented in a letter to SMUD dated July 20, 2018 (ADAMS Accession No. ML18201A455), the NRC staff has determined that the renewal application contains sufficient information for the NRC staff to begin its technical review and is acceptable for docketing. The application has been docketed in Docket No. 72–11, the existing docket for SNM License No. SNM–2510. If the NRC approves the renewal application, the approval will be documented in the renewal of SNM License No. SNM–2510. The NRC will approve the license renewal application if it determines that the application meets the standards and requirements of

the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. These findings will be documented in a safety evaluation report. The NRC will complete an environmental evaluation, in accordance with 10 CFR part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the **Federal Register**.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (First Floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention

and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the

provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or

(2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Attorney for licensee: Laura Lewis, Chief Legal Officer, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, CA 95817 18999.

NRC Branch Chief: Meraj Rahimi.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive

Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are Hearing.Docket@nrc.gov and OGCmailcenter@nrc.gov, respectively.¹ The request must include the following information:

- (1) A description of the licensing action with a citation to this **Federal Register** notice;
- (2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and
- (3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine

within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order² setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

² Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge

with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.³

(4) The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access

to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 16th of August 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

| Day | Event/activity |
|---------------|---|
| 0 | Publication of Federal Register notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests. |
| 10 | Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding. |
| 60 | Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply). |
| 20 | U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). |
| 25 | If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access. |
| 30 | Deadline for NRC staff reply to motions to reverse NRC staff determination(s). |
| 40 | (Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI. |
| A | If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff. |
| A + 3 | Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order. |
| A + 28 | Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline. |
| A + 53 | (Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI. |
| A + 60 | (Answer receipt +7) Petitioner/Intervenor reply to answers. |
| >A + 60 | Decision on contention admission. |

[FR Doc. 2018-18068 Filed 8-21-18; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on NuScale

The ACRS Subcommittee on NuScale will hold a meeting on August 23, 2018,

at 11545 Rockville Pike, Room T-2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

³Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as

applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Thursday, August 23, 2018—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review the NuScale Design Control Document and the NRC staff Safety Evaluation Report with No Open Items, Chapter 7, "Digital Instrumentation and Control." The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301-415-6792 or Email: Christina.Antonescu@nrc.gov) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866-822-3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO.

Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike,

Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 301-415-6702) to be escorted to the meeting room.

Dated: August 14, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018-18066 Filed 8-21-18; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017-238; CP2017-252; MC2018-208 and CP2018-290; MC2018-209 and CP2018-291]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 24, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance

date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2017-238; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to a Global Plus 1D Negotiated Service Agreement; *Filing Acceptance Date:* August 16, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Michael L. Leibert; *Comments Due:* August 24, 2018.

2. *Docket No(s):* CP2017-252; *Filing Title:* Notice of the United States Postal Service of Filing Modification Two to a Global Plus 1D Negotiated Service Agreement; *Filing Acceptance Date:* August 16, 2018; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Michael L. Leibert; *Comments Due:* August 24, 2018.

3. *Docket No(s):* MC2018-208 and CP2018-290; *Filing Title:* USPS Request to Add Priority Mail Contract 463 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 16, 2018; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 24, 2018.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

6. *Docket No(s)*: MC2018–209 and CP2018–291; *Filing Title*: USPS Request to Add Priority Mail Express & Priority Mail Contract 71 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: August 16, 2018; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Christopher C. Mohr; *Comments Due*: August 24, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2018–18109 Filed 8–21–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83867; File No. SR–Phlx–2018–54]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Codify the Definitions of the Protocols To Enter Quotes and Orders

August 16, 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 August 14, 2018, Nasdaq PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The 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 remove text currently contained in Rule 1080(a) and relocate and add text into that section (a) to codify the definitions of the protocols that members can use to enter quotes and orders on the Exchange.

The text of the proposed rule change is available on the Exchange’s website at <http://nasdaqphlx.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 proposes to: (i) Retitle Rule 1080; (ii) remove the current rule text located at Phlx Rule 1080(a); and (iii) relocate the definition of the Specialized Quote Feed (“SQF”) from Commentary .01(a) of Rule 1080 to proposed 1080(a)(i)(b) and relocate the definition of the Options Floor Based Management System (“FBMS”) from Commentary .06 of Rule 1080 to proposed 1080(a)(i)(c) and codify the Financial Information eXchange (“FIX”) within Rule 1080(a)(i)(a).

Rule 1080 Title

Rule 1080 is currently titled “Phlx.” The Exchange proposes to retitle Rule 1080 as “Electronic Acceptance of Quotes and Orders.”

Rule 1080(a) “General”

The Exchange proposes to delete paragraph (a), “General,” which defines the Exchange’s System using a prior system’s names AUTOM and AUTO–X, which terms are obsolete, as are references to and the functions of each.³ Rule 1080(a) also refers to a successor system, Phlx XL, which is also obsolete.⁴ The Exchange recently added a definition to its Rules at 1000(b)(45) which describes the Exchange’s System.⁵

³ Manual execution by a specialist could occur in AUTOM. This first paragraph also refers to AUTOM routing orders to the specialist unit, and this rule governing order messages, all of which is obsolete. AUTOM and AUTO–X were replaced by Phlx XL. See Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR–Phlx–2003–59).

⁴ Phlx XL was replaced by Phlx XL II, which was phased in over a period of time. See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32).

⁵ See Securities Exchange Act Release No. 82577 (January 24, 2018), 83 FR 4354 (January 30, 2018) (SR–Phlx–2018–09).

The Exchange also proposes to delete cross-references to Rules 1014(b) and 1017, which are unnecessary. Rule 1014, entitled, “Obligations and Restrictions Applicable to Specialists and Registered Options Traders,” contains various definitions, including a Registered Options Trader at Rule 1014(b). The Exchange believes it is unnecessary to cite the specific rule. Further, Rule 1017 entitled “Openings in Options” does not require a specific citation.

New Rule 1080(a)

The Exchange believes that codifying definitions of these protocols in its rules will increase transparency around its operations.⁶ The protocols used by members to submit quotes and orders play an important role in the operation of the System. The Exchange therefore believes that codifying definitions of these protocols in its rules will increase transparency around its operations.

The Exchange proposes to add a new section (a) entitled “Entry and Display of Orders and Quotes.” The Exchange proposes to state in proposed Rule 1080(a) “Members may enter orders and quotes into the System as specified below.” The Exchange proposes to add a section 1080(a)(i) which provides, “The Exchange offers members the following protocols for entering orders and quotes respectively.”

Although the Exchange is changing how it categorizes various features included on FIX and SQF as part of its harmonization effort, the list of features included in the proposed definitions are intended to be exhaustive with respect to the buckets of information provided on each protocol. Overall, the Exchange believes that the proposed changes will allow members to more easily understand what information is available on which protocol.

A. Financial Information eXchange Ports

This protocol is not memorialized within the Exchange’s Rulebook, however rule changes describing FIX have been filed.⁷ The Exchange

⁶ See Securities Exchange Act Release Nos. 83729 (July 27, 2018), 83 FR 37870 (August 2, 2018) (SR–ISE–2018–65); 83731 (July 27, 2018), 83 FR 37867 (August 2, 2018) (SR–GEMX–2018–26); and 83730 (July 27, 2018), 83 FR 37873 (August 2, 2018) (SR–MRX–2018–25). Nasdaq BX, Inc. was filed as SR–BX–2018–038. The Nasdaq Stock Market LLC will submit a similar filing to amend The Nasdaq Options Market LLC ports.

⁷ See Securities Exchange Act Release No. 61665 (March 5, 2010), 75 FR 11967 (March 12, 2010) (SR–Phlx–2010–25). The FIX port was previously referred to as the “Order Entry Port” and described as a connection to routing orders to the Exchange via an external order entry port. Members access the Exchange’s network through order entry ports. A

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

proposes to now codify a description of FIX in its rulebook to add even greater specificity within proposed Rule 1080(a)(i)(A). The Exchange proposes to state that FIX is an interface that allows members and their Sponsored Customers to connect, send and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) Execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications.

B. Specialized Quote Feed Ports

SQF is currently defined at Commentary .01(a) to Rule 1080 as “A specialist, RSQT or SQT may establish an option pricing model via a specialized connection, which is known as a specialized quote feed (“SQF”).” The Exchange proposes to remove this description from Commentary .01(a) to Rule 1080 and relocate the definition to proposed Rule 1080(a)(i)(B) and instead a more descriptive definition of this protocol. The Exchange proposes the following:

SQF is an interface that allows Specialists, Streaming Quote Traders (“SQTs”) and Remote Streaming Quote Traders (“RSQTs”) to connect, send, and receive messages related to quotes, Immediate-or-Cancel Orders, and auction responses into and from the Exchange. Features include the following: (1) Options symbol directory messages (e.g., underlying and complex instruments); (2) system event messages (e.g., start of trading hours messages and start of opening); (3) trading action messages (e.g., halts and resumes); (4) execution messages; (5) quote messages; (6) Immediate-or-Cancel Order messages; (7) risk protection triggers and purge notifications; (8) opening imbalance messages; (9) auction notifications; and (10) auction responses. The SQF Purge Interface only receives and notifies of purge request from the Specialist, SQT or RSQT.⁹

The Exchange believes that this information provides a more thorough description of the SQF protocol.

The Exchange also proposes to remove the remainder of Commentary .01(a) to Rule 1080, which provides, “Specialists, SQTs and RSQTs individually determine which model to select per option and may change

models during the trading day. Each pricing model requires the specialist, SQTs and RSQTs to input various parameters, such as interest rates, volatilities (delta, vega, theta, gamma, etc.) and dividends.” The Exchange is no longer involved in the pricing models that its users choose. This rule text is obsolete. Specialists, SQTs, and RSQTs provide their quotations to the Exchange using their own proprietary models; the Exchange does not offer any pricing models to its members. The Exchange proposes to reserve this section.

C. Options Floor Based Management System (“FBMS”)

The Exchange proposes to relocate the Options Floor Based Management System currently defined in Commentary .06 of Rule 1080 to proposed Rule 1080(a)(i)(C). No substantive changes are being made to the description. The Exchange proposes to delete .06 and also to delete .07 and .08 of the Commentary, which are currently reserved.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹⁰ in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by removing obsolete text from its rules and adding greater transparency to the order and quote protocols available on Phlx.

The Exchange believes that renaming Phlx Rule 1080 will better describe the information contained in the rule. Also, removing obsolete rule text from Phlx Rule 1080(a) and Commentary .01(a) to Rule 1080 will remove confusion as to the System and its offerings. The rule text being removed is obsolete.

The Exchange believes that the proposed rule change is consistent with the protection of investors and the public interest as it codifies the protocols used to connect to the Exchange’s System. While no functional changes to the protocols are proposed in this filing, the Exchange believes that including a description of the protocols in its rulebook will benefit members by increasing transparency around the operation of the Exchange. Furthermore, the proposed definitions being included in the rulebook will more clearly and accurately reflect the information included on the protocols, and will be harmonized with language to be

included in the rules of its affiliated exchanges to the extent that the protocols operate in the same manner. The protocols described in this filing provide a range of important features to members, including the ability to submit quotes and orders, and perform other functions necessary to manage trading on the Exchange. The Exchange believes codifying the quote and order entry protocols will increase transparency to the members that use these protocols to connect to the Exchange.

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 explained above, the Exchange is codifying the quote and order entry protocols that members use to connect to the Exchange’s System. The obsolete rule text does not currently apply to any member on Phlx and therefore removing the inapplicable language will not impact any member on Phlx.

The Exchange does not believe that codifying the order entry protocols in the rulebook will have any competitive impact. Locating all the descriptions within a single rule and adding context around each order entry protocol will increase transparency around the operation of the Exchange without having any impact on inter-market or intra-market competition. All market participants have the ability to subscribe to the protocols for order entry. The quoting protocols are limited to the market participants who are permitted by rule to quote on Phlx, but the function is uniformly available to these eligible participants.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

member organization may have more than one order entry port. The Exchange recently renamed the “Order Entry Port” as the “FIX Port” in the Exchange’s Pricing Schedule. See Securities Exchange Act Release No. 83194 (May 9, 2018), 83 FR 22555 (May 15, 2018) (SR-Phlx-2018-34).

⁹ All of the notification messages available on SQF ports as described above (i.e., options symbol directory messages, system event messages, trading action messages, etc.) are configurable in that Specialists, SQTs or RSQTs can select the specific types of notifications they wish to receive on their SQF ports. As such, SQF Purge Interface ports are a subpart of SQF ports that have been configured to only receive and notify of purge requests.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(iii) of the Act¹¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹²

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-Phlx-2018-54 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-Phlx-2018-54. 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 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-Phlx-2018-54 and should be submitted on or before September 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-18064 Filed 8-21-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83860; File No. SR-NYSE-2018-30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Provide for the Listing of Exchange Traded Products With No Component NMS Stock Listed on the Exchange, Amend Its Rules Regarding Unlisted Trading Privileges, and Make Corresponding Changes

August 16, 2018.

On June 15, 2018, New York Stock Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to: (1) Provide for the listing of exchange traded products ("ETPs") that do not have any component NMS Stock³ that is listed on the Exchange or that is based on, or represents an interest in, an underlying index or reference asset that includes an NMS Stock listed on the Exchange; (2) delete certain redundant listing rules that would be superseded by these initial

and continued listing and trading requirements for the listing of ETPs; and (3) make changes to its unlisted trading privileges rule, Rule 5.1(a)(2), as well as certain supplementary changes throughout Rules 5P and 8P to conform to the rules of the Exchange's affiliate, NYSE National, Inc. The proposed rule change was published for comment in the **Federal Register** on July 6, 2018.⁴ The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act⁵ 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 45th day after publication of the notice for this proposed rule change is August 20, 2018. 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 October 4, 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 Number SR-NYSE-2018-30).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011-01-P

⁴ See Securities Exchange Act Release No. 83560 (June 29, 2018), 83 FR 31585.

⁵ 15 U.S.C. 78s(b)(2).

⁶ *Id.*

⁷ 17 CFR 200.30-3(a)(31).

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ NMS Stock is defined in Rule 600 of Regulation NMS, 17 CFR 242.600(b)(47).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83863; File No. SR-FINRA-2018-031]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 1220(a)(4), Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal

August 16, 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 August 15, 2018, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act,³ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 1220(a)(4) (Financial and Operations Principal and Introducing Broker-Dealer Financial and Operations Principal) to: (1) Reflect that certain firms remain exempt from the requirement to designate an individual as a Financial and Operations Principal (“FINOP”) or an Introducing Broker-Dealer Financial and Operations Principal (“Introducing FINOP”); and (2) provide that the individual designated as Principal Financial Officer and Principal Operations Officer of these exempt firms is not required to be qualified and registered as a FINOP or an Introducing FINOP.

The text of the proposed rule change is available on FINRA’s website at <http://www.finra.org>, at the principal office of FINRA and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

In July 2017, the SEC approved a proposed rule change to,⁴ among other things, adopt the NASD and Incorporated NYSE rules⁵ relating to individuals responsible for a member’s financial and operational activities as FINRA Rule 1220(a)(4) in the Consolidated FINRA Rulebook.⁶ The rule change will become effective on October 1, 2018.⁷

Subparagraph (A) of FINRA Rule 1220(a)(4) requires that each firm designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational

⁴ See Securities Exchange Act Release No. 81098 (July 7, 2017), 82 FR 32419 (July 13, 2017) (Order Approving File No. SR-FINRA-2017-007). For ease of reference, FINRA revised the titles of some of the registration categories as part of SR-FINRA-2017-007. For instance, FINRA changed “Limited Principal—Financial and Operations” and “Limited Principal—Introducing Broker/Dealer Financial and Operations” to “Financial and Operations Principal” and “Introducing Broker-Dealer Financial and Operations Principal,” respectively. This proposed rule change refers to the titles that were approved as part of SR-FINRA-2017-007, though the changes are not yet effective.

⁵ Current NASD Rules 1022(b) (Limited Principal—Financial and Operations) and 1022(c) (Limited Principal—Introducing Broker/Dealer Financial and Operations) and Incorporated NYSE Rule Interpretations 311(b)(5)/02 (Examination Requirements for Chief Financial Officers (“CFO”) and Chief Operations Officers (“COO”)) and/03 (Dual Designation of CFO and COO).

⁶ The current FINRA rulebook consists of: (1) FINRA rules; (2) NASD rules; and (3) Incorporated NYSE rules. While the NASD rules generally apply to all FINRA members, the Incorporated NYSE rules apply only to those members of FINRA that are also members of the NYSE (“dual members”). The FINRA rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, see *Information Notice*, March 12, 2008 (Rulebook Consolidation Process).

⁷ See *Regulatory Notice 17-30* (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

responsibilities,⁸ including, for example, supervision of individuals who assist in the preparation of financial reports. Such individuals must pass the FINOP examination (Series 27) or Introducing FINOP examination (Series 28), as applicable, or obtain a waiver of the examination. They must also register in the Central Registration Depository (“CRD”[®]) system with the designation FN (for FINOP) or FI (for Introducing FINOP).

Certain members, hereinafter referred to as exempt firms, are exempt from the requirement in current NASD Rules 1022(b) and 1022(c) to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities, including from the requirement that such an individual pass the Series 27 or Series 28 examination (or obtain a waiver of the examination) and register in the CRD system with the designation FN or FI.⁹ FINRA preserved these exemptions when it proposed to adopt FINRA Rule 1220(a)(4)(A).¹⁰ However, these exemptions were not reflected in the rule text.

Subparagraph (B) of FINRA Rule 1220(a)(4) requires each firm to designate an individual as Principal Financial Officer with primary responsibility over the firm’s financial filings and the related books and records and an individual as Principal Operations Officer with primary responsibility over the firm’s day-to-day operations. Such individuals must also pass the Series 27 or Series 28 examination, as applicable, or obtain a waiver of the examination. Further, they must register in the CRD system with the designation FN or FI. The responsibilities of a designated Principal Financial Officer and Principal Operations Officer intersect with the responsibilities of a designated FINOP or Introducing FINOP. However,

⁸ The determination of whether a firm is eligible to designate an Introducing FINOP, rather than a FINOP, depends on the firm’s minimum net capital requirements.

⁹ See Securities Exchange Act Release No. 44332 (May 21, 2001), 66 FR 29196, 29197 (May 29, 2001) (Order Approving File No. SR-NASD-00-77). See also *Notice to Members (“NTM”)* 01-52 (SEC Approves NASD Rule Proposal Relating To Registration Requirements For Limited Principals-Financial And Operations And Limited Principals-Introducing Broker/Dealer Financial And Operations) (August 2001).

¹⁰ See Securities Exchange Act Release No. 80371 (April 4, 2017), 82 FR 17336, 17338, n.12 (April 10, 2017) (Notice of Filing of File No. SR-FINRA-2017-007) (stating that “[t]hose members that are currently exempt from the requirement to have a Financial and Operations Principal or an Introducing Broker-Dealer Financial and Operations Principal based on an exemption granted to them prior to September 17, 2001 will continue to be exempt from this requirement.”).

the responsibilities of a designated FINOP or Introducing FINOP are more specific in nature (e.g., they are required to supervise individuals who assist in the preparation of financial reports). In addition, a member's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

As stated in *Regulatory Notice* 17–30, the requirement to designate a Principal Financial Officer and Principal Operations Officer applies to all firms, including exempt firms. As a result, by October 1, 2018, exempt firms would have been required to designate as Principal Financial Officer and Principal Operations Officer an individual who is qualified and registered as a FINOP or an Introducing FINOP (i.e., the individual must have passed the Series 27 or Series 28 examination (or obtained a waiver of the examination) and registered in the CRD system with the designation FN or FI).

Exempt firms have noted that the responsibilities of a Principal Financial Officer and a Principal Operations Officer are functional equivalents to the responsibilities that a designated FINOP or Introducing FINOP would carry out at their firms. Exempt firms have also noted that, given their exempt status, they do not have an individual designated as a FINOP or an Introducing FINOP to whom to assign the responsibilities of a Principal Financial Officer and Principal Operations Officer. Similarly, they do not have any other associated persons who are qualified and registered as a FINOP or an Introducing FINOP (e.g., individuals who have passed the Series 27 examination and registered in the CRD system with the designation FN) to whom to assign the specified responsibilities.

Therefore, exempt firms have stated that FINRA Rule 1220(a)(4)(B) would have the indirect impact of eliminating their FINOP and Introducing FINOP exemptions by requiring them to designate an individual who is qualified and registered as a FINOP or an Introducing FINOP to carry out responsibilities that are functionally equivalent to those responsibilities that would otherwise be carried out by a designated FINOP or Introducing FINOP.

FINRA recognizes that the rule change would have the impact of eliminating longstanding exemptions that were granted to members, which was not the intended purpose of the rule change. The purpose of the rule change is to ensure that each member has designated individual(s) with primary

responsibility for specified financial and operational functions carried out by the firm.

Accordingly, FINRA is proposing to amend FINRA Rule 1220(a)(4)(A) to reflect that exempt firms remain exempt from the requirements of FINRA Rule 1220(a)(4)(A). FINRA is also proposing to amend FINRA Rule 1220(a)(4)(B) to provide that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms are not required to be qualified and registered as FINOPs or Introducing FINOPs. FINRA Rule 1220(a)(4)(B) would continue to require exempt firms to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, but such individual would not be required to be qualified and registered as a FINOP or an Introducing FINOP.¹¹

Finally, as indicated in *NTM* 01–52, FINRA reserves the right to require exempt firms to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities if changes occur in the circumstances under which the original exemption was granted, such as a substantial increase in business or the addition of new lines of business. FINRA also may require exempt firms to designate an individual as a FINOP or an Introducing FINOP if FINRA determines that there is a material financial-related examination finding that would necessitate it. However, in the case of any of these events, the member would have the right to appeal such actions pursuant to FINRA Rule 9630 (Appeal). In addition, FINRA may impose a disciplinary sanction that would require exempt firms to designate an individual as a FINOP or an Introducing FINOP. In the event that a member is no longer exempt under the circumstances described above, the firm would also have to ensure that the individual designated as Principal Financial Officer and Principal Operations Officer is qualified and registered as a FINOP or an Introducing FINOP.

FINRA is filing the proposed rule change for immediate effectiveness. The implementation date will be October 1, 2018, to coincide with the implementation date of the consolidated registration rules.

¹¹ In addition, FINRA notes that individuals designated as Principal Financial Officers and Principal Operations Officers of exempt firms would likely be required to be qualified and registered as principals, such as General Securities Principals, given the scope of their responsibilities.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,¹² which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes it is appropriate to continue to provide an exemption under FINRA Rule 1220(a)(4) to those firms that were previously granted an exemption from the requirement to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities. FINRA also believes the proposed rule change strikes an appropriate balance in that exempt firms would still be required to designate an individual as a Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities, though the individual would not have to be qualified and registered as a FINOP or an Introducing FINOP.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed rule change, the economic baseline of analysis, the economic impact and the alternatives considered.

Regulatory Need

Exempt firms are not required to designate an individual as a FINOP or an Introducing FINOP to carry out specified financial and operational responsibilities. The requirements under FINRA Rule 1220(a)(4)(B), which become operative on October 1, 2018, would effectively and unintentionally undo these exemptions. FINRA is therefore preserving these exemptions, while ensuring that each FINRA member, including exempt firms, has a designated Principal Financial Officer and Principal Operations Officer to carry out specified financial and operational responsibilities.

¹² 15 U.S.C. 78o–3(b)(6).

Economic Baseline

The economic baseline for the proposed rule change relates to the activities and costs associated with financial and operational controls conducted by exempt firms. There are approximately 140 current exempt firms.

Economic Impact

For purposes of this discussion, FINRA has identified the potentially material impacts of the proposed rule change.

Impact on Firms and Associated Persons

The proposed rule change would preserve the ability of exempt firms to maintain financial and operational controls without the addition of a designated individual as FINOP or Introducing FINOP. Relative to current practices, the proposed rule change would not impose material costs on members or associated persons. However, the proposed rule change would eliminate, or significantly reduce, the operational, administrative and cost burden on exempt firms once FINRA Rule 1220(a)(4)(B) becomes effective.

Among other benefits, exempt firms would not be required to employ, or otherwise associate with, an individual who is currently qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. Alternatively, exempt firms would not be required to ensure that a current associated person is qualified and registered as a FINOP or an Introducing FINOP by October 1, 2018 to carry out the responsibilities of Principal Financial Officer and Principal Operations Officer. The proposed rule change would also reduce the costs and burdens on current associated persons of exempt firms who will be designated as Principal Financial Officers and Principal Operations Officers because such individuals would not be required to qualify and register as FINOPs or Introducing FINOPs.

The proposed rule change would not alter the obligations of members that are currently required to have a designated individual as FINOP or Introducing FINOP. As noted above, a firm's designated FINOP or Introducing FINOP is eligible to perform the responsibilities of a Principal Financial Officer and a Principal Operations Officer.

Impact on Customers of Exempt Firms

The proposed rule change is not expected to materially alter the

protections that customers of exempt firms currently receive.

Alternatives Considered

FINRA considered whether alternative qualifications and registrations would be appropriate for Principal Financial Officers and Principal Operations Officers, other than qualification and registration as a FINOP or an Introducing FINOP. However, FINRA determined not to adopt an alternative qualification and registration requirement pending its evaluation of the structure of its principal-level examinations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or

- Send an email to rule-comments@sec.gov. Please include File Number SR-FINRA-2018-031 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-FINRA-2018-031. 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 FINRA. 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-FINRA-2018-031, and should be submitted on or before September 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-18065 Filed 8-21-18; 8:45 am]

BILLING CODE 8011-01-P

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83862; File No. SR-IEX-2018-18]

Self-Regulatory Organizations: Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Definition of the Cross Price Constraint Utilized in the Opening Process for Non-IEX-Listed Securities Pursuant to Rule 11.231

August 16, 2018.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on August 9, 2018, the Investors Exchange LLC (“IEX” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the 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

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (“Act”),⁴ and Rule 19b-4 thereunder,⁵ Investors Exchange LLC (“IEX” or “Exchange”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend the definition of the Cross Price Constraint utilized in the opening process for non-IEX-listed securities pursuant to Rule 11.231. The Exchange has designated this rule change as “non-controversial” under Section 19(b)(3)(A) of the Act⁶ and provided the Commission with the notice required by Rule 19b-4(f)(6) thereunder.⁷

The text of the proposed rule change is available at the Exchange’s website at www.iextrading.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements [sic] may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose Background

The purpose of this proposed rule change is to amend the definition of the Cross Price Constraint utilized in the opening process for non-IEX-listed securities pursuant to Rule 11.231. On July 24, 2017, the Commission approved a proposed rule change filed by the Exchange to amend IEX Rule 11.231 to modify the manner in which the Exchange opens trading for non-IEX-listed securities beginning at the start of Regular Market Hours (the “Opening Process”).⁸

Opening Process for Non-IEX-Listed Securities

Pursuant to Rule 11.231, the Exchange attempts to perform the Opening Process in each non-IEX-listed security, in which all eligible interest resting on the Order Book in the Pre-Market Session available for continuous trading (*i.e.*, orders on the “Continuous Book”) as well as all eligible interest queued for execution in the Regular Market Session (*i.e.*, orders on the “Cross Book”) are executed at a single price (the “Opening Match”). Prior to the beginning of Regular Market Hours, Users who wish to participate in the Opening Process may enter limit, market, and pegged orders designated with a time-in-force of DAY and limit orders designated with a time-in-force of GTX, which shall queue in the System and are eligible for execution in the Opening Process (orders on the Cross Book); interest resting on the Order Book in the Pre-Market Session available for continuous trading (*i.e.*, orders on the Continuous Book) are also eligible for execution in the Opening Process (collectively, “Cross Eligible Orders”).

Cross Eligible Orders resting on the Continuous Book are ranked by the price at which they are resting on the Continuous Book and Cross Eligible

Orders resting on the Cross Book are ranked by the limit price defined by the User, if any, except in the case of pegged orders, which are ranked by their current book price (in each case, the order’s “resting price”).⁹

IEX Order Collar

Rule 11.190(f)(1) sets forth the operation of the IEX Order Collar. Except for orders that are eligible for the Cross Book, the IEX Order Collar prevents any incoming order (including those marked ISO), or order resting on the Order Book, from executing at prices outside of the Order Collar price range.¹⁰ The Order Collar price range is calculated by applying the numerical guidelines for clearly erroneous executions to the Order Collar Reference Price.¹¹ The Order Collar Reference Price is defined as the most current of the following:¹²

- The consolidated last sale price disseminated during the Regular Market Session on the current trade date;
- Last trade price disseminated outside of the Regular Market Session (Form T, as communicated by the relevant SIP) on trade date which other than for the Form T designation would have been considered a valid last sale price; or
- If neither of the prices above are available, the prior days Official Closing Price from the listing exchange, adjusted to account for corporate actions, news events, etc.¹³

Proposed Changes

The Exchange recently identified a minor omission in the Cross Price Constraint rule provisions with respect to manner in which the IEX Order Collar price range applies. Specifically, as described above, the Exchange does not apply the IEX Order Collar to orders eligible for the Cross Book so that it does not impact their relative priority of execution.¹⁴ However, while the IEX Order Collar does not apply to orders

⁹ See Rule 11.220(a)(2). See also Rule 11.231(a)(1).

¹⁰ See Rule 11.190(f)(1) for a complete description of the IEX Order Collar.

¹¹ The upper (lower) Order Collar price range is calculated by adding (subtracting) the appropriate percentage (consistent with the numerical guidelines for clearly erroneous executions) to the Order Collar Reference Price.

¹² In the event there is no valid Order Collar Reference Price, the Exchange generally rejects orders for the security. See Rule 11.190(f)(1).

¹³ See Rule 11.190(f)(1)(A).

¹⁴ See Securities Exchange Act Release No. 81662 (September 20, 2017), 82 FR 44861 (September 26, 2017) (SR-IEX-2017-31), a proposed rule change to clarify the inapplicability of the Exchange’s Order Collar and Router Constraint to certain orders that are eligible for participation in the opening process for non-IEX-listed securities pursuant to Rule 11.231, or for auctions in IEX-listed securities pursuant to Rule 11.350.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ 15 U.S.C. 78s(b)(1).

⁵ 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A).

⁷ 17 CFR 240.19b-4.

⁸ See Securities Exchange Act Release No. 81195 (July 24, 2017), 82 FR 35250 (July 28, 2017).

eligible for the Cross Book, the current implementation of the Cross Price Constraint mechanism is in fact adjusted by the IEX Order Collar price range in limited circumstances when the upper or lower threshold of such price is less aggressive than the upper or lower threshold of the Cross Price Constraint, respectively. In other words, if the Away Protected NBB is below the lower threshold of the IEX Order Collar price range, or the Away Protected NBO is above the upper threshold of the IEX Order Collar price range, the Opening Process execution is constrained by the upper and/or lower thresholds of the IEX Order Collar. Adjusting the Cross Price Constraint by the IEX Order Collar price range does not impact the relative priority of orders eligible for the Cross Book because the constraint is not applied at the order level but instead to the cross price, in connection with the Opening Match.

Based on the foregoing, the Exchange believes the existing Cross Price Constraint definition should explicitly account for the IEX Order Collar price range. Accordingly, the Exchange is proposing to amend rule 11.231(c)(1)(iii) to explicitly state that the Cross Price Constraint is adjusted by the IEX Order Collar price range, as described below:

- The upper threshold price of the Cross Price Constraint is equal to the lesser of the price of the Away Protected NBO or the upper threshold of the Order Collar price range for the Regular Market Session, calculated pursuant to Rule 11.190(f)(1)(C), except in the event that an Away Protected Bid is crossing an Away Protected Offer, the upper threshold price is equal to the greater of five cents (\$0.05) or one half of a percent (0.5%) higher than the lowest Away Protected Offer; and
- The lower threshold price of the Cross Price Constraint is equal to the greater of the price of the Away Protected NBB or the lower threshold of the Order Collar price range for the Regular Market Session, calculated pursuant to Rule 11.190(f)(1)(C), except in the event that an Away Protected Bid is crossing an Away Protected Offer, the lower threshold price is equal to the greater of five cents (\$0.05) or one half of a percent (0.5%) lower than the highest Away Protected Bid.¹⁵

¹⁵ Rule 11.231(b)(2) states in relevant part that an imbalance of Cross Eligible Orders on the buy side or sell side may result in orders that are not executed in whole or in part. Thus, as part of the transition to the Regular Market Session (see Rule 1.160(gg)), unexecuted Cross Eligible Orders to buy (sell) that are priced at or above (below) the Cross Price Constraint (but remain unexecuted due to an imbalance of Cross Eligible Orders) will price slide pursuant to IEX Rule 11.190(h) and all remaining unexecuted Cross Eligible Orders, along with any

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b)¹⁶ of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁷ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes it is consistent with the protection of investors and the public interest to constrain the Opening Process match by the IEX Order Collar price range because executions outside of the Order Collar price range are significantly dislocated from recent trading activity (as measured by the Order Collar Reference Price), and often are the result of erroneous system processing or manual trading errors. The Exchange also notes that executions outside of the IEX Order Collar price range often meet the clearly erroneous criteria and are therefore eligible to be reviewed for cancellation pursuant to Rule 11.270. Thus, the Exchange believes that applying the IEX Order Collar to the cross price in connection with the Opening Match is consistent with the protection of investors and the public interest because it is designed to prevent executions at dislocated prices that are significantly dislocated from recent trading activity and may be canceled pursuant to Rule 11.270.

Furthermore, the Exchange believes that the proposed rule change does not materially alter the Opening Process, because the Opening Process match is already subject to the Cross Price Constraint. Instead, the Exchange believes the proposed changes are designed to make the Cross Price Constraint definition more robust by accounting for the rare scenarios where

orders that were either ineligible to participate in the Opening Process or too passive to be executed in the Opening Process, will be released to the Order Book for continuous trading or canceled in accordance with the terms of the order. Thus, the Exchange notes that when the Cross Price Constraint is narrowed because the Away Protected NBB is below the lower threshold of the IEX Order Collar price range, or the Away Protected NBO is above the upper threshold of the IEX Order Collar price range, there may be a smaller quantity of shares executed in the Opening Process, which may result in a larger quantity of unexecuted Cross Eligible Order shares that are priced equal to or more aggressively than the more narrow Cross Price Constraint (as proposed) transitioning to the RMS and price sliding pursuant to Rule 11.190(h), or canceling pursuant to the terms of the order, as applicable.

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(5).

the Away Protected NBB is below the lower threshold of the IEX Order Collar price range, or the Away Protected NBO is above the upper threshold of the IEX Order Collar price range (i.e., when the spread between the Away Protected NBB is excessively wide, such that it may not reflect the market for the security). The Exchange further believes that the proposed rule changes are consistent with the protection of investors and the public interest because the proposed changes are designed to avoid any potential confusion regarding the Opening Process functionality, and to make the Exchange's rules more accurate, complete, and descriptive of the System's functionality.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed changes do not impact competition in any respect since it is designed to avoid any potential confusion regarding the Opening Process functionality, and to make the Exchange's rules more accurate, complete, and descriptive of the System's functionality without materially changing the Opening Process. In addition, the Exchange believes there will be no impact on intra-market competition, as the proposed changes will apply equally to all Members and therefore no new burdens are being proposed. Furthermore, the Exchange believes there will be no impact on intra-market competition because as discussed above, the proposed changes to the Cross Price Constraint do not impact the relative execution priority of orders eligible for the Cross Book, as the constraint is not applied at the order level but instead to the cross price in connection with the Opening Match.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on

which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁰ normally does not become operative for 30 days after the date of its filing. However, pursuant to Rule 19b-4(f)(6)(iii),²¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange represents that the proposed rule change would protect against executions in the Opening Process that are significantly dislocated from recent trading activity and may be cancelled pursuant to Rule 11.270. In addition, the Exchange notes that while the proposed change to the Cross Price Constraint may affect the cross price in limited circumstances, there will be no change to the relative priority of execution for Cross Eligible Orders. Furthermore, the Exchange states that waiver of the operative delay would allow the Exchange to update its rules without delay to avoid potential confusion among market participants regarding the Exchange's Opening Process functionality and immediately protect against dislocated executions in the Opening Process. The Commission does not believe that any new or novel issues are raised by the proposal. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.²²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) of the Act²³ to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-IEX-2018-18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-IEX-2018-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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 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-IEX-2018-18, and should be submitted on or before September 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁴

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-18060 Filed 8-21-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83864; File No. SR-ICC-2018-007]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change Relating to the Clearance of an Additional Credit Default Swap Contract

August 16, 2018.

On June 13, 2018, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to provide for the clearance of an additional credit default swap contract (File No. SR-ICC-2018-007). The proposed rule change was published for comment in the **Federal Register** on July 3, 2018.³ To date, the Commission has not received comments on the proposed rule change.

Section 19(b)(2) of the Act⁴ 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 45th day from the publication of notice of filing of this

²⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-83545 (June 28, 2018), 83 FR 31244 (July 3, 2018) (SR-ICC-2018-007) ("Notice").

⁴ 15 U.S.C. 78s(b)(2).

¹⁸ 15 U.S.C. 78s(b)(3)(A).

¹⁹ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

²⁰ 17 CFR 240.19b-4(f)(6).

²¹ 17 CFR 240.19b-4(f)(6)(iii).

²² For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²³ 15 U.S.C. 78s(b)(2)(B).

proposed rule change is August 17, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. ICC proposes to revise the ICC Rulebook to provide for the clearance of an additional Standard Emerging Market Sovereign CDS contract. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider ICC's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2)⁵ of the Act, designates October 1, 2018, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ICC-2018-007).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-18057 Filed 8-21-18; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-83861; File No. SR-NASDAQ-2018-059]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Initial and Continued Listing Standards for Subscription Receipts and Fees for Their Listing

August 16, 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 August 3, 2018, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt initial and continued listing standards for subscription receipts and fees for their listing.

The text of the proposed rule change is available on the Exchange's website at <http://nasdaq.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 proposes to adopt initial and continued listing standards for the listing of Subscription Receipts on the Nasdaq Capital Market and fees for their listing.

Subscription Receipts are a financing technique that has been used for many years by Canadian public companies. Typically, Canadian companies use Subscription Receipts as a means of providing cash consideration in merger or acquisition transactions. Subscription Receipts are sold in a public offering that occurs after the execution of an acquisition agreement. The proceeds of the Subscription Receipt offering are held in a custody account and, if the related acquisition closes, the Subscription Receipt holders receive a specified number of shares of the issuer. If the acquisition does not close, then the Subscription Receipts are redeemed for their original purchase price plus any interest accrued on the custody account. The benefit of Subscription Receipts to the issuer is that they provide a contingent form of financing that only becomes permanent if the acquisition is completed. By contrast, a company financing the cash consideration for an acquisition by means of a traditional equity or debt

offering is at risk of having incurred unnecessary dilution of its shareholders or indebtedness if the related acquisition fails to close. Subscription Receipts provide investors with flexibility to elect to invest in the post merger company and not in the company in its pre-merger form.

Nasdaq has received inquiries from market participants about the possibility of the use of Subscription Receipts as a fundraising alternative for listed companies. As a result of this interest, the Exchange is now proposing to adopt listing standards for Subscription Receipts. Under the proposed rule, Nasdaq will initially list Subscription Receipts on the Capital Market pursuant to proposed Rule 5520 if they meet the following requirements:³

(a) The security that the Subscription Receipts are exchangeable for must be listed on the Nasdaq Global Select, Global or Capital Market.

(b) The issuer of the Subscription Receipts must not have received a Staff Delisting Determination with respect to the security the Subscription Receipts are exchangeable for and must not have been notified about a deficiency in any continued listing standard with respect to the issuer of the Subscription Receipts or the security the Subscription Receipts are exchangeable for, except with respect to a corporate governance requirement where the issuer has received a grace period under Rule 5810(c)(3)(E).⁴

(c) The proceeds of the Subscription Receipts offering must be designated solely for use in connection with the consummation of a specified acquisition that is the subject of a binding acquisition agreement (the "Specified Acquisition").

(d) The proceeds of the Subscription Receipts offering must be held in an interest-bearing custody account by an independent custodian.

(e) The Subscription Receipts will promptly be redeemed for cash (i) at any

³ As described in more detail below, these requirements are each either identical or substantially similar to those in Section 102.08 of the NYSE Listed Company Manual for the initial listing of Subscription Receipts.

⁴ Rule 5810(c)(3)(E) provides a grace period for a company to regain compliance if the company fails to meet the majority board independence or the audit committee composition requirements due to one vacancy, or fails to meet the audit committee composition requirements because an audit committee member ceases to be independent for reasons outside of her control. The grace period is until the earlier of the company's next annual shareholders meeting or one year from the event that caused the deficiency to cure the deficiency. However, if the company's next annual shareholders meeting is held sooner than 180 days after the event that caused the deficiency, then the company has 180 days from the event that caused the deficiency to cure it.

⁵ 15 U.S.C. 78s(b)(2).

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

time the Specified Acquisition is terminated, or (ii) if the Specified Acquisition does not close within twelve months from the date of issuance of the Subscription Receipts, or such earlier time as is specified in the operative agreements. If the Subscription Receipts are redeemed, the holders will receive cash payments equal to their proportionate share of the funds in the custody account, including any interest earned on those funds.

(f) If the Specified Acquisition is consummated, the holders of the Subscription Receipts will receive the shares of common stock for which their Subscription Receipts are exchangeable.

(g) At the time of initial listing, the Subscription Receipts must have a price per Subscription Receipt of at least \$4.00, a minimum Market Value of Publicly Held Shares of \$100 million, 1,100,000 Publicly Held Shares⁵ and 400 holders of round lots (*i.e.*, 100 securities).

(h) The sale of the Subscription Receipts and the issuance of the common stock of the issuer in exchange for the Subscription Receipts must both be registered under the Securities Act.

Listed Subscription Receipts will be convertible into the primary listed class of common stock of the listed company issuing the Subscription Receipts and will thereafter be subject to all of the continued listing requirements applicable to a primary class of common stock listed on the Nasdaq.

Nasdaq proposes to adopt Rule 5565 to include continued listing standards applicable to Subscription Receipts. The Exchange will immediately initiate suspension and delisting procedures under the Rule 5800 Series when (i) the number of publicly held shares is less than 100,000, (ii) the number of public holders is less than 100, (iii) the total market value of the listed Subscription Receipts is below \$15 million over 30 consecutive trading days, (iv) the related common equity security ceases to be listed or receives a delisting determination from Nasdaq staff, or (v) the issuer announces that the Specified Acquisition has been terminated.⁶ An issuer of Subscription Receipts that fails these requirements will be issued a delisting letter under Rule 5810(c)(1)

⁵ Listing Rule 5005(a)(34) defines publicly held shares as “shares not held directly or indirectly by an officer, director or any person who is the beneficial owner of more than 10 percent of the total shares outstanding.”

⁶ These requirements are substantially similar to those in Section 802.01B of the NYSE Listed Company Manual for the continued listing of Subscription Receipts.

and will not be eligible to provide a plan to regain compliance.

Because the issuer of the Subscription Receipt is already listing its primary common stock on Nasdaq, it must comply with the continued listing standards for common stock as well as the corporate governance requirements applicable to listed companies. In addition to the foregoing, Subscription Receipts will be subject to potential delisting for all of the reasons generally applicable to operating companies under the Rule 5800 Series. The Exchange notes that an issuer of Subscription Receipts may be subject to delisting at the time of closing of the related acquisition pursuant to Rule 5110(a), which requires a company to meet the initial listing standards following a business combination with a non-Nasdaq entity resulting in a change of control of the listed company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq listing.

Nasdaq proposes to amend Rule 4120(a) and IM-5250-1 to provide that whenever it halts trading in a security of a listed company pending dissemination of material news or implements any other required regulatory trading halt, the Exchange will also halt trading in any listed Subscription Receipt that is exchangeable by its terms into the common stock of such company. The Exchange will monitor activity in Subscription Receipts to identify and deter any potential improper trading activity in such securities and will adopt surveillance procedures, and make any enhancements necessary, to enable it to monitor Subscription Receipts alongside the common equity securities into which they are convertible. Additionally, the Exchange will rely on its existing trading surveillances, administered by the Exchange, or the Financial Industry Regulatory Authority (“FINRA”) on behalf of the Exchange,⁷ which are designed to detect violations of Exchange rules and applicable federal securities laws.

Finally, Nasdaq proposes to adopt fees for Subscription Receipts in proposed Rule 5920. Specifically, Nasdaq proposes to charge a \$25,000 entry fee, which would include a \$5,000 application fee, for the listing of a class of Subscription Receipts on the Nasdaq Capital Market. Given their short-term nature, Nasdaq does not propose to charge a separate annual fee to list

⁷ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA’s performance under this regulatory services agreement.

Subscription Receipts and Subscription Receipts would not be included in the shares considered when calculating Nasdaq’s All-inclusive Annual Listing Fee.⁸ While other securities listed on Nasdaq may have short terms, such as warrants, these securities are not required to have a short defined life and may have terms that extend for many years. In fact, no other security that can be listed on Nasdaq is required, as a condition for listing, to have a term of twelve months from issuance or less. For this reason, Nasdaq believes it is appropriate to adopt a different fee schedule for Subscription Receipts, which recognizes their required short-term nature.⁹

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Section 6(b)(5) of the Act,¹¹ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed listing standard is consistent with Section 6(b)(5) of the Act in that it contains requirements in relation to the listing of Subscription Receipts that provide adequate protections for investors and the public interest. In particular, the Exchange believes that the quantitative requirements, which require that Subscription Receipts must have a price per share of at least \$4.00, a minimum total market value of publicly held shares of \$100 million, 1,100,000 publicly held shares, and 400 holders of round lots (collectively, the “Distribution Criteria”), are designed to protect investors in that they are identical to the requirements the Commission recently approved for NYSE to list Subscription Receipts.¹² In

⁸ See IM-5910-1(e) and IM-5920-1(e), which impose the All-Inclusive Annual Fee based on total shares outstanding and define “total shares outstanding” to mean “the aggregate number of all securities outstanding for each class of equity securities (not otherwise identified in this Rule 5900 Series) listed [on Nasdaq]” (emphasis added). Because proposed Rule 5920(a)(7) would identify Subscription Receipts and subject them to a different fee schedule, the Subscription Receipts would not be included in total shares outstanding for this purpose.

⁹ Nasdaq also proposes to make a non-substantive change to eliminate a duplicate phrase in Rule 5501.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See Exchange Act Release No. 81856 (October 11, 2017), 82 FR 48296 (October 17, 2017) (approving SR-NYSE-2017-31).

approving that filing, the Commission noted that the Distribution Criteria is the same that currently applies to the listing of common stock in connection with an initial public offering under NYSE listing rules and that the \$100 million market value of publicly held shares requirement is similar to the requirements for other initial listing of securities on NYSE, which should help ensure that a sufficient market, with adequate depth and liquidity, exists for the initial listing of Subscription Receipts.

Similarly, the Exchange believes that the proposed continued listing standards for Subscription Receipts are consistent with the requirements of the Act and the protection of investors. Under the proposal, the Exchange will immediately initiate suspension and delisting procedures when (i) the number of publicly held shares is less than 100,000, (ii) the number of public holders is less than 100, (iii) the total market value of listed Subscription Receipts is below \$15 million over 30 consecutive trading days, (iv) the related common equity security ceases to be listed or receives a delisting determination from Nasdaq staff, or (v) the issuer announces that the Specified Acquisition has been terminated. In addition, Subscription Receipts will be subject to potential delisting for all of the reasons generally applicable to operating companies, including those outlined in the Rule 5800 Series of Nasdaq's rules, and may also be subject to delisting at the time of closing of the related acquisition pursuant to Rule 5110(a), which requires a company to meet the initial listing standards following a business combination with a non-Nasdaq entity resulting in a change of control of the listed company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq listing. The Exchange believes the application of Rule 5110(a), which requires a company to meet the initial listing standards following a business combination with a non-Nasdaq entity resulting in a change of control of the listed company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq listing, will help to ensure that companies that would not otherwise qualify for original listing on the Exchange could not list, for example, by merging with a listed company. Taken as a whole, Nasdaq believes that these standards should help ensure that a sufficient market, with adequate depth and liquidity, exists for the continued listing of Subscription Receipts and are similar to the continued listing

standards for other securities that have similar characteristics.

Nasdaq also notes that once the Specified Acquisition has occurred and a Subscription Receipt is converted to common stock, that common stock is subject to the continued listing requirements for such common stock under Rules 5450 or 5550, as applicable. In addition to the quantitative listing requirements proposed for Subscription Receipts, the proposed initial and continued listing standards also include additional protections for Subscription Receipt holders. For example, the issuer of Subscription Receipts must be a Nasdaq-listed company that is not currently non-compliant with any applicable continued listing standard and must continue to be listed on the Exchange throughout the time the Subscription Receipts are traded on the Exchange. The proposed rules also provide that whenever Nasdaq halts trading in a security of a listed company pending dissemination of material news or implements any other required regulatory trading halt, Nasdaq will also halt trading in any listed Subscription Receipt that is exchangeable by its terms into the common stock of such company.

Nasdaq believes that these additional requirements should protect investors and the public interest, consistent with Section 6(b)(5) of the Act, by assuring that information with respect to the listed company issuing the Subscription Receipts is publicly available and that the issuing company is meeting all continued listing standards, including corporate governance requirements, of the Exchange. In addition, these requirements should help assure that the Exchange has a listing relationship with, and direct access to information from, the issuer of the Subscription Receipts. Among other things, this direct relationship the Exchange has with the listed company issuing the Subscription Receipts will help to ensure that the Exchange will receive information in a timely manner to halt trading in the Subscription Receipts when there is a material news, or other regulatory, trading halt imposed on the common stock, and other securities, of the listed company.

There are additional protections for investors in the proposed standards. These include that all the proceeds of the Subscription Receipts offering must be designated solely for use in connection with the consummation of a Specified Acquisition pursuant to a definitive acquisition agreement, the material terms of which would be subject to disclosure. Additionally, the proceeds of the Subscription Receipts

offering must also be held in an interest-bearing custody account by an independent custodian and holders will promptly redeem the Subscription Receipts for cash, equal to the holder's proportionate share of the funds in the custody account plus any interest earned, at any time the Specified Acquisition is terminated or if the Specified Acquisition does not close within twelve months from the date of issuance of the Subscription Receipts (or such earlier time as specified in the operative agreements). If the Specified Acquisition is consummated, the holders of the Subscription Receipts will receive the shares of common stock for which their Subscription Receipts are exchangeable. Finally, the listing standards specifically state and remind issuers that the sale of Subscription Receipts and the issuance of the common stock of the issuer in exchange for the Subscription Receipts must both be registered under the Securities Act of 1933. This is important because shareholders, at the time they purchase a Subscription Receipt, are making an investment decision to also purchase the common stock of the merged listed company should the Specified Acquisition be consummated within twelve months or such shorter specified time period. Therefore, it is important to have registration and disclosure under the Securities Act of both the Subscription Receipt and the related common stock. Based on the above, Nasdaq believes that specifically setting forth the Securities Act registration requirements in its rules for listing Subscription Receipts is consistent with the requirements of Section 6(b)(5) of the Act to further investor protection and the public interest.

The Exchange will also monitor activity in Subscription Receipts to identify and deter any potential improper trading activity in such securities and will adopt surveillance procedures, and make any enhancements necessary, to enable it to monitor Subscription Receipts alongside the common equity securities into which they are convertible. Since the Subscription Receipts are related to, and represent an interest in, the common stock of the post-acquisition listed company, this surveillance should help to monitor the trading activity in both the issuer's listed common stock and the Subscription Receipts. Nasdaq believes that these safeguards and standards should help to ensure that the listing, and continued listing, of any Subscription Receipts will be consistent with investor protection, the public

interest, and the maintenance of fair and orderly markets.

For the above reasons, Nasdaq believes that the proposed initial and continued listing standards are consistent with the Act.

Nasdaq also believes that the proposed fee set forth in Rule 5920 is consistent with Section 6(b)(4) and 6(b)(5) of the Act in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges and is not designed to permit unfair discrimination among its members and issuers and other persons using its facilities. Subscription Receipts are designed to be used for the limited purpose of raising capital for an announced merger transaction and by their terms must be redeemed within 12 months if the transaction does not close. While other securities listed on Nasdaq can have short terms, no other security that can be listed on Nasdaq is required, as a condition for listing, to have a term of twelve months from issuance or less. As such, Nasdaq believes it is not unfairly discriminatory under Section 6(b)(5) of the Act as between issuers listing other types of securities, to charge a fee that differs from its fee for other equity securities, which generally have longer terms or no fixed term, and that it is equitable and reasonable under Section 6(b)(4) of the Act to charge a single \$25,000 fee, which includes a \$5,000 application fee, for the listing of these securities during their lifetime. This fee is also not unfairly discriminatory because the same fee will apply to all issuers seeking to list Subscription Receipts. Further, Nasdaq operates in a competitive environment and its fees are constrained by competition in the marketplace. Other venues currently list Subscription Receipts and if a company believes that Nasdaq's fee is unreasonable it can decide either not to list the Subscription Receipts or to list them on an alternative venue.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The purpose of the proposed rule is to enhance competition by providing issuers and investors with an additional type of listed security that is not currently available on Nasdaq, but that is available on another domestic listing exchange. As such, the Exchange does not believe the proposed rule change imposes any burden on competition but instead will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such 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-NASDAQ-2018-059 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-NASDAQ-2018-059. This

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. 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-NASDAQ-2018-059, and should be submitted on or before September 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018-18058 Filed 8-21-18; 8:45 am]

BILLING CODE 8011-01-P

¹⁵ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83865; File No. SR–NASDAQ–2018–008]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Modify the Listing Requirements Contained in Listing Rule 5635(d) To Change the Definition of Market Value for Purposes of the Shareholder Approval Rule and Eliminate the Requirement for Shareholder Approval of Issuances at a Price Less Than Book Value but Greater Than Market Value

August 16, 2018.

On January 30, 2018, The Nasdaq Stock Market LLC (“Nasdaq” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² a proposed rule change to modify the listing requirements contained in Nasdaq Rule 5635(d) to (1) change the definition of market value for purposes of shareholder approval under Nasdaq Rule 5635(d); (2) eliminate the requirement for shareholder approval of issuances at a price less than book value but greater than market value; and (3) make other conforming changes. The proposed rule change was published for comment in the **Federal Register** on February 20, 2018.³ In response, the Commission received three comments on the proposal.⁴ On April 4, 2018, the Commission extended the time 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 to May 21, 2018.⁵ The Commission issued an order instituting proceedings under Section 19(b)(2)(B) of the Act ⁶ to determine

whether to approve or disapprove the proposed rule change on May 21, 2018 (“OIP”).⁷ The Commission received a letter from the Exchange in response to the OIP.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, however, extend the period for issuing an order approving or disapproving the proposed rule change 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 February 20, 2018.¹⁰ August 19, 2018 is 180 days from that date, and October 18, 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 the proposed rule change and the comment letters. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,¹¹ designates October 18, 2018, as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–NASDAQ–2018–008).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,*Assistant Secretary.*

[FR Doc. 2018–18059 Filed 8–21–18; 8:45 am]

BILLING CODE 8011–01–P**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–83866; File No. SR–FINRA–2018–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 7620A Relating to Fees Applicable to the FINRA/Nasdaq Trade Reporting Facilities

August 16, 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 August 10, 2018, Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as “establishing or changing a due, fee or other charge” under Section 19(b)(3)(A)(ii) of the Act ³ and Rule 19b–4(f)(2) thereunder,⁴ which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 7620A to modify certain fees applicable to members that use the FINRA/Nasdaq Trade Reporting Facility Carteret (the “FINRA/Nasdaq TRF Carteret”) and the FINRA/Nasdaq Trade Reporting Facility Chicago (the “FINRA/Nasdaq TRF Chicago”) (collectively, the “FINRA/Nasdaq TRFs”).⁵

The text of the proposed rule change is available on FINRA’s website at

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b–4.³ 15 U.S.C. 78s(b)(3)(A)(ii).⁴ 17 CFR 240.19b–4(f)(2).

⁵ The Commission recently approved a proposed rule change to adopt rules relating to the establishment of the FINRA/Nasdaq TRF Chicago. See Securities Exchange Act Release No. 83559 (June 29, 2018), 83 FR 31589 (July 6, 2018) (Order Approving File No. SR–FINRA–2018–013). Among other things, the proposed rule change amended the Rule 7600A Series to provide that the schedules of credits and fees apply to reporting activity that occurs on either or both of the FINRA/Nasdaq TRFs and that a participant’s eligibility for any volume-based credits or fee caps will be determined based upon its aggregate reporting volume between the two FINRA/Nasdaq TRFs. SR–FINRA–2018–013 will be effective on the date that the FINRA/Nasdaq TRF Chicago commences operation, which FINRA anticipates will be in September 2018.

¹ 15 U.S.C. 78s(b)(1).² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 82702 (February 13, 2018), 83 FR 7269 (February 20, 2018).

⁴ See Letters to Brent J. Fields, Secretary, Commission, from Michael A. Adelstein, Partner, Kelley Drye & Warren LLP, dated February 28, 2018; Penny Somer-Greif, Chair, and Gregory T. Lawrence, Vice-Chair, Committee on Securities Law of the Business Law Section of the Maryland State Bar Association, dated March 13, 2018; and Greg Rodgers, Latham Watkins, dated March 14, 2018.

⁵ See Securities Exchange Act Release No. 82994 (April 4, 2018), 83 FR 15441 (April 10, 2018).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 83294 (May 21, 2018), 83 FR 24379 (May 25, 2018).

⁸ See Letter to Brent J. Fields, Secretary, Commission, from Arnold Golub, Vice President, Listing Qualifications, Deputy General Counsel, Nasdaq, dated July 18, 2018.

⁹ 15 U.S.C. 78s(b)(2).¹⁰ See *supra* note 3.¹¹ 15 U.S.C. 78s(b)(2).¹² 17 CFR 200.30–3(a)(57).

<http://www.finra.org>, at the principal office of FINRA 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, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The FINRA/Nasdaq TRFs are facilities of FINRA that are operated by Nasdaq, Inc. ("Nasdaq") and utilize Automated Confirmation Transaction Service technology. In connection with the establishment of the FINRA/Nasdaq TRFs, FINRA and Nasdaq entered into a limited liability company agreement (the "LLC Agreement"). Under the LLC Agreement, FINRA, the "SRO Member," has sole regulatory responsibility for the FINRA/Nasdaq TRFs. Nasdaq, the "Business Member," is primarily responsible for the management of the FINRA/Nasdaq TRFs' business affairs, including establishing pricing for use of the FINRA/Nasdaq TRFs, to the extent those affairs are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the FINRA/Nasdaq TRFs.

Pursuant to the FINRA Rule 7600A Series, participants in the FINRA/Nasdaq TRFs are charged fees and may qualify for fee caps (Rule 7620A) and also may qualify for revenue sharing payments for trade reporting to the FINRA/Nasdaq TRFs (Rule 7610A). These rules are administered by Nasdaq, in its capacity as the Business Member and operator of the FINRA/Nasdaq TRFs on behalf of FINRA,⁶ and Nasdaq collects all fees on behalf of the FINRA/Nasdaq TRFs.

Pursuant to FINRA Rule 7620A, participants in the FINRA/Nasdaq TRFs

⁶ FINRA's oversight of this function performed by the Business Member is conducted through a recurring assessment and review of TRF operations by an outside independent audit firm.

are subject to four categories of fees, each of which is applicable to transactions on the three Tapes:⁷ (1) Media/Executing Party; (2) Non-Media/Executing Party; (3) Media/Contra Party; and (4) Non-Media/Contra Party.⁸ Rule 7620A provides that for any category of fees, a participant will qualify for a cap on the fees they [sic] would otherwise pay to report trades to a particular Tape during a given month, provided that during the month, the participant separately has a daily average number of Media/Executing Party trades of at least 2,500 in that same Tape. Additionally, the Rule provides for a special fee cap program—known as the "Media/Contra Cap"—for participants that make markets in an alternative trading system ("ATS").

Nasdaq, as the Business Member, has determined to make several adjustments to the schedule of fees and caps that applies to participants in the FINRA/Nasdaq TRFs. As discussed below, the overall aims of the proposed adjustments are to: (1) Align the activity-based fees and cap levels with the rising costs of operating, maintaining, and improving the FINRA/Nasdaq TRF Carteret and, going forward, the FINRA/Nasdaq TRF Chicago; (2) re-calibrate the fee structure so that it provides for a more equitable allocation of fees among Executing Parties and Contra Parties; (3) ensure that all FINRA/Nasdaq TRF participants, regardless of the level of their reporting or contra activity, bear at least some baseline responsibility for the costs of their participation; and (4) clarify the fee structure. Nasdaq also intends for the proposed adjustments to generate profits for itself as the Business Member. FINRA is proposing to amend Rule 7620A accordingly.

Specifically, the proposed rule change would: (1) Raise the threshold daily average number of Media/Executing Party trades that are necessary for a participant to qualify for a fee cap program during a month; (2) lower uncapped monthly charges for reporting Media/Executing Party and Non-Media/

⁷ Market data is transmitted to three tapes based on the listing venue of the security: New York Stock Exchange securities ("Tape A"), NYSE American and regional exchange securities ("Tape B"), and Nasdaq Stock Market securities ("Tape C").

⁸ Media eligible trade reports are those that are submitted to the FINRA/Nasdaq TRFs for public dissemination by the Securities Information Processors. By contrast, non-media trade reports are not submitted to the FINRA/Nasdaq TRFs for public dissemination, but are submitted for regulatory and/or clearance and settlement purposes.

Pursuant to the Rule's Supplementary Material, the "Executing Party (EP)" is defined as the member with the trade reporting obligation under FINRA rules, and the "Contra (CP)" is defined as the member on the contra side of a trade report.

Executing Party trades and raise the caps on such fees, if applicable; (3) raise the caps on Media/Contra Party and Non-Media/Contra Party fees, if applicable; (4) raise the level of the cap that applies to ATS market makers; (5) establish a new fee cap program known as the "ATS Market Maker Combined Activity Cap"; (6) establish a new fixed monthly fee known as the "Participation Fee"; and (7) establish a special pricing tier for participants whose trade reporting activity to the FINRA/Nasdaq TRF consists of substantially all retail orders ("Retail Participants"). The proposed rule change also would reorganize the fee schedule and make other clarifying changes to Rule 7620A. Each of these proposals is described in detail below.

Cap Qualifying Activity

The proposed rule change would raise the level of "Cap Qualifying Activity"—*i.e.*, the daily average number of Media/Executing Party trades that a participant must report to the FINRA/Nasdaq TRFs in a given month to qualify for caps on its trade reporting fees as set forth elsewhere in the fee schedule. Presently, the level of Cap Qualifying Activity is 2,500 for reports in each of Tapes A, B, and C. Nasdaq, as the Business Member, has determined to raise these threshold numbers to 5,000 in each Tape.

The levels of Cap Qualifying Activity have not increased since they were introduced in 2010,⁹ at a time when reporting volume on the FINRA/Nasdaq TRF Carteret was significantly lower than it is now. Indeed, average daily executions on the FINRA/Nasdaq TRF Carteret have increased by approximately 47 percent since 2012 even as cap thresholds have remained static. Meanwhile, the cost of operating the FINRA/Nasdaq TRF Carteret has increased by approximately 16 percent. These costs have increased for various reasons, including but not limited to inflation, investments that Nasdaq has made in upgrading and improving the facility, and also increased operational and maintenance costs that have flowed from rising levels of trade reporting activity. Nasdaq has advised that raising the levels of Cap Qualifying Activity will help to re-align the thresholds with rising volumes and costs.

Media/Executing Party and Non-Media/Executing Party Fees and Caps

The proposed rule change would amend the schedule of fees and associated caps for both Media/

⁹ See Securities Exchange Act Release No. 61817 (March 31, 2010), 75 FR 17810 (April 7, 2010) (Notice of Filing and Immediate Effectiveness of File No. SR-FINRA-2010-011).

Executing Party and Non-Media/Executing Party trade reports. For both types of trade reports, Nasdaq, as the Business Member, has determined to lower the uncapped fee from \$0.018 to \$0.015 per side. Nasdaq also has determined to modify the formulas for calculating the maximum amount of fees that a participant will pay to report these trades if the participant achieves Cap Qualifying Activity. Presently, the formulas for the Media/Executing Party cap and the Non-Media/Executing Party cap are, respectively: $\$0.018 \times$ (the required average daily number of Media/Executing Party Trades for Tape A, B, or C) \times (the number of trading days during the month); and $\$0.018 \times 2,500 \times$ (the number of trading days during the month). Nasdaq has determined to lower the fee in the cap formulas from \$0.018 to \$0.013 and raise the average daily number of trade reports needed to qualify for the cap from 2,500 to 5,000. Finally, the proposed rule change would simplify the formula for the Media/Executing Party Cap by stating expressly the average daily number of Media/Executing Party trades necessary to qualify for the cap—5,000—rather than merely describe that number, as it does now.

Nasdaq has advised that the proposed changes are aimed at rationalizing Media (Non-Media)/Executing Party fee caps with the 47 percent increase in reporting activity to the FINRA/Nasdaq TRFs [sic] and the 16 percent increase in costs associated with the operation of the TRF that have occurred over the past six years. However, Nasdaq also proposes downward adjustments to the uncapped rates for reporting Media/Executing Party trades to dampen the financial impact of the increase in the cap upon participants that will no longer qualify for it under the proposed rule change.

Media/Contra Party and Non-Media/Contra Party Fees and Caps

The proposed rule change would raise the caps for both Media/Contra Party and Non-Media/Contra Party trades while keeping the uncapped monthly charge of \$0.013 per side the same. For both types of trades, Nasdaq, as the Business Member, has determined to modify the cap formulas so that, instead of being $\$0.013 \times 2,500 \times$ (the number of trading days during the month), the formulas will be $\$0.013 \times 5,000 \times$ (the number of trading days during the month). The rationale for this increase is the same as is described above.

Media/Contra Cap

FINRA Rule 7620A provides for a monthly “Media/Contra” fee cap of

\$5,000 per Tape (A, B or C) that applies to all trades (*i.e.*, Media/Executing Party, Non-Media/Executing Party, Media/Contra and Non-Media/Contra) under the Rule. Eligibility for this fee cap is based on a FINRA member’s trade reporting of Media/Contra trades to the FINRA/Nasdaq TRFs and its participation as a market maker on an ATS. To qualify as a market maker on an ATS, a FINRA member must maintain a two-sided quote for each security that the FINRA member maintains interest in within each ATS and display a quotation size of at least one normal unit of trading (specific for each security), and it must attest to these qualifications in writing. The FINRA member must also attest that it will continue to meet the ATS-based requirements to be eligible for the fee cap.¹⁰ To qualify for the cap, a FINRA member must have its Media/Contra Party trades equal, or exceed, 35% of its total volume on the FINRA/Nasdaq TRFs. The FINRA member also must be contra to a minimum of 1 million trades in Tape A, 500,000 trades in Tape C, and 250,000 trades in Tape B to qualify for the fee cap in the securities of the Tapes, respectively.

Nasdaq, as the Business Member, has determined to modify the Media/Contra Party fee cap program by increasing the maximum monthly per Tape charge applicable to qualifying participants. Specifically, the maximum monthly charge will increase from \$5,000 per Tape per month to \$10,000 per Tape per month. Nasdaq, as the Business Member, has determined that the existing cap level, which has not changed since it was introduced in 2015, no longer bears a reasonable relationship to the volume of qualifying participant reporting activity that occurs on the FINRA/Nasdaq TRFs [sic]. The volume of market maker Media/Contra Party reports to the FINRA/Nasdaq TRFs [sic] is growing rapidly. From January 2016 through June 2017, the firms that presently qualify for the cap increased their activity on the FINRA/Nasdaq TRF Carteret by 60%. Their activity presently exceeds the minimum qualifying threshold for the cap by more than fourfold.

In addition, the proposed rule change would change the name of this cap to the “ATS Market Maker Media/Contra Party Cap” to more accurately describe the program, add clarity to the fee schedule and avoid potential confusion with the other Media/Contra cap.

¹⁰ As set forth in the Rule, Nasdaq will periodically audit FINRA members that choose to participate to ensure compliance with the attestation.

ATS Market Maker Combined Media Activity Cap

Nasdaq, as the Business Member, has determined to establish a new fee cap program, entitled the “ATS Market Maker Combined Media Activity Cap.” The purpose of the proposed cap is to foster new reportable business activities among FINRA members that do not qualify for the existing FINRA/Nasdaq TRFs [sic] fee cap program.

For example, a participant may be a new FINRA member or it may engage in new off-exchange business activities, such as the establishment of a single-dealer platform or an ATS. In the initial stages of these business activities, the participant may not qualify for the existing fee cap programs because the participant may not achieve the requisite daily average number of Media/Executing Party trades during a month or because it may not reliably maintain the requisite volume of Media/Contra Party activity to qualify for the Media/Contra Party cap (which, as noted above, would cap both its Executing Party and Contra Party fees).

The proposed ATS Market Maker Combined Media Activity Cap will provide assistance to such a participant by capping the combined FINRA/Nasdaq TRFs fees (*i.e.*, Media/Executing Party, Media/Contra, Non-Media/Executing Party and Non-Media/Contra) that the participant would otherwise pay while the participant ramps up its new reportable activity to levels that would enable it to qualify for existing fee cap programs with higher qualification thresholds, such as the Media/Executing Party cap and the Media/Contra Party cap.

To qualify for the proposed ATS Market Maker Combined Media Activity Cap, a participant must: (1) Qualify as a market maker on an ATS (as defined below); (2) engage in both Executing Party and Contra Party activities; and (3) average at least 2,500 Media/Executing Party trades in a given Tape per day during a month. If the participant meets this threshold, then the participant will pay for that month, on a per Tape basis, the lesser of \$7,500 or the sum of all the participant’s combined monthly Executing Party and Contra Party fees for that Tape during the month (as calculated using the regular uncapped Media/Executing Party, Non-Media/Executing Party, Media/Contra Party, and Non-Media/Contra Party rates). If the participant’s average daily Media/Executing Party trade reports reach at least 5,000 in a given Tape in a given month, then the participant will no longer qualify for the proposed ATS Market Maker Combined Media Activity

Cap in that Tape in that month and, instead, will qualify for the regular cap programs for that month. If the participant does not reach 2,500 Media/Executing Party trades in a given Tape per day during a month, the firm will be subject to the regular uncapped fee schedule or to other fee caps that may be applicable to it for that month.¹¹

As with the ATS Market Maker Media/Contra Party Cap, a participant qualifies as a market maker on an ATS by maintaining a two-sided quote for each security that the FINRA member maintains interest in within each ATS and by displaying a quotation size of at least one normal unit of trading (specific for each security). Additionally, as with the existing ATS Market Maker Media/Contra Party cap, the participant must attest to its market maker qualifications in writing and must re-certify its qualifications every six months.¹² Nasdaq will periodically audit participants to ensure that their attestations are accurate and that they qualify for the ATS Market Maker Combined Activity Cap.

Participation Fee

Nasdaq, as the Business Member, has determined to assess a new fixed monthly Participation Fee of \$350 that will apply to each participant in the FINRA/Nasdaq TRFs.¹³ The Participation Fee will help defray certain shared and common costs associated with the operation of the FINRA/Nasdaq TRFs, including overhead costs and the costs of developing, maintaining, and upgrading shared technology.¹⁴ Nasdaq believes that all users of the FINRA/Nasdaq

¹¹ If a participant qualifies for the ATS Market Maker Combined Media Activity Cap in month 1 and then graduates out of the Combined Cap program in month 2 due to the fact that the participant's average daily Media/Executing Party trade reports in a given Tape in month 2 exceed 5,000, the participant will once again qualify for the ATS Market Maker Combined Media Activity Cap in month 3 if its average daily Media/Executing Party trade reports during month 3 fall back below 5,000.

¹² The form of attestation that firms will be required to submit to Nasdaq under the proposed rule change is attached to this filing at Exhibit 3.

¹³ The Participation Fee will be assessed on each registered participant, irrespective of whether the participant is identified (as Executing Party or Contra Party) in any trade report submitted to the FINRA/Nasdaq TRF in a given month. Participants that use multiple Market Participant Identifiers or "MPIDs" for purposes of reporting to the FINRA/Nasdaq TRF in accordance with Rule 6160 will not be assessed a Participation Fee for each separate MPID.

¹⁴ Because the Participation Fee covers costs that are common to and allocated specifically to either FINRA/Nasdaq TRF, a participant will pay only a single Participation Fee even if it participates in both the FINRA/Nasdaq TRF Carteret and FINRA/Nasdaq TRF Chicago.

TRFs—both large and small—should bear at least some responsibility for the upkeep of the FINRA/Nasdaq TRFs.¹⁵ The Participation Fee represents a baseline share of this responsibility. Responsibility for costs in excess of the proposed Participation Fee will continue to be recovered from participants through trade reporting fees in proportion to the volume of their activities on the FINRA/Nasdaq TRFs. The Participation Fee is distinct from the fee that Nasdaq separately charges under its rules to port into the FINRA/Nasdaq TRFs.

Retail Participant Pricing Program

Nasdaq, as the Business Member, has determined to establish a new pricing program for participants that qualify as "Retail Participants" due to the fact that substantially all of their trade reporting activity to the FINRA/Nasdaq TRFs constitutes "Retail Orders."¹⁶ For purposes of this pricing program, a "Retail Order" is an order that originates from a natural person, provided that, prior to submission, no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.¹⁷

The purpose of this retail pricing program is to help Retail Participants to control their costs associated with reporting trades to the FINRA/Nasdaq TRFs and, in doing so, to limit or reduce any such costs that Retail Participants pass on to their retail customers. Such retail customers generally include individuals who trade less frequently and have fewer trades reported to the FINRA/Nasdaq TRFs than do other categories of customers; therefore, it is fair and reasonable to charge Retail Participants and their customers less

¹⁵ As discussed below, Retail Participants will be exempt from paying the Participation Fee.

¹⁶ In defining a "Retail Participant," the proposal derives from a similar concept set forth in Nasdaq's Designated Retail Order pricing program and its corresponding Designated Retail Order Attestation Form. See Securities Exchange Act Release No. 75375 (July 7, 2015), 80 FR 40098 (July 13, 2015) (Notice of Filing and Immediate Effectiveness of File No. SR-NASDAQ-2015-066). The Nasdaq Designated Retail Order Attestation Form provides that to qualify for the Designated Retail Order pricing program, an applicant must attest that "substantially all orders submitted to the Exchange by the Applicant would meet the qualifications for such orders under the Retail Order rule." See <https://nasdaqtrader.com/content/ProductsServices/Trading/AttestationForm.pdf>. FINRA will refine the definition of a Retail Participant if it proves to be unworkable in practice.

¹⁷ The definition of a "Retail Order" derives from the definition of a "Designated Retail Order" in Nasdaq Rule 7018.

than these other categories of participants and customers.¹⁸

A Retail Participant will be subject to the following fee schedule when it reports trades to the FINRA/Nasdaq TRF. For Media/Executing Party (Non-Media/Executing Party) fees, the monthly charge for a Retail Participant will be \$0.018 multiplied by the number of Media/Executing Party (Non-Media/Executing Party) trades that the Retail Participant reports to the FINRA/Nasdaq TRFs during that month. Such fees will be capped for a given month once the Retail Participant reports to the FINRA/Nasdaq TRFs, on average, at least 2,500 Media/Executing Party trades per day in Tapes A, B, or C during that month. If capped for trades in a particular Tape, Media/Executing Party (Non-Media/Executing Party) fees for a Retail participant will equal \$0.018 multiplied by 2,500 multiplied by the number of trading days during that month. Additionally, Retail Participants will be exempt from paying the \$350 per month Participant Fee.

The foregoing preserves for Retail Participants the existing Media/Executing Party (Non-Media/Executing Party) fee schedules, cap thresholds, and cap formulas. It excludes Retail Participants from the adjustments that Nasdaq, as the Business Member, is otherwise proposing to make to the fee schedules and caps and the addition of the Participant Fee. In other words, the average daily trade threshold for Retail Participants to qualify for the Media/Executing Party (Non-Media/Executing Party) cap will remain at 2,500 Media/Executing Party trade reports and will not rise to 5,000, as it will for other participants. However, Retail Participants also will not be subject to proposed decreases in the \$0.018 per trade report fee that other participants will experience.

As to Media/Contra Party (Non-Media/Contra Party) fees, the monthly charge for a Retail Participant will be the same as that which applies to all other participants: \$0.013 multiplied by the number of Media/Contra Party (Non-Media/Contra Party) trades that the participant reports to the FINRA/Nasdaq TRFs during the month. However, the threshold for Retail Participants to

¹⁸ In other contexts, the Commission has approved pricing programs aimed at benefitting retail investors. See, e.g., Securities Exchange Act Release No. 68937 (February 15, 2013), 78 FR 12397 (February 22, 2013) (Order Approving File No. SR-NASDAQ-2012-129 (Nasdaq retail price improvement pilot program); and Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (Order Approving File Nos. SR-NYSE-2011-55 and SR-NYSEAmex-2011-84) (NYSE and NYSE Amex retail liquidity pilot programs).

qualify for a cap on Media/Contra Party (Non-Media Contra Party) fees will differ from that which will apply to other participants. Retail Participants will continue to qualify for a cap (on a per Tape basis) on Media/Contra Party (Non-Media/Contra Party) fees during a given month if they report to the FINRA/Nasdaq TRFs, on average, at least 2,500 Media/Executing Party trades per day in Tapes A, B, or C, whereas the cap threshold for other participants will rise to an average of 5,000 Media/Executing Party trades per day. If capped, Media/Contra Party (Non-Media/Contra Party) fees for a Retail Participant will equal \$0.013 multiplied by 2,500 multiplied by the number of trading days during that month. Other participants will pay a maximum charge of \$0.13 multiplied by 5,000 multiplied by the number of trading days during the month.

To qualify as a Retail Participant and receive pricing under the Retail Participant fee schedule, a participant must complete and submit to Nasdaq, as the Business Member, an application. The application form will require the participant to attest to its qualifications as a Retail Participant on the FINRA/Nasdaq TRFs in which it is a participant and for which it seeks Retail Participant pricing.¹⁹ The participant must also attest to its reasonable expectation that it will maintain its qualifications for a one year period following the date of attestation. Once a participant has been designated as a Retail Participant, it must complete and submit a written attestation to Nasdaq on an annual basis to retain its status as such. A Retail Participant must inform Nasdaq promptly if at any time it ceases to qualify or it reasonably expects that it will cease to qualify as a Retail Participant.²⁰

General Reorganization and Clarification

Finally, the proposed rule change would clarify and simplify Rule 7620A. Presently, the Rule is complex and potentially confusing as to the requirements for and interaction among the various cap programs. The proposed rule change would add prefatory language to the Rule to explain more clearly how the fees and cap programs work. As discussed above, the proposed rule change would add a title to the

schedule of the daily average Media/Executing Party trade reporting activity needed to qualify for a cap—"Cap Qualifying Activity." In addition, the amended Rule would be reorganized so that its provisions are listed in a more logical order and would segregate Comparison/Accept fees from the other "Standard Fees" (renamed as "Other Fees"). Lastly, as discussed above, the proposed rule change would rename the special Media/Contra cap program that applies only to ATS market makers so that it is more clearly differentiated from the regular Media/Contra Party cap.

FINRA has filed the proposed rule changes for immediate effectiveness. The operative date will be September 1, 2018.

2. Statutory Basis

FINRA believes that the proposed rule changes [sic] are consistent with the provisions of Section 15A(b)(5) of the Act,²¹ which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls.

The proposed rule change is reasonable to: (1) Raise from 2,500 to 5,000 the Cap Qualifying Activity that a participant needs to achieve to qualify for a Media (Non-Media)/Executing Party cap or a Media (Non-Media)/Contra Party cap under Rule 7620A; (2) raise the overall²² maximum charges under each of these cap programs; and (3) raise the maximum monthly charge under the ATS Market Maker Media/Contra Cap from \$5,000 to \$10,000 per Tape. These caps and cap formulas have not kept [sic] pace with the rapid growth of trade reporting volume on the FINRA/Nasdaq TRF Carteret since they were introduced or with the corresponding increase in costs associated with operating, maintaining, and upgrading the FINRA/Nasdaq TRF Carteret. Nasdaq, as the Business Member, advises FINRA that a recalibration of Rule 7620A will help Nasdaq to continue to accommodate the costs associated with rising trade reporting volumes while also making substantial enhancements to the technology, functionality, and performance of the Facilities [sic].

These proposed increases are also reasonable because they will also help

to allocate responsibility for the upkeep of the FINRA/Nasdaq TRFs more equitably among Executing Parties and Contra Parties. Over time, the fee burden associated with the FINRA/Nasdaq TRF Carteret has shifted disproportionately to Contra Parties; the proposed re-allocation will help ensure that Executing Parties pay their fair share of fees.

Nasdaq advises that it expects to earn a profit from the proposed changes, but it believes that such profit represents a reasonable return on its work in support of and investments in the FINRA/Nasdaq TRFs, and that the extent of such profit will be subject to and constrained by competitive pressures. As the Commission has recognized, "[i]f competitive forces are operative, the self-interest of the exchanges themselves will work powerfully to constrain unreasonable or unfair behavior,"²³ and "the existence of significant competition provides a substantial basis for finding that the terms of an exchange's fee proposal are equitable, fair, reasonable, and not unreasonably or unfairly discriminatory."²⁴ In this instance, the proposed fee increases will be subject to significant competition from the FINRA/NYSE TRF, which has proven itself able to increase its market share relative to the FINRA/Nasdaq TRF Carteret as a result of pricing and other competitive adjustments. As the Commission has held in the past, the presence of competition provides a substantial basis for a finding that the proposal will be an equitable allocation of reasonable dues, fees and other charges.²⁵

Finally, and except as described below, these proposals to adjust fee levels and fee caps are equitable and not unfairly discriminatory because they will apply to all similarly situated participants.

The establishment of a special schedule of fees and fee caps for "Retail Participants," for whom the existing system of trade reporting fees, cap thresholds, and cap formulas will continue to apply, is reasonable, equitable, and not unfairly discriminatory. Although the proposed rule change would make a distinction in pricing in favor of Retail Participants and retail investors, the Act only prohibits unfair discrimination. In this instance, FINRA believes that the establishment of a distinct category of Retail Participant pricing is fair because

¹⁹ Thus, a participant in both FINRA/Nasdaq TRFs that seeks Retail Participant pricing on both TRFs must attest to their qualifications as such on both TRFs.

²⁰ The form of application and attestation that firms will be required to submit to Nasdaq under the proposed rule change is attached to this filing at Exhibit 3.

²¹ 15 U.S.C. 78o-3(b)(5).

²² Overall, the proposed rule change will increase the maximum charges under the Media (Non-Media)/Executing Party fee caps even though the per trade portions of the fee cap formulas will decrease from \$0.018 to \$0.013.

²³ See Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 at 74781 (December 9, 2008) (Order Setting Aside Action by Delegated Authority and Approving File No. SR-NYSEArca-2006-21).

²⁴ *Id.* at 74781-82.

²⁵ *Id.*

customers of Retail Participants generally include individuals who trade less frequently and report fewer trades to the FINRA/Nasdaq TRFs than do other categories of customers. FINRA believes that such customers, and the participants that serve them, should not bear primary financial responsibility for helping the FINRA/Nasdaq TRFs to recover rising costs and to account for increasing reporting activity. Moreover, maintaining the existing fee schedule for Retail Participants will help the FINRA/Nasdaq TRFs to maintain its [sic] competitive standing for Retail Participants and their retail trade reporting activity. FINRA believes that the proposed qualifications for Retail Participants are reasonably tailored to ensure that they include only those that exclusively or almost exclusively handle retail trading activity. Finally, FINRA notes that the Commission has, in other contexts, approved programs like this one that are intended to specifically benefit retail firms.²⁶

The proposal to establish a new ATS Market Maker Combined Media Activity Cap is reasonable as a means of fostering the establishment and growth among FINRA members of new businesses that involve reportable activity, such as single-dealer platforms and ATSS. In the early stages of these businesses, participants may not yet qualify for the existing fee cap programs because they may not yet conduct enough business as Executing Parties to qualify for the Media/Executing Party cap or otherwise meet the qualifications for the Media/Contra Party cap. The proposed cap will help these participants to establish and grow their businesses by limiting the fees that they will otherwise incur as they grow.

Furthermore, the proposed ATS Market Maker Combined Media Activity Cap is available to all FINRA members that use the FINRA/Nasdaq TRFs and meet the threshold requirements to qualify for the terms of the fee cap. While only some participants will qualify for the proposed cap and thus see a reduction in their FINRA/Nasdaq TRF trade reporting fees, Nasdaq, as the Business Member, has advised FINRA that the proposed cap is not unfairly discriminatory because the proposed fee cap is targeted to benefit those participants that have a small but growing volume of Executing Party activity on the FINRA/Nasdaq TRFs. Nasdaq advises FINRA that it is not unfairly discriminatory to limit participation to market makers with a daily average number of Media/Executing Party trades of less than 5,000

because participants with at least 5,000 Media/Executing Party trades will be eligible to graduate to the Media/Executing Party Cap.

The proposed establishment of a fixed monthly Participation Fee is a reasonable means of ensuring that all participants in the FINRA/Nasdaq TRFs (other than Retail Participants, as discussed above) bear a share of financial responsibility for funding their use of the Facility, even if the extent of their use is minimal. Indeed, the FINRA/Nasdaq TRFs incur (or, in the case of the FINRA/Nasdaq TRF Chicago, will incur) costs associated with the mere addition and maintenance of participants' accounts that are independent of the participants' usage of those accounts to report trades. FINRA believes that it is equitable and non-discriminatory to assess a Participation Fee to help the FINRA/Nasdaq TRFs to recover these costs from all participants.

Finally, FINRA believes that it is reasonable to reorganize and clarify Rule 7620A so that it is easier to comprehend and presented in a more logical order. The proposal to reorganize and restate the Rule is also equitable and not unfairly discriminatory in that the proposal will apply to all similarly situated participants in the FINRA/Nasdaq TRFs.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Regulatory Need

Nasdaq, as the Business Member and operator of the FINRA/Nasdaq TRFs, collects all fees on behalf of the FINRA/Nasdaq TRFs. As discussed above, Nasdaq has observed an increase in off exchange volumes and the associated cost of operating and improving the FINRA/Nasdaq TRFs, and thus determined to make several adjustments to the schedule of fees and caps to align those with the costs.

Economic Baseline

As discussed above, pursuant to FINRA Rule 7620A, participants in the FINRA/Nasdaq TRFs [sic] are currently subject to four categories of fees, each of which is applicable to transactions on the three Tapes: (1) Media/Executing Party; (2) Non-Media/Executing Party; (3) Media/Contra Party; (4) and Non-Media/Contra Party. The Rule also provides fee caps for participants for a particular Tape during a given month,

separately for Media/Executing Party trades and Media/Contra Party trades.

Economic Impact

The proposed rule change entails several changes to the fee and cap structure. The potential marginal impact of each proposed change is discussed below.

Nasdaq has determined to raise the threshold for the "Cap Qualifying Activity"—*i.e.*, the daily average number of Media/Executing Party trades that a participant must report to the FINRA/Nasdaq TRFs in a given month to qualify for caps on its trade reporting fees, from 2,500 reports in each of Tapes A, B, and C to 5,000 reports. Such increase in the cap qualifying activity will increase reporting fees for participants who currently meet the threshold for the cap. Assuming that the participants do not alter the number of reports, some participants may have activity below the threshold and may no longer be eligible for the fee caps. Such participants would potentially experience a larger impact from the proposed increase.

Under the proposed calculation for the Media/Executing Party and Non-Media/Executing fee, the cap would effectively increase by approximately 44%, from \$990 ($\$0.018 \times 2,500 \times 22$) to \$1,430 ($\$0.013 \times 5,000 \times 22$), assuming 22 trading days in a month. Based on the reporting activity from the fourth quarter of 2017 and assuming that reporting activity would remain similar, under the proposed increase in fees and the cap, 27 participants would potentially be impacted from such increase in the cap and thus would pay more in reporting fees under the proposed change. Similarly, under the proposed calculation for the Media/Contra Party and Non-Media/Contra Party fee, the cap would increase 100%, from \$715 ($\$0.013 \times 2,500 \times 22$) to \$1,430 ($\$0.013 \times 5,000 \times 22$), again assuming 22 trading days in a month.

An analysis of the participants show [sic] that the firms impacted by the cap qualifier for Media/Executing Party and Non-Media/Executing activity are the same firms who would potentially incur the 100% increase on the Contra Party fees. Under the combined capped activity, the cost increase would be 68%, on average, for the participants who report both Executing Party and Contra Party trades. The proposed increase in the maximum monthly "Media/Contra" fee from \$5,000 per Tape per month to \$10,000 per Tape per month would potentially impact a few number [sic] of qualifying participants, but could provide savings in the future if they qualify for the ATS Market

²⁶ See n.18, *supra*.

Maker Combined Media Activity Cap discussed above.

The ATS Market Maker Combined Media Activity Cap would initially benefit only a small number of ATSS due to their reporting activity. The reporting fees would potentially decrease by 25%, from \$30,000 to \$22,500 under the ATS Market Maker Combined Media Activity Cap. However, the fees could potentially decrease by approximately 43% if reporting activity increases.

The proposed participant fee would be assessed on all participants equally and would raise the overall reporting fees by \$350 per month regardless of the reporting activity. Retail Participants would be exempt from paying this fee.

The proposed rule change establishes a "Retail Participant Pricing Program" for participants whose trade reporting activity to the FINRA/Nasdaq TRFs constitutes "Retail Orders." Under the proposed program, reporting activity to be eligible for the cap would be lower compared to that for non-retail participants. Retail Participants would potentially benefit from the proposed program, and incur relatively lower costs, consistent with relatively fewer trades that are considered retail.

FINRA analyzed data provided by Nasdaq that contain fees incurred by 545 participants in the final quarter of 2017, and projected fees that were estimated under the proposed fee and cap schedule assuming that the reporting behavior would be the same under the current and the proposed schedule. On a net basis, *i.e.*, after incorporating the proposed changes in the fees and caps and the Participation Fee, 17 participants would experience a reduction in the total fees incurred, with an average estimate of \$722. Another 13 participants would be expected to see no change in the fees incurred, and these participants appear to be those that would be eligible for the Retail Participant Program. The remaining 515 participants would incur an estimated fee increase of \$598 per month. However, for 489 participants out of the 515, the increase is solely due to the proposed Participation Fee of \$350.

The potential net impact of the proposed rule change depends on whether participants alter their reporting activity across TRFs to be eligible for the fee caps. To the extent that the proposed increases impose a burden on participants, they may choose to shift their reporting to other TRFs. The net impact would also depend on whether the proposed fee caps create an optimal reporting strategy to be eligible for a specific cap to maximize the overall savings for all

trade types reported to the FINRA/Nasdaq TRFs.

Investors may also potentially incur costs to the extent that participants choose to pass some or all of the fee increase to their customers.

Finally, FINRA notes that the proposed fee and fee cap changes occur within the context of a competitive environment in which the various trade reporting facilities vie for market share. If any existing or prospective participant in either FINRA/Nasdaq TRF determines that the new fees or fee cap thresholds are too high or are unfavorable relative to fees and fee cap programs applicable to the FINRA/NYSE TRF, such participants may choose to report to the FINRA/NYSE TRF in lieu of the FINRA/Nasdaq TRFs, in which case the FINRA/Nasdaq TRFs will lose market share. Likewise, the FINRA/NYSE TRF is free to adjust its fees and fee cap programs, or to modify its functionality, in response to the changes proposed herein to render them more attractive relative to the FINRA/Nasdaq TRFs. FINRA notes, however, that in certain instances, differences in the relative functionalities among the FINRA/Nasdaq and FINRA/NYSE TRFs may impact participants' decisions to report to the FINRA/NYSE TRF, even if the participants find the FINRA/NYSE TRF fees and fee cap programs to be preferable.

Alternatives Considered

No other alternatives were considered for the proposed rule change.

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) of the Act²⁷ and paragraph (f)(2) of Rule 19b-4 thereunder.²⁸ At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

²⁷ 15 U.S.C. 78s(b)(3)(A).

²⁸ 17 CFR 240.19b-4(f)(2).

to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-FINRA-2018-029 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-FINRA-2018-029. 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 FINRA. 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-FINRA-2018-029, and should be submitted on or before September 12, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–18062 Filed 8–21–18; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10531; 34–83874; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, September 13, 2018 from 9:00 a.m. until 3:30 p.m. (ET). Written statements should be received on or before September 13, 2018.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission’s headquarters, 100 F Street NE, Washington, DC 20549. The meeting will be webcast on the Commission’s website at www.sec.gov. Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission’s internet submission form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email message to rules-comments@sec.gov. Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for website viewing and printing in the Commission’s Public Reference Room,

100 F Street NE, Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements 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: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT**.

The agenda for the meeting includes: remarks from Commissioners; a discussion regarding the U.S. proxy voting infrastructure; a discussion regarding the Commission’s Proposed Transaction Fee Pilot in NMS stocks (which may include a recommendation of the Market Structure Subcommittee); a discussion regarding the implications of passive investing; subcommittee reports; and a nonpublic administrative work session during lunch.

Dated: August 17, 2018.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018–18131 Filed 8–21–18; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10514]

Certification Related to Foreign Military Financing for Colombia Under Section 7045(B)(6) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018

Pursuant to the authority vested in the Secretary of State, including under section 7045(b)(6) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (Div. K, Pub. L. 115–141) and Senate Report 115–152, I hereby certify and report that:

(1) the Peace Tribunal and other judicial bodies within the special jurisdiction for peace are independent and have authority to document “truth

declarations” from perpetrators of gross violations of human rights and to sentence such perpetrators to meaningful sanctions, including guarantee of non-repetition and deprivation of liberty;

(2) the Government of Colombia is continuing to dismantle illegal armed groups, taking effective steps to protect the rights of human rights defenders, journalists, trade unionists, and other civil society activists, and protecting the rights and territory of indigenous and Afro-Colombian communities; and

(3) military personnel responsible for ordering, committing, or covering up cases of false positives are being prosecuted and appropriately punished, including removal from positions of command.

This Certification shall be published in the **Federal Register** and, along with the accompanying Report and Memorandum of Justification, shall be transmitted to the appropriate committees of Congress.

Dated: August 11, 2018.

Michael R. Pompeo,
Secretary of State.

[FR Doc. 2018–18086 Filed 8–21–18; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0098]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Traditional Trucking Corporation

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Traditional Trucking Corporation’s (TTC) application for a limited 5-year exemption on behalf of motor carriers operating commercial motor vehicles (CMVs) to allow a Global Positioning System (GPS) device to be mounted on the interior of the windshield of a CMV within the areas allowed for “vehicle safety technology” devices. The Agency has determined that the placement of the GPS device in the windshield area would not have an adverse impact on safety, and that adherence to the terms and conditions of the exemption would achieve a level of safety equivalent to or greater than the level of safety provided by the regulation.

²⁹ 17 CFR 200.30–3(a)(12).

DATES: This exemption is effective August 22, 2018 and ending August 22, 2023.

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

TTC's Application for Exemption

TTC applied for an exemption from 49 CFR 393.60(e)(1)(i) to allow a GPS device to be mounted on the interior of the windshield of a CMV within the

areas allowed for devices with "vehicle safety technology" as defined in the FMCSRs. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.60(e)(1)(i) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the interior of the windshield. Antennas and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield, and outside the driver's sight lines to the road and highway signs and signals. Section 393.60(e)(1)(i) does not apply to vehicle safety technologies, as defined in 49 CFR 390.5, including a "a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system, and transponder." Section 393.60(e)(1)(ii) requires devices with vehicle safety technologies to be mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers, or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. GPS is not a "vehicle safety technology" under the definition in the regulation, and, as such, GPS devices are not permitted to be mounted on the interior of the windshield and within the area swept by the windshield wipers. TTC's application stated:

The exemption is necessary because the dash is not suitable for mounting the fixture to hold the GPS unit, and the location of the GPS unit (if mounted on the top of the dash) is in the same location as currently allowed for "vehicle safety technologies" mounted on the windshield. The GPS fixture cannot be mounted to the "face" of the control panel as that area is covered with controls and displays necessary for the operation of the commercial vehicle . . .

We do not believe that there will be any potential impacts to safety due to the requested temporary exemption. The size of GPS units is approximately the same size as the currently allowed "vehicle safety technologies" and the current location is much lower within the CMV which takes the driver's eyes farther from the road to determine his/her vehicle's correct lane, bridge height, speed, etc. The current allowed location is a more unsafe operating condition.

The exemption would be for any carrier who wishes to mount a GPS device on the windshield within the area defined for "vehicle safety technology"—not more than 4 inches below the upper edge of the windshield wipers, and not more than 7 inches above the lower edge of the area swept by the windshield wipers and outside the

driver's sight lines to the road and highway signs and signals. This would yield an equivalent level of safety for GPS devices as compared to those "vehicle safety technologies," and it would be a potentially safer location than lower in the CMV where the driver must take his/her eyes off the road to look at the location of his CMV on the GPS device. Back in August of 2016, in the BASIC SMS, our Unsafe-driving category was in the cautionary status. Only one of the violations was not due to speeding; all of those with violations said it was due to a speed limit change and they were keeping with what they thought was the speed limit. GPS systems display the posted speed limit and flash in red when they are traveling above the posted speed limit.

The exemption would apply to all CMV operators driving vehicles with GPS devices. TTC believes that the exemption will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because the GPS device is approximately the same size as vehicle safety technology devices, and the current compliant mounting location is much lower in the vehicle which causes the driver to look away from the road to view the GPS device.

Comments

FMCSA published a notice of the application in the **Federal Register** on March 22, 2018, and asked for public comment (83 FR 12643). The Agency received eleven comments. Mr. Ben Biondi, Mr. Keith Neighbor, Mr. Robert Smith, Mr. Jeffrey Baumann, Mr. Marc Winooski, Mr. Kenneth Farnham, Mr. Tim Higgins, Mr. Randy Littleton, and 2 anonymous commenters supported the exemption application. Several of these commenters stated that the GPS device should be allowed to be mounted on the windshield so the driver of the vehicle can obtain vehicle location information without taking their eyes off the road, and several believe that GPS should be considered a vehicle safety technology device under the regulation. One anonymous commenter opposed the exemption application, stating that GPS devices are not safety technologies, but rather luxury items meant only to be used as a convenience.

FMCSA Decision

The FMCSA has evaluated the TTC exemption application, and the comments received. The Agency believes that granting the temporary exemption to allow the placement of GPS devices in the same location permitted for vehicle safety technologies as identified in Section 393.60(e)(1)(ii), "mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers; or (2)

not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and (3) outside the driver's sight lines to the road and highway signs and signals," will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the GPS devices would obstruct drivers' views of the roadway, highway signs and surrounding traffic; and (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and there will be no impairment of available sight lines to the road and highway signs and signals. In addition, the Agency believes that the use of GPS devices by fleets is likely to improve the overall level of safety to the motoring public.

This action is consistent with previous Agency action permitting the placement of vehicle safety technologies on CMVs outside the driver's sight lines to the road and highway signs and signals. FMCSA is not aware of any evidence showing that the installation of other vehicle safety technologies mounted on the interior of the windshield has resulted in any degradation in safety.

Section 392.80 of the FMCSRs prohibits (a) drivers from engaging in texting while driving, and (b) motor carriers from allowing or requiring its drivers to engage in texting while driving. The term "texting" is defined in section 390.5 of the FMCSRs as "manually entering alphanumeric text into, or reading text from an electronic device," and includes, but is not limited to, "short message service, emailing, instant messaging, a command or request to access a World Wide web page, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry, for present or future communication." While the definition of "texting" in section 390.5 of the FMCSRs expressly excludes "Inputting, selecting, or reading information on a global positioning system or navigation system," FMCSA strongly encourages CMV drivers utilizing GPS devices under this temporary exemption to minimize/avoid possible distraction associated with using these devices by (1) programming the device before starting to drive, (2) stopping to reprogram the device if necessary, and (3) enabling the voice command on the

device (instead of muting it) to help avoid glancing at the device display.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 5-year period, beginning August 22, 2018 and ending August 22, 2023. During the temporary exemption period, motor carriers will be allowed to operate CMVs equipped with GPS devices mounted (1) not more than 100 mm (4 inches) below the upper edge of the area swept by the windshield wipers; or (2) not more than 175 mm (7 inches) above the lower edge of the area swept by the windshield wipers; and (3) outside the driver's sight lines to the road and highway signs and signals.

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating GPS devices mounted on the windshield in the same location as vehicle safety technologies are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

Issued on: August 15, 2018.

Raymond P. Martinez,
Administrator.

[FR Doc. 2018-17977 Filed 8-21-18; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0057]

Agency Information Collection Activities; Proposals, Submissions, and Approvals

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 16, 2018. The agency received one relevant comment.

DATES: Comments must be submitted on or before September 21, 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.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Mazurowski, Office of Crashworthiness Standards, NRM-130, 202-366-1012, National Highway Traffic Safety Administration, Room W43-445, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Before a Federal agency can collect certain information from the public, it must receive approval from the OMB. In compliance with those requirements, this notice announces that the following information collection request has been forwarded to OMB.

Federal Motor Vehicle Safety Standard (FMVSS) No. 218, "Motorcycle helmets," requires that each helmet shall be labeled permanently and legibly in a manner such that the label(s) can be read easily without removing padding or any other permanent part. This collection pertains to the labeling requirements in FMVSS No. 218.

NHTSA published a **Federal Register** notice requesting public comment on

this information collection.¹ In response, the agency received three comments, only one of which was relevant to this collection.²

The Governors Highway Safety Association (GHSA) expressed its support for strong motorcycle helmet labeling requirements, and submitted information about motorcycle safety. GHSA commented that this information collection was “atypical” in their view. GHSA explained that typically ICRs involved the collection or submission of information directly to the agency and that while NHTSA spot checks the performance of motorcycle helmets through a compliance program, the content of the label is more for the benefit of consumers and law enforcement.

GHSA is correct that a common type of information collection under the Paperwork Reduction Act (PRA) occurs when an agency directly collects information from the public. However, a collection of information, as defined by the PRA, means “the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format”³ This labeling requirement imposes a disclosure (label) to the public, and is therefore covered by the PRA. NHTSA has sought and received PRA clearance for FMVSS No. 218 dating back to 1984.⁴ Therefore, NHTSA believes no changes are necessary in response to comments.

The following describes the collection of information for which NHTSA intends to seek OMB approval. It is titled “Motorcycle Helmets (Labeling),” OMB Control Number: 2127–0518. NHTSA’s existing collection for FMVSS No. 218 expired during the 60 day notice comment period, therefore the agency has amended the type of request to be a reinstatement of a previously approved collection.

Title: Motorcycle Helmets (Labeling).
OMB Control Number: 2127–0518.

Type of Request: Reinstatement without change of previously approved collection of information.

Abstract: The National Traffic and Motor Vehicle Safety Act, now codified at 49 U.S.C. 30111, authorizes the issuance of FMVSS. Moreover, under 49 U.S.C. 30117, the Secretary is also authorized to require manufacturers to provide information to first purchasers

of motor vehicles or motor vehicle equipment when the vehicle equipment is purchased, in the form of printed matter placed in the vehicle or attached to the motor vehicle or motor vehicle equipment. The Secretary is authorized to issue, amend, and revoke such rules and regulations as he/she deems necessary.

Using this authority, the agency issued the initial FMVSS No. 218 in 1974. Motorcycle helmets are devices used to protect motorcyclists from head injury in motor vehicle crashes. FMVSS No. 218 S5.6 requires that each helmet shall be labeled permanently and legibly in a manner such that the label(s) can be read easily without removing padding or any other permanent part.

Affected Public: Motorcycle helmet manufacturers.

Estimated Number of Respondents: 45.

Frequency: Every certified helmet produced.

Number of Responses: 3,250,000.

Estimated Total Annual Burden Hours: 9,100.

Estimated Total Annual Burden Cost: \$1,300,000 (\$1.3 million).

The 45 respondents (helmet manufacturers) produce a total of 3,250,000 annual responses. A manufacturer spends approximately 0.0028 hours per response. The estimated annual number of burden hours for helmet manufacturers is 9,100 burden hours per year (3,250,000 × 0.028 hours). Using a total labeling cost of \$0.40, the estimated total annual burden cost is \$1,300,000 (3,250,000 × \$0.40).

Public Comments Invited: You are asked to comment on any aspects of this information collection, including: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department’s estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; and Delegation of Authority at 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2018–18052 Filed 8–21–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Recordkeeping and Termination of Correspondent Accounts for Foreign Banks

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on the renewal of information collections in existing regulations requiring records concerning owners of foreign banks and agents of foreign banks for service of legal process.

DATES: Written comments are welcome and must be received on or before October 22, 2018.

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

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2018–0011 and the Office of Management and Budget (“OMB”) control number 1506–0043.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2018–0011 and OMB control number 1506–0043.

Please submit comments by one method only. Comments will also be incorporated to FinCEN’s retrospective regulatory review process, as mandated by E.O. 12866 and 13563. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800–767–2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (“BSA”), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. *et seq.*, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering

¹ 83 FR 16431 (April 16, 2018).

² www.regulations.gov. Docket Number: NHTSA–2018–0051.

³ 44 U.S.C. 3502(3).

⁴ See: <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=2127-0518> (last accessed June 22, 2018).

programs and compliance procedures.¹ Title III of the USA PATRIOT Act of 2001, Public Law 107–56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.*, which are intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assists Federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation and prosecution of money laundering and other matters.

This request for comments is being made pursuant to the Paperwork Reduction Act (“PRA”) of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A). In accordance with the requirements of the PRA and its implementing regulations, the following information is presented concerning the information collection below.

Title: Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks (31 CFR 1010.630).

OMB Control Number: 1506–0043.

Abstract: Covered financial institutions are prohibited from maintaining correspondent accounts for foreign shell banks (31 CFR 1010.630(a)(1)). Covered financial institutions that maintain correspondent accounts for foreign banks must maintain records of owner(s) of the foreign bank and the name and address of a person residing in the United States who is authorized to accept service of legal process for the foreign bank (31 CFR 1010.630(a)(2)). Covered financial institutions may satisfy these requirements by using the sample certification on the FinCEN website: (<https://www.fincen.gov/sites/default/files/shared/Certification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf>) and re-certification (<https://www.fincen.gov/sites/default/files/shared/Recertification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20>

Banks.pdf). Records of documents relied upon by a financial institution for purposes of 31 CFR 1010.630 must be maintained for at least five years after the date that the financial institution no longer maintains a correspondent account for such foreign bank (31 CFR 1010.630(e)).

Current Action: Renewal without change to the existing regulations.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Businesses and other for-profit institutions.

Burden: It is estimated that 2,000 covered financial institutions maintain correspondent accounts with 9,000 foreign banks. The estimated average annual reporting burden associated with certification is 180,000 hours (9,000 responses at 20 hours per response); the estimated average annual reporting burden associated with recertification is 45,000 hours (9,000 responses at 5 hours per response); and the estimated average recordkeeping burden associated with section 1010.630(e) is 81,000 hours (9,000 responses at 9 hours per response).² Total PRA burden for this OMB Control number is 306,000 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2018–18079 Filed 8–21–18; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Suspicious Activity Reporting Requirements by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on the renewal of an information collection requirement for the recordkeeping and reporting of suspicious activities by brokers or dealers in securities and futures commission merchants and introducing brokers in commodities.

DATES: Written comments are welcome and must be received on or before October 22, 2018.

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

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINECEN–2018–0009 and OMB control number 1506–0019.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINECEN–2018–0009 and OMB control number 1506–0019.

Please submit comments by one method only. Comments will also be incorporated to FinCEN’s retrospective regulatory review process, as mandated by E.O. 12866 and 13563. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

¹ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56.

² FinCEN does not have an independent method to research the exact number of foreign bank certifications and recertifications in any given year because depository institutions do not file the model form with FinCEN and only provide the data upon FinCEN’s request. Accordingly, FinCEN has chosen to take an expansive approach in its estimates of yearly certifications and recertifications.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (“BSA”), Titles I and II of Public Law 91-508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951-1959, and 31 U.S.C. *et seq.*, authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Title III of the USA PATRIOT Act of 2001, Public Law 107-56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.*, which are intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assist Federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation and prosecution of money laundering and other matters.

The Bank Secrecy Act Suspicious Activity Report, (“BSAR”) is used by these entities to report suspicious activity to FinCEN. This request for comments also covers 31 CFR 1023.320 and 31 CFR 1026.320, and is being made pursuant to the Paperwork Reduction Act (“PRA”) of 1995.² This renewal pertains to the Office of Management and Budget’s (“OMB”) approval of the information collection requirement per se imposed upon brokers or dealers in securities and futures commission merchants and introducing brokers in commodities.³ OMB approval of the allocated burden hours associated with

these requirements (31 CFR 1023.320⁴ and 1026.320⁵), stemming from the submission and record maintenance of the BSARs themselves,⁶ is reflected in the burden for the BSAR as approved under OMB Control No. 1506-0065. This splitting in the coverage of the OMB numbers is a result of FinCEN’s streamlining of SAR reporting into one a single, unified format. Although the means of reporting was consolidated into a single reporting format covering multiple industry sectors under OMB Control No. 1506-0065, the reporting requirements themselves are still contained in separate rules covered by various OMB control numbers. Consequently, the burden listed in this renewal under control number 1506-0019 is estimated at one response and one hour in order to avoid double-counting the same burdens that have already been included in the estimate under control number 1506-0065.

In accordance with the requirements of the PRA and its implementing regulations, the following information is presented concerning the information collection below.

Title: Suspicious Activity Reporting by Brokers or Dealers in Securities and Futures Commission Merchants and Introducing Brokers in Commodities. (31 CFR 1023.320, and 31 CFR 1026.320.)

OMB Control Number: 1506-0019.

Abstract: This notice renews the SAR reporting and recordkeeping requirements for the above-mentioned entities.

Form Number: FinCEN Form 111 (BSAR).⁷

Type of Review: Renewal of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Frequency: As required.

Estimated Number of Respondents: 5,428.⁸

⁴ Reports by broker or dealers in securities of suspicious transactions. Although the means of reporting was consolidated into a single reporting format covering multiple industry sectors, the reporting requirements themselves are still contained in separate rules covered by various OMB control numbers.

⁵ Reports by futures commission merchants and introducing brokers in commodities of suspicious transactions.

⁶ The BSAR was approved by OMB under control number 1506-0065. The BSAR is a single report that replaced previous individual SAR forms for depository institutions, casinos, money services businesses, securities brokers or dealers, mutual funds, futures commission merchants, introducing brokers in commodities, and insurance companies.

⁷ See footnote 2.

⁸ According to the Securities Exchange Commission’s 2017 Annual Report, there are over 4,000 registered broker-dealers; FinCEN will use the

Estimated Total Annual Responses: 1.⁹

Estimated Annual Reporting and Recordkeeping Burden: 1 hour.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

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BILLING CODE 4810-02-P

number 4,200 as an estimate. According to the National Futures Association, there are 64 registered futures commission merchants and 1,164 introducing brokers. Added together, the total estimated number of respondents is 5,428.

⁹ As noted above under the **SUPPLEMENTARY INFORMATION** section, the actual reporting and recordkeeping burden of the regulations (31 CFR 1023.320 and 1026.320) is reflected in the burden for the BSAR as approved under 1506-0065. Under control number 1506-0019, the burden is estimated at one response and one hour in order to avoid double-counting the same burdens that have already been included in the estimate under control number 1506-0065.

¹ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56.

² Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

³ The Federal functional regulator for the securities industry is the U.S. Securities and Exchange Commission and, for the futures industry, it is the Commodity Futures Trading Commission.

DEPARTMENT OF THE TREASURY**Financial Crimes Enforcement Network****Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Programs for Money Services Businesses, Mutual Funds, and Operators of Credit Card Systems**

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN invites comment on the renewal of information collections in existing regulations requiring money services businesses (“MSBs”), mutual funds, and operators of credit card systems to develop and implement written anti-money laundering programs reasonably designed to prevent those financial institutions from being used to facilitate money laundering and the financing of terrorist activities. This request for comments is being made pursuant to the Paperwork Reduction Act (“PRA”) of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before October 22, 2018.

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

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINECEN–2018–0010 and the Office of Management and Budget (“OMB”) control number 1506–0020.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINECEN–2018–0010 and OMB control number 1506–0020.

Please submit comments by one method only. Comments will also be incorporated to FinCEN’s retrospective regulatory review process, as mandated by E.O. 12866 and 13563. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800–767–2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (“BSA”), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. *et seq.*,

authorizes the Secretary of the Treasury, among other things, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.¹ Title III of the USA Patriot Act of 2001, Public Law 107–56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.*, which are intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing.

Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assist federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation and prosecution of money laundering and other matters.

In accordance with the requirements of the PRA and its implementing regulations, the following information is presented concerning the information collection below.

Title: Anti-Money Laundering Programs for MSBs (31 CFR 1022.210),² Mutual Funds (31 CFR 1024.210), and Operators of Credit Card Systems (31 CFR 1028.210).

OMB Control Number: 1506–0020.

Abstract: MSBs, mutual funds, and operators of credit card systems are required to develop and implement written anti-money laundering programs. FinCEN recognizes a three hour burden for the initial development of an AML program. FinCEN further estimates an annual burden of one hour for maintenance of the program (*i.e.*, review and update as necessary). A copy of the written program must be maintained for five years. In view of the additional information providers and sellers of prepaid access (a type of MSB)

¹ Language expanding the scope of the BSA to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56.

² The term MSB includes dealer in foreign exchange, check casher, issuer or seller of traveler’s checks or money orders, provider of prepaid access, money transmitter, U.S. Postal Service, and seller of prepaid access. See 31 CFR 1010.100(ff).

are required to collect and maintain to verify identity under their AML program regulations, and the degree of automation available to them, FinCEN estimates an additional annual maintenance burden of two minutes for each prepaid card issued for this MSB subset.³

Current Action: Renewal without change to existing regulations.

Type of Review: Renewal without change of a currently approved information collection.

Affected Public: Businesses and other for-profit institutions.

Burden:

Estimated Number of Respondents: 327,106 broken out as follows:

- MSBs: 31 CFR 1022.210 = 324,100
- Mutual Funds: 31 CFR 1024.210 = 3,000
- Operators of Credit Card Systems: 31 CFR 1028.210 = 6

Estimated Annual Responses: 2,910,406 broken out as follows:

- MSBs (AML Programs): 31 CFR 1022.210 = 324,100
- MSBs (Prepaid Cards—Customer Identity Verification): 31 CFR 1022.210(d)(iv) = 2,583,300⁴
- Mutual Funds (AML Program): 31 CFR 1024.210 = 3,000
- Operators of Credit Card Systems (AML Program): 31 CFR 1028.210 = 6

AML Program-Related Hourly Burdens, Estimated at One Hour per Respondent:

- MSBs (AML Programs): 31 CFR 1022.210 = 324,100
- Mutual Funds: 31 CFR 1024.210 = 3,000
- Operators of Credit Card Systems: 31 CFR 1028.210 = 6

Prepaid Card-Related Hourly Burden:

- MSBs (Prepaid Cards—Customer Identity Verification): 31 CFR 1022.210(d)(iv) = 86,110.⁵

Estimated Total Number of Burden Hours: 413,216.⁶

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under

³ In addition to maintaining an AML program, providers and sellers of prepaid access are required to collect and maintain the customer’s name, date of birth, address, and identification number for five years. This collection is automated. FinCEN estimates that approximately 2,583,300 prepaid cards are issued annually. See 31 CFR 1022.210(d)(iv).

⁴ See *supra* note 3.

⁵ 2,583,300 prepaid cards multiplied by 2 minutes per card and converted to hours equals 86,110 hours.

⁶ (324,100 + 300 + 6 + 86,110 = 413,216).

the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Jamal El-Hindi,

Deputy Director, Financial Crimes Enforcement Network.

[FR Doc. 2018-18078 Filed 8-21-18; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Special Projects Committee; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting; correction.

SUMMARY: In the *Federal Register* notice that was originally published on August 9, 2018, (Volume 83, Number 154, Page 39511) the meeting date has been corrected. The date of the meeting is: Wednesday, September 12, 2018 and Wednesday, September 19, 2018.

DATES: The meeting will be held Wednesday, September 19, 2018.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Special Projects Committee will be held Wednesday,

September 19, 2018, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1-888-912-1227 or (510) 907-5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612-5217 or contact us at the website: <http://www.improveirs.org>. The agenda will include various IRS issues.

The agenda will include a discussion on various special topics with IRS processes.

Dated: August 15, 2018.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2018-18134 Filed 8-21-18; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 990, 990 EZ SCH B (BR), (BR), 990-EZ SCH L (LP), 990-EZ, 990-PF, 990-SCH B, 990-C, 990-EZ, 990-EZ (BR), 990-N, OR 990-EZ (SCH A), 990-EZ (SCH C), 990-EZ (SCH E), 990-EZ (SCH G), 990-EZ (SCH L), 990-EZ (SCH N), 990-EZ (SCH N-1), 990-EZ (SCH O), 990-EZ(SCH O)(BR), 990-PF, 990-PF (BR), 990-SCH A (BR), 990-SCH D, 990-SCH D (BR), 990-SCH F, 990-SCH F-1, 990-SCH H, 990-SCH I, 990-SCH I (BR), 990-SCH I-1, 990-SCH J, 990-SCH J (BR), 990-SCH J-1, 990-SCH J-2, 990-SCH K, 990-SCH M, 990-SCH R, 990-SCH R (BR), 990-SCH R-1, 990-T, 990-T SCH M, 990-T (BR), 990-W, 1023, 990-(BR), 990-I, 1024, 1028, 1028-BR, 5578, 5884 C, 8038, 8038 B, 8038 CP, 8030 G, 8038 GC, 8038 R, 8038 T 8038 TC, 8328, 8718, 8282, 8453-E.O., 8453-X, 8868, 8868-(BR), 8870, 8871, 8872, 8879-E.O., 8886-T, 8899

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA). This notice requests

comments on all forms used by tax-exempt organizations:

Forms

- 990, 990(BR), 990 EZ SCH B (BR), 990-EZ SCH L (LP), 990-EZ, 990-PF, 990-SCH B, 990-C, 990-EZ, 990-EZ (BR), 990-N, OR 990-EZ (SCH A), 990-EZ (SCH C), 990-EZ (SCH E), 990-EZ (SCH G), 990-EZ (SCH L), 990-EZ (SCH N), 990-EZ (SCH N-1), 990-EZ (SCH O), 990-EZ(SCH O)(BR), 990-PF, 990-PF (BR), 990-SCH A (BR), 990-SCH D, 990-SCH D (BR), 990-SCH F, 990-SCH F-1, 990-SCH H, 990-SCH I, 990-SCH I (BR), 990-SCH I-1, 990-SCH J, 990-SCH J (BR), 990-SCH J-1, 990-SCH J-2, 990-SCH K, 990-SCH M, 990-SCH R, 990-SCH R (BR), 990-SCH R-1, 990-T, 990-T SCH M, 990-T (BR), 990-W, 1023, 990-(BR), 990-I, 1024, 1028, 1028-BR, 5578, 5884 C, 8038, 8038 B, 8038 CP, 8030 G, 8038 GC, 8038 R, 8038 T, 8038 TC, 8282, 8328, 8453-E.O., 8453-X, 8718, 8868, 8868-(BR), 8870, 8871, 8872, 8879-E.O., 8886-T, 8899 and all attachments to these forms (see the Appendix A to this notice). With this notice, the IRS is also announcing significant changes to (1) the manner in which tax forms used by tax-exempt organizations will be approved under the PRA and (2) its method of estimating the paperwork burden imposed on all tax-exempt organizations.

Related Internal Revenue Service and The Department of Treasury Guidance

EE-111-80 (TD 8019—Final) Public Inspection of Exempt Organization Return
 TD 8033 (TEMP) Tax Exempt Entity Leasing (REG-209274-85)
 Revenue Procedure 98-19, Exceptions to the notice and reporting requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2)
 REG-246256-96 (Final TD 8978) Excise Taxes on Excess Benefit Transactions
 T.D. 8861, Private Foundation Disclosure Rules
 Notice 2006-109—Interim Guidance Regarding Supporting Organizations and Donor Advised Funds
 Disclosure by taxable party to the tax-exempt entity
 Reinstatement and Retroactive Reinstatement for Reasonable Cause (Rev. Proc. 2014-11) and Transitional Relief for Small Organizations (Notice 2011-43) under IRC § 6033(j)
 TD 8086—Election for \$10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements (LR-185-84 Final)
 Arbitrage Restrictions and Guidance on Issue Price Definition for Tax Exempt Bonds

- TD 8712 (Final), Definition of Private Activity Bonds; TD 9741, General Allocation and Accounting Regulations Under Section 141; Remedial Actions for Tax-Exempt Bonds
- FI-28-96 (Final) Arbitrage Restrictions on Tax-Exempt Bonds
- REG-121475-03 (TD 9495—Final) Qualified Zone Academy Bonds: Obligations of States and Political Subdivisions
- Notice 2009-26, Build America Bonds and Direct Payment Subsidy Implementation
- Notice 2012-48: Tribal Economic Development Bonds
- TD 7925 7952—Indian Tribal Governments Treated As States For Certain Purposes
- Revenue Procedure 97-15, Section 103—Remedial Payment Closing Agreement Program
- EE-12-78 Non-Bank Trustees
- TD 9099—Disclosure of Relative Values of Optional Forms of Benefit
- EE-147-87 (Final) Qualified Separate Lines of Business
- TD 8619 (Final) (EE-43-921) Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions from Qualified Plans
- PS-100-88(TD8540) (Final) Valuation Tables
- Revenue Procedure 2017-4
- TD 8769 (Final)—(REG-107644-97) Permitted Elimination of Pre-retirement Optional Forms of Benefit
- Notice 97-45, Highly Compensated Employee Definition
- Compensation Deferred Under Eligible Deferred Compensation Plans (TD 9075)
- TD 8816 (Final) Roth IRAs
- REG-108639-99 (Final) Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m); TD 9169
- Revenue Ruling 2000-35 Automatic Enrollment in Section 403(b) Plans
- Notice 2002-27—IRA Required Minimum Distribution Reporting
- TD 9142 (Final), Deemed IRAs in Qualified Retirement Plans (REG-157302-02)
- REG-146459-05—TD 9324 (Final) Designated Roth Contributions Under Section 402A
- TD 9467 (REG-139236-07) and Notice 2014-53
- TD 9641—Suspension or Reduction of Safe Harbor Contributions (REG-115699-09) Waiver of 60-Day Rollover Requirement
- TD 7898—Employers Qualified Educational Assistance Programs
- TD 8864 (Final); EE-63-88 (Final and temp regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; IA-140-86 (Temporary) Fringe Benefits
- TD 8073 (Temporary Regulations)—Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984.
- REG-209484-87 (TD 8814 final) Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans.
- REG-164754-01 (FINAL) Split-Dollar Life Insurance Arrangements.
- T.D. 9088, Compensatory Stock Options Under Section 482.
- T.D. 9083—Golden Parachute Payments.
- Revenue Procedure 2014-55, Election Procedures and Information Reporting with Respect to Interests in Certain Canadian Retirement Plans
- Substitute Mortality Tables for Single Employer Defined Benefit Plans
- T.D. 8802—Certain Asset Transfers to a Tax-Exempt Entity
- REG-113572-99 (TD 8933) Qualified Transportation Fringe Benefits
- Revenue Procedure 2016-1, Rulings and determination letters—26 CFR 601-.201
- 26 CFR 31.6001-1 Records in general; 26 CFR 31.6001-2 Additional Records under FICA; 26 CFR 31.6001-3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001-5 Additional records
- IA-44-94 (Final) Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions
- Notice 2005-41, Guidance Regarding Qualified Intellectual Property Contributions
- De Minimis Error Safe Harbor to the I.R.C. §§ 6721 and 6722 Penalties
- Substantiation of Charitable Contributions—TD 8002
- Qualified Conservation Contributions
- TD 7852—Registration Requirements with Respect to Debt Obligations (NPRM, LR-255-82)
- Notice 2007-70—Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes. Reporting requirements under Sec. 170(f)(12)(D)
- TD 8124—Time and Manner of Making Certain Elections Under the Tax Reform Act of 1986
- EE-14-81 (NPRM) Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or
- TD 9724—Summary of Benefits and Coverage Disclosures
- TD 7845—Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans (Final)
- REG-130477-00; REG-130481-00 (TD 8987—Final), Required Distributions From Retirement Plans
- EE-175-86 (Final) Certain Cash or Deferred Arrangements and Employee and Matching Contributions under Employee Plans: REG-108639-99 (NPRM) Retirement Plans; Cash or Deferred Arrangements
- Change in Minimum Funding Method (Rev. Proc. 2000-41)
- REG-109481-99 (TD 9076—Final) Special Rules Under Section 417(a)(7) for Written Explanations Provided by Qualified Retirement Plans After Annuity Starting Dates
- TD 9472 (Final)—Notice Requirements for Certain Pension Plan Amendments Significantly Reducing the Rate of Future Benefit Accrual
- T.D. 9079—Ten or More Employer Plan Compliance Information
- Waivers of Minimum Funding Standards—Revenue Procedure 2004-15
- Election of Alternative Deficit Reduction Contribution and Plan Amendments
- Revenue Procedure 2010-52, Extension of the Amortization Period for Plan Sponsor of a Multiemployer Pension Plan
- Designated Roth Contributions to Cash or Deferred Arrangements Under Section 401(k)
- Notice 2005-40, Election to Defer Net Experience Loss in a Multiemployer Plan
- Notice 2006-107—Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities
- Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts—TD 9340 (Final)
- TD 9447 (Final) Automatic Contribution Arrangements.
- NOT-2009-31—Election and Notice Procedures for Multiemployer Plans under Sections 204 and 205 of WRETA
- Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with § 409A(a)
- Suspension of Benefits Under the Multiemployer Pension Reform Act of 2014; Administration of Multiemployer Plan Participant Vote
- REG-209823-96 (TD 8791)—Guidance Regarding Charitable Remainder Trusts and Special Valuation Rules for Transfer of Interests in Trusts

DATES: Written comments should be received on or before October 22, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

Requests for additional information or copies of the form and instructions should be directed to Elaine Christophe, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Elaine.H.Christophe@irs.gov.

SUPPLEMENTARY INFORMATION:

Change in PRA Approval of Forms Used by Tax-Exempt Organizations

Under the PRA, OMB assigns a control number to each “collection of information” that it reviews and approves for use by an agency. A single information collection may consist of one or more forms, recordkeeping requirements, and/or third-party disclosure requirements. Under the PRA and OMB regulations, agencies have the discretion to seek separate OMB approvals for forms, recordkeeping requirements, and third-party reporting requirements or to combine any number of forms, recordkeeping requirements, and/or third-party disclosure requirements (usually related in subject matter) under one OMB Control Number. Agency decisions on whether to group individual requirements under a single OMB Control Number or to disaggregate them and request separate OMB Control Numbers are based largely on considerations of administrative practicality.

The PRA also requires agencies to estimate the burden for each collection of information. Accordingly, each OMB Control Number has an associated burden estimate. The burden estimates for each control number are displayed in (1) the PRA notices that accompany collections of information, (2) **Federal Register** notices such as this one, and (3) in OMB’s database of approved information collections. If more than one form, recordkeeping requirement, and/or third-party disclosure requirement is approved under a single control number, then the burden estimate for that control number reflects the burden associated with all of the approved forms, recordkeeping requirements, and/or third-party disclosure requirements.

As described below under the heading “Taxpayer Burden Model,” the IRS’s Taxpayer Burden Model (TBM) estimates of taxpayer burden are based on taxpayer characteristics and activities, taking into account, among other things, the forms and schedules used by these taxpayers and the recordkeeping and other activities needed to complete those forms. The

expansion of the TBM to calculate the burden estimate for tax-exempt organizations represents the third phase of a long-term effort to improve the ability of IRS to measure the burden imposed on all groups of taxpayers by the federal tax system. While the TBM methodology provides a more accurate and comprehensive estimate of tax-exempt organization burden, it will not provide burden estimates on a form-by-form basis, as has been done under the previous methodology. When the prior model was developed in the mid-1980s, almost all tax returns were prepared manually, either by the taxpayer or a paid provider. In this context, it was determined that estimating burden on a form-by-form basis was an appropriate methodology. Today, over 90 percent of all tax-exempt organization tax returns are prepared using software or with preparer assistance. In this environment, a taxpayer-centric view of the tax compliance burden is more relevant.

Currently, there are 58 forms used primarily by tax-exempt organizations. These include Forms 990, 990(BR), 990 EZ SCH B (BR), 990-EZ SCH L (LP), 990-EZ, 990-PF, 990-SCH B, 990-C, 990-EZ, 990-EZ (BR), 990-N, OR 990-EZ (SCH A), 990-EZ (SCH C), 990-EZ (SCH E), 990-EZ (SCH G), 990-EZ (SCH L), 990-EZ (SCH N), 990-EZ (SCH N-1), 990-EZ (SCH O), 990-EZ(SCH O)(BR), 990-PF, 990-PF (BR), 990-SCH A (BR), 990-SCH D, 990-SCH D (BR), 990-SCH F, 990-SCH F-1, 990-SCH H, 990-SCH I, 990-SCH I (BR), 990-SCH I-1, 990-SCH J, 990-SCH J (BR), 990-SCH J-1, 990-SCH J-2, 990-SCH K, 990-SCH M, 990-SCH R, 990-SCH R (BR), 990-SCH R-1, 990-T, 990-T SCH M 990-T (BR), 990-W, 1023, 990- (BR), 990-I, 1024, 1028, 1028-BR, 5578, 5884 C, 8038, 8038 B, 8038 CP, 8030 G, 8038 GC, 8038 R, 8038 T 8038 TC, 8328 8718 8282 8453-E.O., 8453-X, 8868, 8868-(BR), 8870 8871, 8872, 8879-E.O., 8886-T, 8899 and their schedules and all the forms tax-exempt organizations attach to their tax returns (see the Appendix A to this notice). For most of these forms, IRS has in the past obtained separate OMB approvals under unique OMB Control Numbers and separate burden estimates.

The TBM estimates the aggregate burden imposed on tax-exempt organizations based upon their tax-related characteristics and activities. IRS therefore will seek OMB approval of all 58-tax-exempt organization-related tax forms as a single “collection of information.” The aggregate burden of these tax forms will be accounted for under OMB Control Number 1545-0047, which is currently assigned to Form 990 and its schedules. OMB Control Number

1545-0047 will be displayed on all tax-exempt organization tax forms and other information collections. As a result of this change, burden estimates for tax-exempt organizations will now be displayed differently in PRA Notices on tax forms and other information collections, and in **Federal Register** notices. This format for reporting burden has been used for individual taxpayers (OMB number 1545-0074) since 2005 and for business taxpayers (OMB number 1545-0123) since 2015.

Taxpayer Burden Model (TBM)

That Taxpayer Burden Model method of burden estimation replaces the Arthur D. Little (ADL) legacy burden model developed in the mid-1980s. Since the 1980s, improved technology and modeling sophistication have enabled the IRS to improve the burden estimates. The TBM provides taxpayers and the IRS with a more comprehensive understanding of the current levels of taxpayer burden. It reflects major changes over the past three decades in the way taxpayers prepare and file their returns. The TBM also represents a substantial step forward in the IRS’s ability to assess likely impacts of administrative and legislative changes on tax compliance burden.

The TBM’s approach to estimating tax compliance burden focuses on the characteristics and activities of taxpayers. Key determinants of tax compliance burden in the model are the type of entity, total assets, total receipts, and activities reported on the tax return (income, deductions, credits, etc.). In contrast, the previous estimates primarily focused on the length and complexity of each tax form. The changes between the ADL model estimates and the TBM estimates are due to the improved ability of the TBM to estimate burden and the expanded scope of what is included in the TBM. The transition to the TBM burden estimation methodology will create a one-time change in the estimate of burden levels that reflects the improved estimation methodology of the TBM. The differences in estimates between the models do not reflect any change in the actual burden experienced by taxpayers. Comparisons should not be made between these and the earlier published estimates, because the models measure burden in different ways.

Methodology

Burden is defined as the time and out-of-pocket costs incurred by taxpayers to comply with the federal tax system. As has been done for individual taxpayer burden since 2005 and business entities since 2015, both the time expended and

the out-of-pocket costs for tax-exempt organization are estimated. The burden estimation methodology used data gathered from recent taxpayer burden surveys that ask for the time and out-of-pocket costs that taxpayers spend on pre-filing and filing activities. The methodology establishes econometric relationships between tax return characteristics and reported compliance costs. The methodology controls for the substitution of time and money by monetizing time and reporting total compliance costs in dollars. This methodology better reflects taxpayer compliance burden, because in a world of electronic tax preparation, time and out-of-pocket costs are governed by the information required rather than the form on which it is ultimately reported. Importantly, even where various tax-exempt organizations complete the same tax form lines, the TBM methodology differentiates the cost incurred to complete those forms based on characteristics of those taxpayers filing the forms. Key characteristics that serve as coefficients in the TBM are:

- Form type
- Total assets
- Total receipts

• Return complexity
For more information about tax compliance burden and the TBM, go to the article “Tax Compliance Burden” posted on the IRS website at <https://www.irs.gov/pub/irs-soi/d13315.pdf>.

Taxpayer Burden Estimates

The estimates are subject to change as new forms and data become available.

Proposed PRA Submission to OMB

Title: Tax-Exempt Organization Tax Compliance Burden.

OMB Number: 1545–0047.

Form Numbers: Forms 990, 990–EZ, 990–PF, 990–N, 990–T and all attachments to these forms (see the Appendix A to this notice).

Abstract: These forms are used by tax-exempt organizations to report their tax-compliance-related activity. The data is used to verify that the items reported on the forms are correct, and also for general statistics use.

Current Actions: The burden estimation methodology for tax-exempt organizations is being transitioned from the legacy ADL model to the Taxpayer Burden Model.

Type of Review: Revision of currently approved collections.

Estimates Total Time (Hours): 50,450,000.

Estimated Total Out-of-Pocket Costs: \$1,297,300,000.

Estimated Total Monetized Burden: \$3,594,400,000.

Affected Public: Tax Exempt Organizations.

Estimated Number of Respondents: 1,413,200.

Total Estimated Time: 50.5 million hours.

Estimated Time per Respondent: 35.7 hours.

Total Estimated Out-of-Pocket Costs: \$1.30 billion.

Estimated Out-of-Pocket Cost per Respondent: \$918.

Total Estimated Monetized Burden: \$3.59 billion.

Estimated Total Monetized Burden per Respondent: \$2,543.

Note: Amounts below are for FY2018. Reported time and cost burdens are national averages and do not necessarily reflect a “typical” case. Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. Detail may not add due to rounding.

TABLE 1—FISCAL YEAR 2018 FORM 990 SERIES TAX COMPLIANCE COST ESTIMATES

| | Type of return | | | | |
|---|----------------|---------------|---------------|---------------|-------------|
| | Form 990 | Form 990–EZ | Form 990–PF | Form 990–T | Form 990–N |
| Projections of the Number of Returns to be Filed with IRS | 322,900 | 252,900 | 113,100 | 124,500 | 599,800 |
| Estimates Average Total Time (Hours) | 85 | 45 | 47 | 40 | 2 |
| Estimated Average Total Out-of-Pocket Costs | \$2,400 | \$500 | \$1,800 | \$1,300 | \$10 |
| Estimates Total Time (Hours) | 27,370,000 | 11,440,000 | 5,280,000 | 5,040,000 | 1,320,000 |
| Estimated Total Out-of-Pocket Costs | \$787,700,000 | \$128,000,000 | \$208,500,000 | \$167,600,000 | \$5,500,000 |

Note: Totals may not add due to rounding.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB Control Number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the

quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 16, 2018.

Laurie Brimmer,
Senior Tax Analyst.

Appendix A

| No. | Title | Description | OMB No. |
|-----------|---------------------------|---|-----------|
| 990 | | Return of Organization Exempt From Income Tax | 1545–0047 |
| 990 | & 990 EZ SCH B (BR) | Schedule of Contributors (Braille Version) | 1545–0047 |
| 990 | (BR) | Return of Organization Exempt From Income Tax (Braille Version) | 1545–0047 |
| 990 | 990–EZ SCH L (LP) | Transactions with Interested Persons (Large Print Version) | 1545–0047 |

| No. | Title | Description | OMB No. |
|------|----------------------|--|-----------|
| 990 | 990-EZ, 990-PF SCH B | Schedule of Contributors | 1545-0047 |
| 990 | C | Farmer's Cooperative Association Income Tax Return | 1545-0051 |
| 990 | EZ | Short Form Return of Organization Exempt From Income Tax | 1545-1150 |
| 990 | EZ (BR) | Short Form Return of Organization Exempt From Income Tax (Braille Version) | 1545-1150 |
| 990 | N | Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990EZ. | 1545-2085 |
| 990 | OR 990-EZ (SCH A) | Public Charity Status and Public Support | 1545-0047 |
| 990 | OR 990-EZ (SCH C) | Political Campaign and Lobbying Activities | 1545-0047 |
| 990 | OR 990-EZ (SCH E) | Schools | 1545-0047 |
| 990 | OR 990-EZ (SCH G) | Supplemental Information Regarding Fundraising or Gaming Activities | 1545-0047 |
| 990 | OR 990-EZ (SCH L) | Transactions with Interested Persons | 1545-0047 |
| 990 | OR 990-EZ (SCH N) | Liquidation, Termination, Dissolution or Significant Disposition of Assets | 1545-0047 |
| 990 | OR 990-EZ (SCH N-1) | Continuation Sheet for Form 990 (or 990-EZ) Schedule N | 1545-0047 |
| 990 | OR 990-EZ (SCH O) | Supplemental Information to Form 990 or 990-EZ | 1545-0047 |
| 990 | OR 990-EZ(SCH O)(BR) | Supplemental Information to Form 990 or 990-EZ (Braille Version) | 1545-0047 |
| 990 | PF | Return of Private Foundation or Section 4947(a)(1) Trust Treated as Private Foundation. | 1545-0052 |
| 990 | PF (BR) | Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation (Braille Version). | 1545-0047 |
| 990 | SCH A (BR) | Public Charity Status and Public Support(Braille Version) | 1545-0047 |
| 990 | SCH D | Supplemental Financial Statements | 1545-0047 |
| 990 | SCH D (BR) | Supplemental Financial Statements (Braille Version) | 1545-0047 |
| 990 | SCH F | Statement of Activities Outside the United States | 1545-0047 |
| 990 | SCH F-1 | Continuation Sheet for Schedule F (Form 990) | 1545-0047 |
| 990 | SCH H | Hospitals | 1545-0047 |
| 990 | SCH I | Grants and Other Assistance to Organizations, Governments, and Individuals in the United States. | 1545-0047 |
| 990 | SCH I (BR) | Grants and Other Assistance to Organizations, Governments, and Individuals in the U.S. (Braille Version). | 1545-0047 |
| 990 | SCH I-1 | Continuation Sheet for Schedule I | 1545-0047 |
| 990 | SCH J | Compensation Information | 1545-0047 |
| 990 | SCH J (BR) | Compensation Information (Braille Version) | 1545-0047 |
| 990 | SCH J-1 | Continuation Sheet for Schedule J (Form 990) | 1545-0047 |
| 990 | SCH J-2 | Continuation Sheet for Form 990 | 1545-0047 |
| 990 | SCH K | Supplemental Information on Tax-Exempt Bonds | 1545-0047 |
| 990 | SCH M | Noncash Contributions | 1545-0047 |
| 990 | SCH R | Related Organizations and Unrelated Partnerships | 1545-0047 |
| 990 | SCH R (BR) | Related Organizations and Unrelated Partnerships (Braille Version) | 1545-0047 |
| 990 | SCH R-1 | Continuation Sheet for Schedule R | 1545-0047 |
| 990 | T | Exempt Organization Business Income Tax Return | 1545-0687 |
| 990 | T (BR) | Exempt Organization Business Income Tax Return (Braille Version) | 1545-0687 |
| 990 | W | Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations. | 1545-0976 |
| 1023 | | Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. | 1545-0056 |
| 1023 | (BR) | Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (Braille Version). | 1545-0056 |
| 1023 | I | Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (Interactive Version). | 1545-0056 |
| 1024 | | Application for Recognition of Exemption Under Section 501(a) or for Determination Under Section 120. | 1545-0057 |
| 1028 | | Application for Recognition of Exemption | 1545-0058 |
| 1028 | (BR) | Application for Recognition of Exemption (Braille Version) | 1545-0058 |
| 5578 | | Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax. | 1545-0213 |
| 5884 | C | Credit Against Employment Tax for Tax-Exempt Employers Hiring Qualified Tax-Exempt Organizations Hiring Qualified Veterans. | 1545-2226 |
| 8038 | | Information Return for Tax-Exempt Private Activity Bond Issues | 1545-0720 |
| 8038 | B | Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. | 1545-2161 |
| 8038 | CP | Credit for Qualified Bonds Allowed to Issuer | 1545-2161 |
| 8038 | G | Information Return for Government Purpose Tax-Exempt Bond Issues | 1545-0720 |
| 8038 | GC | Consolidated Information Return for Small Tax-Exempt Government Bond Issues. | 1545-0720 |
| 8038 | R | Request for Recovery of Overpayment Under Arbitrage Rebate Provisions | 1545-1750 |
| 8038 | T | Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate | 1545-1219 |
| 8038 | TC | Information Return for Tax Credit and Specified Tax Credit Bonds as the result of the new Hire bill. | 1545-2160 |
| 8282 | | Donee Information return | 1545-0908 |
| 8453 | EO | Exempt Organization Declaration & Signature for Electronic Filing | 1545-1879 |
| 8453 | X | Political Organization Declaration for Electronic Filing of Notice 527 Status | 1545-1693 |
| 8868 | | Application for Extension of Time To File an Exempt Organization Return | 1545-1709 |
| 8868 | (BR) | Application for Extension of Time To File an Exempt Organization Return (Braille Version). | 1545-1709 |

| No. | Title | Description | OMB No. |
|------|-------|--|-----------|
| 8870 | | Information Return for Transfer Associations | 1545-1702 |
| 8871 | | Political Organization Notice of Section 527 Status | 1545-1693 |
| 8872 | | Political Organization Report of Contributions and Expenditures | 1545-1696 |
| 8879 | EO | IRS e-file Signature Authorization for an Exempt Organization | 1545-1878 |
| 8886 | T | Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction | 1545-2078 |
| 8899 | | Notice of Income from Donated Intellectual Property | 1545-1962 |

Appendix B

| Title/description | OMB No. |
|--|-----------|
| EE-111-80 (TD 8019—Final) Public Inspection of Exempt Organization Return | 1545-0742 |
| TD 8033 (TEMP) Tax Exempt Entity Leasing (REG-209274-85) | 1545-0923 |
| Revenue Procedure 98-19, Exceptions to the notice and reporting requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2) | 1545-1589 |
| REG-246256-96 (Final TD 8978) Excise Taxes on Excess Benefit Transactions | 1545-1623 |
| T.D. 8861, Private Foundation Disclosure Rules | 1545-1655 |
| Notice 2006-109—Interim Guidance Regarding Supporting Organizations and Donor Advised Funds | 1545-2050 |
| Disclosure by taxable party to the tax-exempt entity | 1545-2079 |
| Reinstatement and Retroactive Reinstatement for Reasonable Cause (Rev. Proc. 2014-11) and Transitional Relief for Small Organizations (Notice 2011-43) under IRC § 6033(j) | 1545-2206 |
| TD 8086—Election for \$10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements (LR-185-84 Final) | 1545-0940 |
| Arbitrage Restrictions and Guidance on Issue Price Definition for Tax Exempt Bonds | 1545-1347 |
| TD 8712 (Final), Definition of Private Activity Bonds; TD 9741, General Allocation and Accounting Regulations Under Section 141; Remedial Actions for Tax-Exempt Bonds | 1545-1451 |
| FI-28-96 (Final) Arbitrage Restrictions on Tax-Exempt Bonds | 1545-1490 |
| REG-121475-03 (TD 9495-Final) Qualified Zone Academy Bonds: Obligations of States and Political Subdivisions | 1545-1908 |
| Notice 2009-26, Build America Bonds and Direct Payment Subsidy Implementation | 1545-2143 |
| Notice 2012-48: Tribal Economic Development Bonds | 1545-2233 |
| TD 7925 7952—Indian Tribal Governments Treated As States For Certain Purposes | 1545-0823 |
| Revenue Procedure 97-15, Section 103—Remedial Payment Closing Agreement Program | 1545-1528 |
| EE-12-78 Non-Bank Trustees | 1545-0806 |
| TD 9099—Disclosure of Relative Values of Optional Forms of Benefit | 1545-0928 |
| EE-147-87 (Final) Qualified Separate Lines of Business | 1545-1221 |
| TD 8619 (Final) (EE-43-92l) Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions from Qualified Plans | 1545-1341 |
| PS-100-88 (TD8540) (Final) Valuation Tables | 1545-1343 |
| Revenue Procedure 2017-4 | 1545-1520 |
| TD 8769 (Final)—(REG-107644-97) Permitted Elimination of Pre-retirement Optional Forms of Benefit | 1545-1545 |
| Notice 97-45, Highly Compensated Employee Definition | 1545-1550 |
| Compensation Deferred Under Eligible Deferred Compensation Plans (TD 9075) | 1545-1580 |
| TD 8816 (Final) Roth IRAs | 1545-1616 |
| REG-108639-99 (Final) Retirement Plans; Cash or Deferred Arrangements Under Section 401(k) and Matching Contributions or Employee Contributions Under Section 401(m); TD 9169 | 1545-1669 |
| Revenue Ruling 2000-35 Automatic Enrollment in Section 403(b) Plans | 1545-1694 |
| Notice 2002-27—IRA Required Minimum Distribution Reporting | 1545-1779 |
| TD 9142 (Final), Deemed IRAs in Qualified Retirement Plans (REG-157302-02) | 1545-1841 |
| REG-146459-05—TD 9324 (Final) Designated Roth Contributions Under Section 402A | 1545-1992 |
| TD 9467 (REG-139236-07) and Notice 2014-53 | 1545-2095 |
| TD 9641—Suspension or Reduction of Safe Harbor Contributions (REG-115699-09) | 1545-2191 |
| Waiver of 60-Day Rollover Requirement | 1545-2269 |
| TD 7898—Employers Qualified Educational Assistance Programs | 1545-0768 |
| TD 8864 (Final); EE-63-88 (Final and temp regulations) Taxation of Fringe Benefits and Exclusions From Gross Income for Certain Fringe Benefits; IA-140-86 (Temporary) Fringe Benefits | 1545-0771 |
| TD 8073 (Temporary Regulations)—Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984 | 1545-0916 |
| REG-209484-87 (TD 8814 final) Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans | 1545-1643 |
| REG-164754-01 (FINAL) Split-Dollar Life Insurance Arrangements | 1545-1792 |
| T.D. 9088, Compensatory Stock Options Under Section 482 | 1545-1794 |
| T.D. 9083—Golden Parachute Payments | 1545-1851 |
| Revenue Procedure 2014-55, Election Procedures and Information Reporting with Respect to Interests in Certain Canadian Retirement Plans | 1545-1773 |
| Substitute Mortality Tables for Single Employer Defined Benefit Plans | 1545-2073 |
| T.D. 8802—Certain Asset Transfers to a Tax-Exempt Entity | 1545-1633 |
| REG-113572-99 (TD 8933) Qualified Transportation Fringe Benefits | 1545-1676 |
| Revenue Procedure 2016-1, Rulings and determination letters—26 CFR 601-201 | 1545-1522 |
| 26 CFR 31.6001-1 Records in general; 26 CFR 31.6001-2 Additional Records under FICA; 26 CFR 31.6001-3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001-5 Additional records | 1545-0798 |
| IA-44-94 (Final) Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions | 1545-1464 |
| Notice 2005-41, Guidance Regarding Qualified Intellectual Property Contributions | 1545-1937 |

| Title/description | OMB No. |
|--|-----------|
| De Minimis Error Safe Harbor to the I.R.C. §§ 6721 and 6722 Penalties | 1545-2270 |
| Substantiation of Charitable Contributions—TD 8002 | 1545-0754 |
| Qualified Conservation Contributions | 1545-0763 |
| TD 7852—Registration Requirements with Respect to Debt Obligations (NPRM, LR-255-82) | 1545-0945 |
| Notice 2007-70—Charitable Contributions of Certain Motor Vehicles, Boats, and Airplanes. Reporting requirements under Sec. 170(f)(12)(D) | 1545-1980 |
| TD 8124—Time and Manner of Making Certain Elections Under the Tax Reform Act of 1986 | 1545-0982 |
| EE-14-81 (NPRM) Deductions and Reductions in Earnings and Profits (or Accumulated Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or | 1545-1393 |
| TD 9724—Summary of Benefits and Coverage Disclosures | 1545-2229 |
| TD 7845—Inspection of Applications for Tax Exemption and Applications for Determination Letters for Pension and Other Plans (Final) | 1545-0817 |
| REG-130477-00; REG-130481-00 (TD 8987 -Final), Required Distributions From Retirement Plans | 1545-0996 |
| EE-175-86 (Final) Certain Cash or Deferred Arrangements and Employee and Matching Contributions under Employee Plans: REG-108639-99 (NPRM) Retirement Plans; Cash or Deferred Arrangements | 1545-1069 |
| Change in Minimum Funding Method (Rev. Proc. 2000-41) | 1545-1704 |
| REG-109481-99 (TD 9076—Final) Special Rules Under Section 417(a)(7) for Written Explanations Provided by Qualified Retirement Plans After Annuity Starting Dates | 1545-1724 |
| TD 9472 (Final)—Notice Requirements for Certain Pension Plan Amendments Significantly Reducing the Rate of Future Benefit Accrual | 1545-1780 |
| T.D. 9079—Ten or More Employer Plan Compliance Information | 1545-1795 |
| Waivers of Minimum Funding Standards—Revenue Procedure 2004-15 | 1545-1873 |
| Election of Alternative Deficit Reduction Contribution and Plan Amendments | 1545-1883 |
| Revenue Procedure 2010-52, Extension of the Amortization Period for Plan Sponsor of a Multiemployer Pension Plan | 1545-1890 |
| Designated Roth Contributions to Cash or Deferred Arrangements Under Section 401(k) | 1545-1931 |
| Notice 2005-40, Election to Defer Net Experience Loss in a Multiemployer Plan | 1545-1935 |
| Notice 2006-107—Diversification Requirements for Qualified Defined Contribution Plans Holding Publicly Traded Employer Securities | 1545-2049 |
| Revised Regulations Concerning Section 403(b) Tax-Sheltered Annuity Contracts—TD 9340 (Final) | 1545-2068 |
| TD 9447 (Final) Automatic Contribution Arrangements. | 1545-2135 |
| NOT-2009-31—Election and Notice Procedures for Multiemployer Plans under Sections 204 and 205 of WRERA | 1545-2141 |
| Relief and Guidance on Corrections of Certain Failures of a Nonqualified Deferred Compensation Plan to Comply with § 409A(a) | 1545-2164 |
| Suspension of Benefits Under the Multiemployer Pension Reform Act of 2014; Administration of Multiemployer Plan Participant Vote | 1545-2260 |
| REG-209823-96 (TD 8791)—Guidance Regarding Charitable Remainder Trusts and Special Valuation Rules for Transfer of Interests in Trusts | 1545-1536 |

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Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1, et al.

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2018–0001, Sequence No. 4]

Federal Acquisition Regulation: Federal Acquisition Circular 2005–100; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–100. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the internet at <http://www.regulations.gov>.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–100 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–100

| Item | Subject | FAR case | Analyst |
|-----------|--|----------|----------|
| I | Paid Sick Leave for Federal Contractors | 2017–001 | Delgado. |
| II | Non-Retaliation for Disclosure of Compensation Information | 2016–007 | Delgado. |
| III | Technical Amendments. | | |

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–100 amends the FAR as follows:

Item I—Paid Sick Leave for Federal Contractors (FAR Case 2017–001)

DoD, GSA, and NASA are converting to a final rule, without change, an interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13706 and a Department of Labor final rule issued on September 30, 2016, both entitled Establishing Paid Sick Leave for Federal Contractors. The rule requires contractors to allow all employees performing work on or in connection with a contract covered by the E.O. to accrue and use paid sick leave in accordance with E.O. 13706 and 29 CFR part 13. Contracting officers will include a clause in covered contracts. This FAR rule neither increases nor decreases the cost of the interim rule (81 FR 91627), which has been in effect since January 1, 2017.

Item II—Non-Retaliation for Disclosure of Compensation Information (FAR Case 2016–007)

DoD, GSA, and NASA are converting to a final rule, without change, an interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13665, Non-Retaliation for Disclosure of

Compensation Information. E.O. 13665, signed April 8, 2014, amended E.O. 11246, Equal Opportunity in Federal Employment. The interim FAR rule also implemented a final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor, entitled Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions, which was published on September 11, 2015.

E.O. 11246, originally issued September 24, 1965, establishes nondiscrimination and affirmative action obligations in employment for Federal contractors and subcontractors. It prohibits employment discrimination because of race, color, religion, sex, sexual orientation, gender identity, and national origin. E.O. 13665 amends E.O. 11246 and its Equal Opportunity Clause by incorporating, as a covered prohibition, discriminating against employees and job applicants who inquire about, discuss, or disclose the compensation of the employee or applicant or another employee or applicant. Federal contractors and subcontractors must disseminate this nondiscrimination provision, using language prescribed by the Director of OFCCP, including incorporating the provision into existing employee manuals or handbooks and posting it. There is no significant impact on small entities imposed by the FAR rule.

Item III—Technical Amendments

Editorial changes and updates to web links are made at FAR 2.101, 4.1603, 4.1702, 5.102, 5.201, 5.207, 5.704, 5.705,

6.305, 7.103, 7.105, 7.107–4, 8.405–6, 8.501, 8.602, 9.406–3, 9.407–3, 14.201–2, 16.505, 17.502–1, 18.205, 19.704, 19.1503, 22.001, 22.404–3, 22.1001, 22.1021, 22.1022, 22.1304, 23.202, 23.203, 23.205, 23.401, 23.405, 23.802, 25.003, 25.703–2, 28.106–1, 28.106–3, 28.203–3, 28.204–3, 31.205–6, 36.104, 36.700, 41.301, 49.602, 52.208–8, 52.212–1, 52.212–3, 52.212–5, 52.213–4, 52.219–9, 52.222–6, 52.222–8, 52.222–30, 52.222–31, 52.222–32, 52.222–41, 52.222–43, 52.223–17, 52.225–5, 52.225–18, 52.225–25, 52.228–11, 52.243–1, 52.244–6, 53.000, 53.102, 53.209–1, 53.228, 53.249 and subpart 53.3.

Dated: July 31, 2018.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–100 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–100 is effective August 22, 2018.

Dated: August 1, 2018.

Shay D. Assad,

Director, Defense Pricing/Defense
Procurement and Acquisition Policy.

Dated: August 14, 2018.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO,
Office of Acquisition Policy, U.S. General
Services Administration.

Dated: August 2, 2018.

William G. Roets, II,

Acting Assistant Administrator, Office of
Procurement, National Aeronautics and
Space Administration.

[FR Doc. 2018-17822 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 11, 22, and 52

[FAC 2005-100; FAR Case 2017-001, Item
I; Docket No. 2017-0001; Sequence No. 1]

RIN 9000-AN27

Federal Acquisition Regulation; Paid Sick Leave for Federal Contractors

AGENCY: Department of Defense (DoD),
General Services Administration (GSA),
and National Aeronautics and Space
Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are
adopting as final, without change, an
interim rule amending the Federal
Acquisition Regulation (FAR) to
implement the Executive Order (E.O.),
Establishing Paid Sick Leave for Federal
Contractors. The interim rule also
implemented a final rule issued by the
Department of Labor.

DATES: *Effective:* August 22, 2018.

FOR FURTHER INFORMATION CONTACT: Ms.
Zenaida Delgado, Procurement Analyst,
at 202-969-7207 for clarification of
content. For information pertaining to
status or publication schedules, contact
the Regulatory Secretariat Division at
202-501-4755. Please cite FAC 2005-
100, FAR Case 2017-001.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an
interim rule in the **Federal Register** at
81 FR 91627 on December 16, 2016, to
implement E.O. 13706, Establishing
Paid Sick Leave for Federal Contractors.
The E.O. was signed September 7, 2015,
and was published in the **Federal**

Register at 80 FR 54697 on September
10, 2015. The E.O. seeks to increase
efficiency and cost savings in the work
performed by parties who contract with
the Federal Government by ensuring
that employees on those contracts can
earn up to 7 days or more of paid sick
leave annually, including paid sick
leave for family care. The interim FAR
rule also implemented the final rule
issued by the Wage and Hour Division
of the Department of Labor (DOL) to
implement E.O. 13706. The DOL final
rule, entitled “Establishing Paid Sick
Leave for Federal Contractors”, was
published in the **Federal Register** at 81
FR 67598 on September 30, 2016. Seven
respondents submitted comments on the
interim FAR rule.

II. Discussion and Analysis

The Civilian Agency Acquisition
Council and the Defense Acquisition
Regulations Council (the Councils)
reviewed the comments in the
development of the final rule. A
discussion of the comments is provided
as follows:

A. Summary of Significant Changes

There are no changes to the interim
rule.

B. Analysis of Public Comments

Comment: Six respondents strongly
supported the interim FAR rule. The
respondents stated that the interim rule
is necessary to guarantee more workers
the job and economic security that paid
sick days provide, reduce workplace
contagion, and increase productivity
and retention. The respondents also
presented rationale as to why the
interim rule will benefit businesses,
individual workers, taxpayers, and the
economy.

Response: Noted.

Comment: One respondent provided a
scenario and asked whether in that
instance the contract was subject to the
requirements of this FAR rule. The
respondent described a contract action
extending the term of the contract by
exercising an option adjusting the price
for escalations in labor rates.

Response: According to DOL (see
Notice of Proposed Rulemaking, 81 FR
9592, published February 25, 2016),
unilateral exercise of a contract option
that has pre-negotiated prices that are
subject to adjustment due to escalation
in labor rates is not a new contract
covered by E.O. 13706, as implemented
in the DOL rule and FAR rule, as long
as no bilateral negotiations occur (other
than any necessary to determine and
effectuate those pricing adjustments).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and
13563 direct agencies to assess all costs
and benefits of available regulatory
alternatives and, if regulation is
necessary, to select regulatory
approaches that maximize net benefits
(including potential economic,
environmental, public health and safety
effects, distributive impacts, and
equity). E.O. 13563, Improving
Regulation and Regulatory Review,
emphasizes the importance of
quantifying both costs and benefits, of
reducing costs, of harmonizing rules,
and of promoting flexibility. This is not
a significant regulatory action and,
therefore, was not subject to review
under section 6(b) of E.O. 12866,
Regulatory Planning and Review, dated
September 30, 1993. This rule is not a
major rule under 5 U.S.C. 804.

IV. Executive Order 13771

This rule is not subject to E.O. 13771,
Reducing Regulation and Controlling
Regulatory Costs, because this rule is
not a significant regulatory action under
E.O. 12866.

V. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a
Final Regulatory Flexibility Analysis
(FRFA) consistent with the Regulatory
Flexibility Act, 5 U.S.C. 601 *et seq.* The
FRFA is summarized as follows:

DoD, GSA, and NASA are converting to a
final rule, without change, an interim rule
that amended the Federal Acquisition
Regulation (FAR) to implement Executive
Order (E.O.) 13706, Establishing Paid Sick
Leave for Federal Contractors, dated
September 7, 2015, and associated
Department of Labor (DOL) regulatory
requirements at 29 CFR part 13. DOL
published a final regulatory flexibility
analysis in their final rule (81 FR 67598 at
67703).

The FAR rule established requirements for
contractors under contracts containing the
clauses at FAR 52.222-6, Construction Wage
Rate Requirements, or FAR 52.222-41,
Service Contract Labor Standards, *i.e.*,
“covered contracts,” to allow employees to
accrue and use paid sick leave in accordance
with E.O. 13706 and 29 CFR part 13.
Contractors must also include a paid sick
leave contract clause in covered subcontracts
and require covered subcontractors to
include the substance of the clause in
covered lower-tier contracts.

No public comments were received in
response to the initial regulatory flexibility
analysis.

This rule applies to contracts and
subcontracts at all tiers covered by the
Service Contract Labor Standards statute, or
the Wage Rate Requirements (Construction)
statute, which require performance in whole
or in part within the United States. For
procurement contracts where employees’
wages are governed by the Fair Labor

Standards Act, this rule applies when the contract exceeds the micro-purchase threshold, as defined in FAR 2.101. When performance is in part within and in part outside the United States, the rule applies to the part of the contract or subcontract performed within the United States. Data available through the Federal Procurement Data System (FPDS) for Fiscal Year 2015, reveals contracts were awarded to 18,874 unique small business vendors for services, which contained the FAR clause at 52.222-41, Service Contract Labor Standards. Additionally, contracts were awarded to 6,753 unique small business vendors for construction, which contained the FAR clause at 52.222-6, Construction Wage Rate Requirements, for a total of 25,627 unique small businesses.

The DOL final rule identifies records to be kept by all firms, including small entities (29 CFR 13.25). Some records are already required under the Fair Labor Standards Act, Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, and their governing regulations. DOL noted in their final rule (81 FR 67598 at 67669) that OMB assigned control number 1235-0029 for the recordkeeping requirements related to paid sick leave. The information collection requirement under 1235-0029 includes recordkeeping and regulatory familiarization.

Regarding initial implementation, DOL assumed firms that need to create a sick leave policy will each spend 10 hours of time developing this policy, regardless of the number of employees, and firms with a program in place will spend one hour, regardless of the number of employees. DOL also stated in its final rule that “Transfers from small contractors and costs to small contractors in Year 1 are less than 0.02 percent of revenues on average and are no more than 0.17 percent in any industry”. Therefore, according to DOL its final rule would not have a significant impact on small businesses. This FAR rule finalizes the interim rule without change and neither increases nor decreases the cost of the interim rule (81 FR 91627), which has been in effect since January 1, 2017.

There are no known significant alternatives to the rule that would accomplish the stated objectives of the E.O. and DOL regulation. In its final rule, DOL introduced several changes and clarifications that may ease the compliance burden. For instance, DOL provided greater detail and clarity about how companies with paid time off policies can use those policies to satisfy their obligations under the E.O. In addition, if a collective bargaining agreement (CBA) ratified before September 30, 2016, applies to an employee's work performed on or in connection with a covered contract and provides at least 56 hours of paid sick time each year, the employee will be exempted from the requirements of the E.O. and 29 CFR part 13 until CBA termination or January 1, 2020, whichever is earlier.

The rule was also modified to allow employers to meet the requirements of this rule through multiemployer plans or other funds, plans, or programs. This may ease the burden for those employers in industries with transitory or mobile workforces.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. However, the information collection requirements to the paperwork burden were previously approved for the DOL regulations under OMB Control Numbers 1235-0018, Records to be kept by Employers—Fair Labor Standards Act, 1235-0021, Employment Information Form, and 1235-0029, Government Contractor Paid Sick Leave.

List of Subjects in 48 CFR Parts 1, 11, 22, and 52

Government procurement.

Dated: July 31, 2018.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 1, 11, 22, and 52 which was published in the **Federal Register** at 81 FR 91627 on December 16, 2016, is adopted as a final rule without change.

[FR Doc. 2018-17824 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 22, and 52

[FAC 2005-100; FAR Case 2016-007; Item II; Docket No. 2016-0007; Sequence No. 1]

RIN 9000-AN10

Federal Acquisition Regulation: Non-Retaliation for Disclosure of Compensation Information

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA adopted as final, without change, an interim rule amending the Federal

Acquisition Regulation (FAR) to implement Executive Order (E.O.), Non-Retaliation for Disclosure of Compensation Information. The interim rule also implemented a final rule issued by the Department of Labor.

DATES: *Effective:* August 22, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, at 202-969-7207 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755. Please cite FAC 2005-100, FAR Case 2016-007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 81 FR 67732 on September 30, 2016, to implement E.O. 13665, Non-retaliation for Disclosure of Compensation Information. The E.O. was signed April 8, 2014, and was published in the **Federal Register** at 79 FR 20749 on April 11, 2014. E.O. 13665 amends E.O. 11246 to provide for a uniform policy for the Federal Government to prohibit Federal contractors from discriminating against employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants. The interim FAR rule also implemented the final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor (DOL) to implement E.O. 13665. The DOL final rule, entitled “Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions”, was published in the **Federal Register** at 80 FR 54934, on September 11, 2015. The DOL rule revises 41 CFR part 60-1. Two respondents submitted comments on the interim FAR rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comments in the development of the final rule. A discussion of the comments is provided as follows:

A. Summary of Significant Changes

There are no changes to the interim rule.

B. Analysis of Public Comments

Comment: Both respondents strongly supported the interim FAR rule. Both respondents stated that the interim rule is necessary to bring an end to pay secrecy policies and practices that perpetuate discrimination, including the

gender pay gap. The respondents also presented rationale as to why the interim rule will benefit businesses, individual workers, and the economy.

Response: Noted.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563, Improving Regulation and Regulatory Review, emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

V. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The FRFA is summarized as follows:

DoD, GSA, and NASA are converting to a final rule, without change, an interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13665, Non-Retaliation for Disclosure of Compensation Information. E.O. 13665 amended E.O. 11246, Equal Opportunity in Federal Employment. The interim rule also implemented a final rule issued by the Department of Labor (DOL) at 41 CFR part 60-1, published in the **Federal Register** at 80 FR 54934, on September 11, 2015.

The objective of this rule is to provide for a uniform policy for the Federal Government to prohibit Federal contractors from discriminating against employees and job applicants who inquire about, discuss, or disclose their own compensation or the compensation of other employees or applicants.

No public comments were received in response to the initial regulatory flexibility analysis.

The rule will apply to all entities, both small and other than small. Based on the most current System for Award Management data available, defining small as fewer than 500 employees, then there are 328,552 small

contractor firms. Defining small as firms with less than \$35.5 million in revenue, then there are 315,902 small contractor firms. Thus, the total number of small contractor firms that may be impacted by the rule range from 315,902 to 328,552.

Recordkeeping and reporting requirements of the interim rule involved regulatory familiarization and administrative costs associated with incorporating revised language into policies, instructions, notices to employees, and subcontracts. In implementing the additional prohibition, the interim rule required that contractors and subcontractors disseminate the nondiscrimination provision, using language prescribed by the Director of the Office of Federal Contract Compliance Programs (OFCCP), including incorporating the nondiscrimination provision into existing employee manuals and handbooks and posting it electronically or in conspicuous places available to employees and applicants. An analysis of estimated costs of the regulatory changes was performed in the DOL final rule published in the **Federal Register** at 80 FR 54934, on September 11, 2015. However, this final rule does not have any impact on small entities, because the interim rule has already been in effect since September 30, 2016, and the final rule does not make any changes to the interim rule.

DoD, GSA, and NASA are not aware of any significant alternatives to the rule that would accomplish the stated objectives of the E.O. and the DOL implementing regulations.

It is necessary for the rule to apply to small entities, because E.O. 11246, as amended, applies to all contracts above \$10,000 that are not completely exempted. Every effort has been made to minimize the burdens imposed.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat Division. The Regulatory Secretariat Division has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, the information collection authorization is under the DOL final rule issued by the OFCCP of the DOL, which was published in the **Federal Register** at 80 FR 54934, on September 11, 2015, entitled "Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions", and is assigned Office of Management and Budget (OMB) Control Number 1250-0008. This information collection expires December 31, 2018. The other information collection requirements cited at 1.106 that apply to FAR clause 52.222-26, assigned OMB control numbers 1250-0001 and 1250-0003, cover the general recordkeeping provisions of the laws administered by OFCCP.

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: July 31, 2018.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the **Federal Register** at 81 FR 67732 on September 30, 2016, is adopted as a final rule without change.

[FR Doc. 2018-17826 Filed 8-21-18; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 4, 5, 6, 7, 8, 9, 14, 16, 17, 18, 19, 22, 23, 25, 28, 31, 36, 41, 49, 52, and 53

[FAC 2005-100; Item III; Docket No. 2018-0002; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes and to update web links.

DATES: *Effective:* August 22, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), 1800 F Street NW, 2nd Floor, Washington, DC 20405, 202-501-4755. Please cite FAC 2005-100, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 2, 4, 5, 6, 7, 8, 9, 14, 16, 17, 18, 19, 22, 23, 25, 28, 31, 36, 41, 49, 52, and 53 this document makes editorial changes to the FAR.

List of Subjects in 48 CFR Parts 2, 4, 5, 6, 7, 8, 9, 14, 16, 17, 18, 19, 22, 23, 25, 28, 31, 36, 41, 49, 52, and 53

Government procurement.

Dated: July 31, 2018.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 4, 5, 6, 7, 8, 9, 14, 16, 17, 18, 19, 22, 23, 25, 28, 31, 36, 41, 49, 52, and 53 as set forth below:

■ 1. The authority citation for parts 2, 4, 5, 6, 7, 8, 9, 14, 16, 17, 18, 19, 22, 23, 25, 28, 31, 36, 41, 49, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101, in paragraph (b)(2) by—

■ a. Removing from the definition “Disaster Response Registry” “<https://www.acquisition.gov> and alternately through the FEMA website at <http://www.fema.gov/business/index.shtm>. (See 26.205.)” and adding “the Internet at <https://www.sam.gov>, Search Records, Advanced Search, Disaster Response Registry Search. (See 26.205.)” in its place; and

■ b. Removing from the definition “Governmentwide point of entry (GPE)” “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1603 by revising paragraphs (b) introductory text, (b)(1), and (b)(2) introductory text to read as follows:

4.1603 Procedures.

* * * * *

(b) *Elements of a supplementary PIID.* Use the supplementary PIID to identify amendments to solicitations and modifications to contracts, orders, and agreements. The supplementary PIID is reported as a separate data element used in conjunction with, but not appended to, the PIID.

(1) *Amendments to solicitations.* Number amendments to solicitations sequentially using a four position numeric serial number in addition to the 13–17 character PIID beginning with 0001.

(2) *Modifications to contracts, orders, and agreements.* Number modifications to contracts, orders, and agreements using a six position alpha or numeric, or a combination thereof, in addition to the 13–17 character PIID. For example, a modification could be numbered P00001. This would be in addition to

the 13–17 character PIID illustrated in paragraph (a)(5) of this section.

* * * * *

4.1702 [Amended]

■ 4. Amend section 4.1702 by removing from paragraph (b) “<http://www.whitehouse.gov/omb/procurement-service-contract-inventories>” and adding “<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/service-contract-inventory-guidance.pdf>” in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

5.102 [Amended]

■ 5. Amend section 5.102 by removing from paragraph (a)(1) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

5.201 [Amended]

■ 6. Amend section 5.201 by removing from paragraph (d) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

5.207 [Amended]

■ 7. Amend section 5.207 by removing from paragraphs (b), (c)(19), and (e) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in their places, respectively.

5.704 [Amended]

■ 8. Amend section 5.704 by removing from paragraph (b) introductory text “<https://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

5.705 [Amended]

■ 9. Amend section 5.705 by removing from paragraphs (a)(2) introductory text and (c) “<https://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in their places, respectively.

PART 6—COMPETITION REQUIREMENTS

6.305 [Amended]

■ 10. Amend section 6.305 by removing from paragraph (d)(1) “www.fedbizopps.gov” and adding “<https://www.fbo.gov>” in its place.

PART 7—ACQUISITION PLANNING

7.103 [Amended]

■ 11. Amend section 7.103 by removing from paragraph (p)(3) “http://www.wbdg.org/pdfs/hpsb_guidance.pdf” and adding “[*performance-and-sustainable-buildings*” in its place.](https://www.epa.gov/greeningepa/guiding-principles-federal-leadership-high-</p>
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7.105 [Amended]

■ 12. Amend section 7.105 by removing from paragraph (b)(16) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

7.107–4 [Amended]

■ 13. Amend section 7.107–4(a)(1) introductory text by removing “contract task” and adding “contract or task” in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.405–6 [Amended]

■ 14. Amend section 8.405–6 by removing from paragraph (a)(2)(i)(B)(1) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

8.501 [Amended]

■ 15. Amend section 8.501 in the definition “Federal helium supplier” by removing “<http://blm.gov/8pjd>” and adding “<https://www.blm.gov/programs/energy-and-minerals/helium/partners>” in its place.

8.602 [Amended]

■ 16. Amend section 8.602 by removing from paragraphs (a)(4)(ii)(A) and (B) “FedBizOpps” and adding “FedBizOpps, also known as FBO” in their places, respectively.

PART 9—CONTRACTOR QUALIFICATIONS

9.406–3 [Amended]

■ 17. Amend section 9.406–3 by removing from paragraph (f)(1) “www.cpars.csd.disa.mil” and adding “<https://www.cpars.gov>” in its place.

9.407–3 [Amended]

■ 18. Amend section 9.407–3 by removing from paragraph (e)(1) “www.cpars.csd.disa.mil” and adding “<https://www.cpars.gov>” in its place.

PART 14—SEALED BIDDING

14.201–2 [Amended]

■ 19. Amend section 14.201–2 by removing from paragraph (b) “(53.302–336)”.

PART 16—TYPES OF CONTRACTS

16.505 [Amended]

■ 20. Amend section 16.505 by removing from paragraph (b)(2)(ii)(D)(2)(i) “<http://www.fedbizopps.gov>” and adding “<https://www.fbo.gov>” in its place.

PART 17—SPECIAL CONTRACTING METHODS**17.502–1 [Amended]**

■ 21. Amend section 17.502–1 by removing from paragraph (b)(1)(i) “http://www.whitehouse.gov/omb/assets/procurement/iac_revised.pdf” and adding “https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/procurement/interagency_acq/iac_revised.pdf” in its place; and removing from paragraph (c) introductory text “<http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/development-review-and-approval-of-business-cases-for-certain-interagency-and-agency-specific-acquisitions-memo.pdf>” and adding “<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/development-review-and-approval-of-business-cases-for-certain-interagency-and-agency-specific-acquisitions-memo.pdf>” in its place.

PART 18—EMERGENCY ACQUISITIONS**18.205 [Amended]**

■ 22. Amend section 18.205 by removing from paragraph (b) “http://www.whitehouse.gov/sites/default/files/omb/assets/procurement_guides/emergency_acquisitions_guide.pdf” and adding “https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/procurement_guides/emergency_acquisitions_guide.pdf” in its place.

PART 19—SMALL BUSINESS PROGRAMS**19.704 [Amended]**

■ 23. Amend section 19.704 by removing from paragraph (a)(10)(iii) “contracts intended;” and adding “contracts with individual subcontracting plans where the contract is intended” in its place.

19.1503 [Amended]

■ 24. Amend section 19.1503 by removing from paragraph (c)(2)(viii) “<http://www.sba.gov/tools/forms/index.html>” and adding “<https://www.sba.gov/managing-business/forms/small-business-forms/financial-assistance-forms/personal-financial-statement>” in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS**22.001 [Amended]**

■ 25. Amend section 22.001 by removing from the definition “Administrator or Administrator, Wage

and Hour Division” the words “Employment Standards Administration,”.

22.404–3 [Amended]

■ 26. Amend section 22.404–3 by removing from paragraph (a) “(see 53.301–308)”.

22.1001 [Amended]

■ 27. Amend section 22.1001 by removing from the definition “Wage and Hour Division” “Employment Standards Administration of the”.

22.1021 [Amended]

■ 28. Amend section 22.1021 by removing from paragraph (a) “Employment Standards Administration,”.

22.1022 [Amended]

■ 29. Amend section 22.1022 by removing from the second sentence “Employment Standards Administration,”.

22.1304 [Amended]

■ 30. Amend section 22.1304 by removing from paragraph (b) “VETS-4212-customersupport@dol.gov” and adding “VETS4212-customersupport@dol.gov” in its place.

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE**23.202 [Amended]**

■ 31. Amend section 23.202 by removing from paragraph (b)(3) “<http://www.epa.gov/nps/lid/section438>” and adding “<https://www.epa.gov/nps/stormwater-management-federal-facilities-under-section-438-energy-independence-and-security-act>” in its place.

23.203 [Amended]

■ 32. Amend section 23.203 by removing from paragraph (b)(2) “http://www1.eere.energy.gov/femp/procurement/eep_requirements.html” and adding “<http://energy.gov/eere/femp/energy-and-water-efficient-products>” in its place.

■ 33. Amend section 23.205 by removing from paragraph (c)(1) “at http://www1.eere.energy.gov/femp/financing/espcs_regulations.html,” and adding paragraph (d) to read as follows:

23.205 Energy-savings performance contracts.

* * * * *

(d) For more information see <https://energy.gov/eere/femp/energy-savings-performance-contracts-federal-agencies>.

23.401 [Amended]

■ 34. Amend section 23.401 by removing from paragraph (a)(2) “<http://www.epa.gov/epawaste/conserves/tools/cpg/index.htm>” and adding “<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>” in its place.

23.405 [Amended]

■ 35. Amend section 23.405 by removing from paragraph (a)(1) “<http://www.epa.gov/cpg/products.htm>” and adding “<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program#products>” in its place.

23.802 [Amended]

■ 36. Amend section 23.802 by removing from paragraph (c) “and the President’s Climate Action Plan of June 2013”.

PART 25—FOREIGN ACQUISITION**25.003 [Amended]**

■ 37. Amend section 25.003 in the definition “Caribbean Basin country end product” by removing from the paragraph (1)(ii)(B) “<http://www.usitc.gov/tata.hts/>” and adding “<https://usitc.gov/tata/hts/index.htm>” in its place.

25.703–2 [Amended]

■ 38. Amend section 25.703–2 by removing from paragraph (a)(2) “<http://www.treasury.gov/ofac/downloads/t11sdn.pdf>” and adding “<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>” in its place.

PART 28—BONDS AND INSURANCE**28.106–1 [Amended]**

■ 39. Amend section 28.106–1 by removing from the introductory text, “shown in 53.301 and 53.302”.

28.106–3 [Amended]

■ 40. Amend section 28.106–3 by removing from paragraph (a) “, and a copy of the form is furnished for this purpose in part 53 of the looseleaf edition of the FAR”.

28.203–3 [Amended]

■ 41. Amend section 28.203–3 by removing from paragraph (a)(1) “http://www.justice.gov/enrd/ENRD_Assets/Title_Standards_2001.pdf” and adding “<https://www.justice.gov/enrd/page/file/922431/download>” in its place.

■ 42. Amend section 28.204–3 by revising paragraph (h) to read as follows:

28.204–3 Irrevocable letter of credit.

* * * * *

(h) A copy of the Uniform Customs and Practice (UCP) for Documentary Credits, 2007 Edition, International Chamber of Commerce Publication No. 600, is available from: ICC Books USA, 1212 Avenue of the Americas, 21st Floor, New York, NY 10036; Phone: 212-703-5078; Fax: 212-391-6568; Email: iccbooks@uscib.org; Via the internet at: <http://www.uscib.org/ucp-600-ud-4465/>.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205-6 [Amended]

■ 43. Amend section 31.205-6 by removing from paragraphs (p)(2)(ii) and (p)(3)(ii) “https://www.whitehouse.gov/omb/procurement_index_exec_comp/” and adding “https://www.whitehouse.gov/wp-content/uploads/2017/11/Contractor_CompensationCapContractsAwardedBeforeJune24.pdf” in their places, respectively; and removing from paragraph (p)(4)(ii) “<http://www.whitehouse.gov/omb/procurement/cecp/>” and adding “https://www.whitehouse.gov/wp-content/uploads/2017/11/Contractor_CompensationCapContractsAwardedafterJune24.pdf” in its place.

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.104 [Amended]

■ 44. Amend section 36.104 by removing from paragraph (b)(1) “http://www.wbdg.org/pdfs/hpsb_guidance.pdf” and adding “<https://www.epa.gov/greeningepa/guiding-principles-federal-leadership-high-performance-and-sustainable-buildings>” in its place.

■ 45. Revise the last sentence of section 36.700 to read as follows:

36.700 Scope of subpart.

* * * A listing of the Standard forms is located in subpart 53.3.

PART 41—ACQUISITION OF UTILITY SERVICES

41.301 [Amended]

■ 46. Amend section 41.301 by removing from paragraph (a) “General Services Administration, Energy Center of Expertise, 301 7th Street SW, Room 4004, Washington, DC 20407” and adding “General Services Administration, Energy Division—PMA, 1800 F St NW, Washington, DC 20405; website: www.gsa.gov/energy; Email: energy@gsa.gov” in its place.

PART 49—TERMINATION OF CONTRACTS

■ 47. Revise the last sentence of section 49.602 to read as follows:

49.602 Forms for settlement of terminated contracts.

* * * A listing of the Standard forms is located in subpart 53.3.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 48. Amend section 52.208-8 by revising the date of the clause and removing from paragraph (a), in the definition “*Federal helium supplier*” “http://www.blm.gov/nm/st/en/fo/Amarillo_Field_Office.html” and adding “<https://www.blm.gov/programs/energy-and-minerals/helium/partners>” in its place.

The revision reads as follows:

52.208-8 Required Sources for Helium and Helium Usage Data.

* * * * *

Required Sources for Helium and Helium Usage Data (AUG 2018)

* * * * *

■ 49. Amend section 52.212-1 by revising the date of the provision and paragraph (b)(4) to read as follows:

52.212-1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (AUG 2018)

* * * * *

(b) * * *

(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;

* * * * *

■ 50. Amend section 52.212-3 by revising the date of the provision and removing from paragraph (o)(2)(iii) “<http://www.treasury.gov/ofac/downloads/t11sdn.pdf>” and adding “<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>” in its place.

The revision reads as follows:

52.212-3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (AUG 2018)

* * * * *

■ 51. Amend section 52.212-5 by—
 ■ a. Revising the date of the clause;
 ■ b. Revising paragraphs (b)(17)(i) and (b)(17)(v);

- c. Revising paragraphs (b)(28) through (30);
- d. Revising paragraphs (b)(48) and (49);
- e. Redesignating paragraphs (b)(58) and (59) as paragraphs (b)(59) and (60), and adding a new paragraph (b)(58);
- f. Revising the newly designated paragraph (b)(60);
- g. Revising paragraphs (c)(2), (c)(4), and (e)(1)(xii); and
- h. In Alternate II—
- i. Revising the date of Alternate II;
- ii. Revising paragraph (e)(1)(ii)(f); and
- iii. Revising paragraphs (e)(1)(ii)(P) thru (e)(1)(ii)(R).

The revisions and addition read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (AUG 2018)

* * * * *

(b) * * *

___(17)(i) 52.219-9, Small Business Subcontracting Plan (AUG 2018) (15 U.S.C. 637(d)(4)).

* * * * *

___(v) Alternate IV ([AUG 2018]) of 52.219-9.

* * * * *

___(28)(i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).

___(ii) Alternate I (Feb 1999) of 52.222-26.
 ___(29)(i) 52.222-35, Equal Opportunity for Veterans (OCT 2015)(38 U.S.C. 4212).

___(ii) Alternate I (July 2014) of 52.222-35.
 ___(30)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).

___(ii) Alternate I (July 2014) of 52.222-36.

* * * * *

___(48) 52.225-5, Trade Agreements (AUG 2018) 19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

___(49) 52.225-13, Restrictions on Certain Foreign Purchases (JUNE 2008) (E.O.’s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

* * * * *

___(58) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

* * * * *

___(60)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

___(ii) Alternate I (Apr 2003) of 52.247-64.

___(iii) Alternate II (Feb 2006) of 52.247-64.

(c) * * *

___(2) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).

* * * * *

___(4) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price

Adjustment (Multiple Year and Option Contracts) (AUG 2018)(29 U.S.C. 206 and 41 U.S.C. chapter 67).

* * * * *

(e)(1) * * *

(xii) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).

* * * * *

Alternate II (AUG 2018). * * *

* * * * *

(e)(1) * * *

(ii) * * *

(J) 52.222-41, Service Contract Labor Standards (AUG 2018)(41 U.S.C. chapter 67).

* * * * *

(P) 52.222-62, Paid Sick Leave Under Executive Order 13706 (JAN 2017)(E.O. 13706).

(Q)(1) 52.224-3, Privacy Training (JAN 2017) (5 U.S.C. 552a).

(2) Alternate I (JAN 2017) of 52.224-3.

(R) 52.225-26, Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

* * * * *

■ 52. Amend section 52.213-4 by revising the date of the clause and paragraphs (a)(2)(viii) and (b)(1)(vii) to read as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other than Commercial Items) (AUG 2018)

(a) * * *

(2) * * *

(viii) 52.244-6, Subcontracts for Commercial Items (AUG 2018).

(b) * * *

(1) * * *

(vii) 52.222-41, Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

* * * * *

■ 53. Amend section 52.216-7 by revising the date of the clause and removing from paragraph (d)(2)(iv)(B) “http://www.whitehouse.gov/omb/procurement_index_exec_comp/” and adding “<https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedBeforeJune24.pdf>” and <https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedAfterJune24.pdf>” in its place.

The revision reads as follows:

52.216-7 Allowable Cost and Payment.

* * * * *

Allowable Cost and Payment (AUG 2018)

- 54. Amend section 52.219-9 by—
- a. Revising the date of the clause;
- b. Removing the erroneous paragraph (d), prior to paragraph (c)(1);
- c. Removing from paragraph (d)(10)(iii) “contracts intended” and adding “contracts with individual subcontracting plans where the contract is intended” in its place;
- d. Removing from paragraphs (d)(10)(vi) and (d)(10)(vii) “DUNS number” and adding “unique entity identifier” in its place;
- e. In Alternate IV—
- i. Revising the date of Alternate IV;
- ii. Removing from paragraph (d)(10)(iii) “contract intended” and adding “contract with an individual subcontracting plan where the contract is intended” in its place; and
- iii. Removing from paragraphs (d)(10)(vi) and (d)(10)(vii) “DUNS number” and adding “unique entity identifier” in its place.

The revisions read as follows:

52.219-9 Small Business Subcontracting Plan.

* * * * *

Small Business Subcontracting Plan (AUG 2018)

* * * * *

Alternate IV (AUG 2018) * * *.

* * * * *

■ 55. Amend section 52.222-6 by revising the date of the clause and removing from paragraph (c)(2) “Employment Standards Administration,”.

The revision reads as follows:

52.222-6 Construction Wage Rate Requirements.

* * * * *

Construction Wage Rate Requirements (AUG 2018)

* * * * *

■ 56. Amend section 52.222-8 by revising the clause heading and date to read as follows:

52.222-8 Payrolls and Basic Records.

* * * * *

Payrolls and Basic Records (AUG 2018)

* * * * *

■ 57. Amend section 52.222-30 by revising the date of the clause and removing from paragraph (a) “Employment Standards Administration,”.

The revision reads as follows:

52.222-30 Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method) (AUG 2018)

* * * * *

■ 58. Amend section 52.222-31 by revising the date of the clause and removing from paragraph (a) “Employment Standards Administration,”.

The revision reads as follows:

52.222-31 Construction Wage Rate Requirements—Price Adjustment (Percentage Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (Percentage Method) (AUG 2018)

* * * * *

■ 59. Amend section 52.222-32 by revising the date of the clause and removing from paragraph (a) “Employment Standards Administration,”.

The revision reads as follows:

52.222-32 Construction Wage Rate Requirements—Price Adjustment (Actual Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (Actual Method) (AUG 2018)

* * * * *

■ 60. Amend section 52.222-41 by—

- a. Revising the date of the clause;
- b. Removing from paragraph (c)(2)(ii) “Employment Standards Administration”; and
- c. Removing from paragraph (i)(1) “Employment Standards Administration,”.

The revision reads as follows:

52.222-41 Service Contract Labor Standards.

* * * * *

Service Contract Labor Standards (AUG 2018)

* * * * *

■ 61. Amend section 52.222-43 by revising the date of the clause and removing from paragraph (c) “Employment Standards Administration,”.

The revision reads as follows:

52.222-43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).

* * * * *

Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (AUG 2018)

* * * * *

■ 62. Amend section 52.223–17 by revising the date of the clause and removing from paragraph (b) “<http://www.epa.gov/cpg/>” and “<http://www.epa.gov/cpg/products.htm>” and adding “<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>” in their places.

The revision reads as follows:

52.223–17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.

* * * * *

Affirmative Procurement of EPA-designated Items in Service and Construction Contracts (AUG 2018)

* * * * *

■ 63. Amend section 52.225–5 by revising the date of the clause and removing from paragraph (a), in the definition of “Caribbean Basin country end product” paragraph (1)(ii)(B) introductory text “<http://www.usitc.gov/tata/hts/>” and adding “<https://usitc.gov/tata/hts/index.htm>” in its place.

The revision reads as follows:

52.225–5 Trade Agreements.

* * * * *

Trade Agreements (AUG 2018)

* * * * *

■ 64. Amend section 52.225–18 by revising the date of the provision and removing from the introductory text of paragraph (a) “clause” and adding “provision” in its place.

The revision reads as follows:

52.225–18 Place of Manufacture.

* * * * *

Place of Manufacture (AUG 2018)

* * * * *

■ 65. Amend section 52.225–25 by revising the date of the provision and removing from paragraph (c)(3) “<http://www.treasury.gov/ofac/downloads/t11sdn.pdf>” and adding “<https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>” in its place.

The revision reads as follows:

52.225–25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.

* * * * *

Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (AUG 2018)

* * * * *

■ 66. Amend section 52.228–11 by revising the date of the clause and removing from paragraph (b)(2)(i) “http://www.justice.gov/enrd/ENRD_Assets/Title_Standards_2001.pdf” and adding “<https://www.justice.gov/enrd/page/file/922431/download>” in its place.

The revision reads as follows:

52.228–11 Pledges of Assets.

* * * * *

Pledges of Assets (AUG 2018)

* * * * *

■ 67. Amend section 52.243–1 by revising the introductory text and the date of the clause to read as follows:

52.243–1 Changes—Fixed-Price.

As prescribed in 43.205(a)(1), insert the following clause. The 30-day period may be varied according to agency procedures.

Changes—Fixed-Price (AUG 1987)

* * * * *

■ 68. Amend section 52.244–6 by revising the date of the clause and paragraphs (c)(1)(iv), (v), (vi), (xv), and (xvi) to read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (AUG 2018)

* * * * *

(c) * * *

(1) * * *

(iv) 52.204–21, Basic Safeguarding of Covered Contractor Information Systems (JUN 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204–21.

(v) 52.204–23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (JUL 2018) (Section 1634 of Pub. L. 115–91).

(vi) 52.219–8, Utilization of Small Business Concerns (Nov 2016) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

(xv) 52.222–62, Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706), if flow down is required in

accordance with paragraph (m) of FAR clause 52.222–62.

(xvi)(A) 52.224–3, Privacy Training (JAN 2017) (5 U.S.C. 552a) if flow down is required in accordance with 52.224–3(f).

(B) Alternate I (JAN 2017) of 52.224–3, if flow down is required in accordance with 52.224–3(f) and the agency specifies that only its agency-provided training is acceptable).

* * * * *

PART 53—FORMS

53.000 [Amended]

■ 69. Amend section 53.000 by—
■ a. Removing “in acquisition,” and adding “in acquisition; and” in its place;

■ b. Removing “the forms, and” and adding “the forms.” in its place; and
■ c. Removing “(c) illustrates the forms.”.

■ 70. Revise section 53.102 to read as follows:

53.102 Current editions.

The form prescriptions in subpart 53.2 and the FAR forms located at <https://www.gsa.gov/forms> contain current edition dates. Contracting officers shall use the current editions unless otherwise authorized under this regulation.

■ 71. Revise section 53.209–1 to read as follows:

53.209–1 Responsible prospective contractors.

The following forms are prescribed for use in conducting preaward surveys of prospective contractors, as specified in 9.106–1, 9.106–2, and 9.106–4. These forms are authorized for local reproduction and can be found at the GSA Forms Library at <https://www.gsa.gov/forms>.

(a) SF 1403 (Rev. 01/2014), Preaward Survey of Prospective Contractor (General).

(b) SF 1404 (Rev. 01/2014), Preaward Survey of Prospective Contractor—Technical.

(c) SF 1405 (Rev. 01/2014), Preaward Survey of Prospective Contractor—Production.

(d) SF 1406 (Rev. 01/2014), Preaward Survey of Prospective Contractor—Quality Assurance.

(e) SF 1407 (Rev. 01/2014), Preaward Survey of Prospective Contractor—Financial Capability.

(f) SF 1408 (Rev. 01/2014), Preaward Survey of Prospective Contractor—Accounting System.

■ 72. Revise section 53.228 to read as follows:

53.228 Bonds and insurance.

The following standard forms are prescribed for use for bond and

insurance requirements, as specified in part 28. These forms can be found at the GSA Forms Library at <https://www.gsa.gov/forms>. All the following forms are authorized for local reproduction, except for SF 25B.

- (a) SF 24 (Rev. 8/2016) Bid Bond. (See 28.106–1.)
- (b) SF 25 (Rev. 8/2016) Performance Bond. (See 28.106–1(b).)
- (c) SF 25A (Rev. 8/2016) Payment Bond. (See 28.106–1(c).)
- (d) SF 25B (For Standard Forms 24, 25, and 25A) (Rev. 10/1983) Continuation Sheet for Standard Forms 24, 25 and 25A. (See 28.106–1(c).)
- (e) SF 28 (Rev. 6/2003) Affidavit of Individual Surety. (See 28.106–1(e) and 28.203(b).)
- (f) SF 34 (Rev 8/2016) Annual Bid Bond. (See 28.106–1(f).)
- (g) SF 35 (Rev. 8/2016) Annual Performance Bond. (See 28.106–1.)
- (h) SF 273 (Rev. 4/2013) Reinsurance Agreement for a Bonds statute Performance Bond. (See 28.106–1(h) and 28.202–1(a)(4).)
- (i) SF 274 (Rev. 4/2013) Reinsurance Agreement for a Bonds statute Payment Bond. (See 28.106–1(i) and 28.202–1(a)(4).)
- (j) SF 275 (Rev. 10/1998) Reinsurance Agreement in Favor of the United States. (See 28.106–1(j) and 28.202–1(a)(4).)
- (k) SF 1414 (Rev. 05/1997), Consent of Surety.

(l) SF 1415 (Rev. 7/1993), Consent of Surety and Increase of Penalty. (See 28.108–1(l).)

(m) SF 1416 (Rev. 10/1998) Payment Bond for Other than Construction Contracts. (See 28.106–1(m).)

(n) SF 1418 (Rev. 2/1999) Performance Bond For Other Than Construction Contracts. (See 28.106–1(n).)

(o) OF 90 (Rev. 1/1990), Release of Lien on Real Property. (See 28.106–1(o) and 28.203–5(a).)

(p) OF 91 (Rev. 1/1990), Release of Personal Property from Escrow. (See 28.106–1(p) and 28.203–5(a).)

■ 73. Revise section 53.249 to read as follows:

53.249 Termination of contracts.

(a) The following forms are prescribed for use in connection with the termination of contracts, as specified in subpart 49.6. These forms are available at the GSA Forms Library at <https://www.gsa.gov/forms>. These forms are authorized for local reproduction except for SF 1034.

(1) SF 1034 (GAO), Public Voucher for Purchases and Services Other Than Personal. (See 49.302(a).)

(2) SF 1435 (Rev. 03/2016), Settlement Proposal (Inventory Basis). (See 49.602–1(a).)

(3) SF 1436 (Rev. 5/2004), Settlement Proposal (Total Cost Basis). (See 49.602–1(b).)

(4) SF 1437 (Rev. 9/1997), Settlement Proposal for Cost-Reimbursement Type Contracts. (See 49.602–1(c) and 49.302.)

(5) SF 1438 (Rev. 5/2004), Settlement Proposal (Short Form). (See 49.602–1(d).)

(6) SF 1439 (Rev. 7/1989), Schedule of Accounting Information. (See 49.602–3.)

(7) SF 1440 (Rev. 01/1995), Application for Partial Payment. (See 49.602–4.)

(b) SF 1428 (Rev. 6/2007), Inventory Disposal Schedule, and Standard Form 1429 (Rev. 1/2016), Inventory Disposal Schedule—Continuation Sheet, shall be used to support termination settlement proposals listed in paragraph (a) of this section, as specified in 49.602–2. These forms are available at the GSA Forms Library at <https://www.gsa.gov/forms>.

■ 74. Revise subpart 53.3 to read as follows:

Subpart 53.3—Forms Used in Acquisitions

53.300 Listing of Standard, Optional, and Agency forms.

This subpart identifies, in numerical sequence, Standard Forms (SF), Optional Forms (OF) and agency forms that are specified by the FAR for use in acquisitions.

(a) You can access the forms in Table 53–1 at the GSA Forms Library at <https://www.gsa.gov/forms>.

TABLE 53–1—FORMS IN THE GSA FORMS LIBRARY

| Form No. | Form title |
|----------|---|
| SF 18 | Request for Quotation. |
| SF 24 | Bid Bond. |
| SF 25 | Performance Bond. |
| SF 25A | Payment Bond. |
| SF 25B | Continuation Sheet for 24, 25, and 25A. |
| SF 26 | Award/Contract. |
| SF 28 | Affidavit of Individual Surety. |
| SF 30 | Amendment of Solicitation/Modification of Contract. |
| SF 33 | Solicitation, Offer and Award. |
| SF 34 | Annual Bid Bond. |
| SF 35 | Annual Performance Bond. |
| SF 44 | U.S. Government Purchase Order—Invoice—Voucher. |
| SF 120 | Report of Excess Personal Property. |
| SF 120A | Continuation Sheet (Report of Excess Personal Property). |
| SF 126 | Report of Personal Property for Sale. |
| SF 126A | Report of Personal Property for Sale (Continuation Sheet). |
| SF 252 | Architect-Engineer Contract. |
| SF 273 | Reinsurance Agreement for a Bonds Statute Performance Bid. |
| SF 274 | Reinsurance Agreement for a Bonds Statute Payment Bond. |
| SF 275 | Reinsurance Agreement in Favor of the United States. |
| SF 294 | Subcontracting Report for Individual Contracts. |
| SF 298 | Report Documentation Page. |
| SF 308 | Request For Wage Determination and Response to Request. |
| SF 330 | Architect-Engineer Qualifications. |
| SF 1034 | Public Voucher for Purchases and Services Other Than Personal. |
| SF 1035 | Public Voucher for Purchases and Services Other Than Personal (Continuation Sheet). |
| SF 1094 | United States Tax Exemption Form. |
| SF 1094A | Tax Exemption Accountability Record. |
| SF 1165 | Receipt for Cash-Subvoucher. |
| SF 1402 | Certificate of Appointment. |

TABLE 53-1—FORMS IN THE GSA FORMS LIBRARY—Continued

| Form No. | Form title |
|----------|---|
| SF 1403 | Preaward Survey of Prospective Contractor (General). |
| SF 1404 | Preaward Survey of Prospective Contractor (Technical). |
| SF 1405 | Preaward Survey of Prospective Contractor (Production). |
| SF 1406 | Preaward Survey of Prospective Contractor (Quality Assurance). |
| SF 1407 | Preaward Survey of Prospective Contractor Financial Capability. |
| SF 1408 | Preaward Survey of Prospective Contractor Accounting System. |
| SF 1409 | Abstract of Offers. |
| SF 1410 | Abstract of Offers -Continuation. |
| SF 1413 | Statement and Acknowledgment. |
| SF 1414 | Consent of Surety. |
| SF 1415 | Consent of Surety and Increase of Penalty. |
| SF 1416 | Payment Bond For Other Than Construction Contracts. |
| SF 1418 | Performance Bond for Other Than Construction Contracts. |
| SF 1423 | Inventory Verification Survey. |
| SF 1424 | Inventory Disposal Report. |
| SF 1428 | Inventory Disposal Schedule. |
| SF 1429 | Inventory Disposal Schedule—Continuation Sheet. |
| SF 1435 | Settlement Proposal (Inventory Basis). |
| SF 1436 | Settlement Proposal (Total Cost Basis). |
| SF 1437 | Settlement Proposal for Cost-Reimbursement Type Contracts. |
| SF 1438 | Settlement Proposal (Short Form). |
| SF 1439 | Schedule of Accounting Information. |
| SF 1440 | Application For Partial Payment. |
| SF 1442 | Solicitation, Offer, and Award (Construction, Alteration, or Repair). |
| SF 1443 | Contractor's Request For Progress Payment. |
| SF 1444 | Request For Authorization of Additional Classification and Rate. |
| SF 1445 | Labor Standards Interview. |
| SF 1446 | Labor Standards Investigation Summary Sheet. |
| SF 1447 | Solicitation/Contract. |
| SF 1449 | Solicitation/Contract/Order for Commercial Items. |
| OF 17 | Offer Label. |
| OF 90 | Release of Lien on Real Property. |
| OF 91 | Release of Personal Property From Escrow. |
| OF 307 | Contract Award. |
| OF 308 | Solicitation and Offer-Negotiated Acquisition. |
| OF 309 | Amendment of Solicitation (Negotiated Procurements). |
| OF 336 | Continuation Sheet. |
| OF 347 | Order for Supplies or Services. |
| OF 348 | Order For Supplies or Services—Schedule—Continuation. |
| OF 1419 | Abstract of Offers—Construction. |
| OF 1419A | Abstract of Offers-Construction Continuation Sheet. |

(b) You can access the forms in Table 53-2 at the websites listed in the table.

TABLE 53-2—OTHER FORMS

| | | |
|-------------|---|---|
| Form DD 254 | Department of Defense Contract Security Classification Specification. | http://www.dtic.mil/whs/directives/forms/eforms/dd0254.pdf . |
| Form DD 441 | Department of Defense Security Agreement | http://www.dtic.mil/whs/directives/forms/eforms/dd0441_2017.pdf . |
| Form WH-347 | Payroll—U.S. Department of Labor | https://www.dol.gov/whd/forms/wh347.pdf . |

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2018–0001, Sequence No. 4]

Federal Acquisition Regulation: Federal Acquisition Circular 2005–100; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).
ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared consistent with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–100, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain

further information regarding these rules by referring to FAC 2005–100, which precedes this document. These documents are also available via the internet at <http://www.regulations.gov>.

DATES: August 22, 2018.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–100 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755.

RULES LISTED IN FAC 2005–100

| Item | Subject | FAR case | Analyst |
|-----------|--|----------------|----------|
| *I | Paid Sick Leave for Federal Contractors | 2017–001 | Delgado. |
| *II | Non-Retaliation for Disclosure of Compensation Information | 2016–007 | Delgado. |
| III | Technical Amendments | | |

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–100 amends the FAR as follows:

Item I—Paid Sick Leave for Federal Contractors (FAR Case 2017–001)

DoD, GSA, and NASA are converting to a final rule, without change, an interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13706 and a Department of Labor final rule issued on September 30, 2016, both entitled Establishing Paid Sick Leave for Federal Contractors. The rule requires contractors to allow all employees performing work on or in connection with a contract covered by the E.O. to accrue and use paid sick leave in accordance with E.O. 13706 and 29 CFR part 13. Contracting officers will include a clause in covered contracts. This FAR rule neither increases nor decreases the cost of the interim rule (81 FR 91627), which has been in effect since January 1, 2017.

Item II—Non-Retaliation for Disclosure of Compensation Information (FAR Case 2016–007)

DoD, GSA, and NASA are converting to a final rule, without change, an

interim rule that amended the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13665, Non-Retaliation for Disclosure of Compensation Information. E.O. 13665, signed April 8, 2014, amended E.O. 11246, Equal Opportunity in Federal Employment. The interim FAR rule also implemented a final rule issued by the Office of Federal Contract Compliance Programs (OFCCP) of the Department of Labor, entitled Government Contractors, Prohibitions Against Pay Secrecy Policies and Actions, which was published on September 11, 2015.

E.O. 11246, originally issued September 24, 1965, establishes nondiscrimination and affirmative action obligations in employment for Federal contractors and subcontractors. It prohibits employment discrimination because of race, color, religion, sex, sexual orientation, gender identity, and national origin. E.O. 13665 amends E.O. 11246 and its Equal Opportunity Clause by incorporating, as a covered prohibition, discriminating against employees and job applicants who inquire about, discuss, or disclose the compensation of the employee or applicant or another employee or applicant. Federal contractors and subcontractors must disseminate this nondiscrimination provision, using language prescribed by the Director of OFCCP, including incorporating the

provision into existing employee manuals or handbooks and posting it. There is no significant impact on small entities imposed by the FAR rule.

Item III—Technical Amendments

Editorial changes and updates to web links are made at FAR 2.101, 4.1603, 4.1702, 5.102, 5.201, 5.207, 5.704, 5.705, 6.305, 7.103, 7.105, 7.107–4, 8.405–6, 8.501, 8.602, 9.406–3, 9.407–3, 14.201–2, 16.505, 17.502–1, 18.205, 19.704, 19.1503, 22.001, 22.404–3, 22.1001, 22.1021, 22.1022, 22.1304, 23.202, 23.203, 23.205, 23.401, 23.405, 23.802, 25.003, 25.703–2, 28.106–1, 28.106–3, 28.203–3, 28.204–3, 31.205–6, 36.104, 36.700, 41.301, 49.602, 52.208–8, 52.212–1, 52.212–3, 52.212–5, 52.213–4, 52.219–9, 52.222–6, 52.222–8, 52.222–30, 52.222–31, 52.222–32, 52.222–41, 52.222–43, 52.223–17, 52.225–5, 52.225–18, 52.225–25, 52.228–11, 52.243–1, 52.244–6, 53.000, 53.102, 53.209–1, 53.228, 53.249 and subpart 53.3.

Dated: July 31, 2018.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018–17838 Filed 8–21–18; 8:45 am]

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Proclamation 9773—National Employer Support of the Guard and Reserve Week, 2018

Presidential Documents

Title 3—

Proclamation 9773 of August 17, 2018

The President

National Employer Support of the Guard and Reserve Week, 2018

By the President of the United States of America

A Proclamation

Since the founding of our great Nation, citizens have put their lives on hold to defend our liberty and protect their fellow Americans. Today, more than one million Americans proudly serve in the National Guard and Reserve. During National Employer Support of the Guard and Reserve Week, we take a moment to salute the employers and communities that support our citizen Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen.

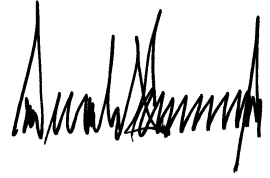
Nearly half of our Nation's Armed Forces are comprised of National Guard and Reserve members. These dedicated patriots train throughout the year to be mission-ready at home and abroad. They balance the demands of civilian life with military duties and are a vital component of our national defense strategy. Our National Guardsmen and Reservists serve with distinction in uniform on all fronts—whether it be mitigating the effects of natural disasters and emergencies on our soil, protecting our border, or engaging in combat operations around the globe. And when they take the uniform off, they apply their leadership skills and desire to serve our communities throughout every sector of the civilian world.

Employers who understand and appreciate the critical mission of our National Guard and Reserve provide flexibility and unwavering support in the workplace that empowers Guardsmen and Reservists to make invaluable contributions to our all-volunteer force. We owe a tremendous debt of gratitude to the employers nationwide who understand the importance of a strong and ready military. Offices, organizations, and businesses nationwide accept the inconveniences of disruptive schedules, temporary personnel shortages, and financial burdens, because they know that they are helping sustain and advance something far more valuable than their bottom lines. Guardsmen and Reservists bring invaluable assets of professionalism, commitment, teamwork, and discipline to our Armed Forces and to America's businesses.

My Administration is committed to caring for our military members, veterans, and their families. Many civilian employers share this unwavering dedication and devotion, and they deserve our deepest gratitude. I encourage all Americans to support our brave Guardsmen, Reservists, and their families because of their incalculable sacrifices to secure and maintain our freedom. Let us remember that the generosity, flexibility, and selflessness of their civilian employers are critical to their ability to serve our country most effectively.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 19 through August 25, 2018, as National Employer Support of the Guard and Reserve Week. I call upon all Americans to join me in expressing our heartfelt thanks to the civilian employers who provide critical support to the men and women of the National Guard and Reserve. I also call on State and local officials, private organizations, and all military commanders to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of August, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-third.

A handwritten signature in black ink, appearing to be the name of Donald Trump, written in a cursive style.

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